

INDEPENDENCE IN QUESTION

The voluntary sector in 2016

Foreword

Since the Panel on the Independence of the Voluntary Sector produced its final report, *An Independent Mission: the voluntary sector in 2015* a year ago, the challenges to independence that gave us such concern then have only increased. It is all the more important that the protection of the sector's independence is at the top of our agenda.

The publication of this new report is timely and I am delighted that Civil Exchange, and in particular Caroline Slocock, who helped the Panel produce each of its four annual assessments of the sector's independence, has been able to pick up where the Panel left off. This has been made possible through the generous support of the Baring and Lankelly Chase Foundations, who are demonstrating the invaluable role that charitable foundations have in promoting the wider independence of the sector.

The Panel made a number of recommendations that are just as relevant today. These include outlawing 'gagging clauses' in government contracts that prevent charities speaking out when government programmes are not working, which this report shows are now being used more widely; repealing Part 2 of the Lobbying Act which the independent Commission on Civil Society and Democratic Engagement has since found did restrict the legitimate voice of the sector in democratic debate in the run up to last year's General Election; setting up a statutory Compact overseen by Parliament to ensure that the Government sticks to commitments, such as upholding the right of the sector to campaign, which it has recently broken; and denying charitable status to organisations whose governance is unduly influenced by Government, as we have seen over the year in the case of housing associations.

I hope that the Government will also decide to remove the new 'no advocacy' clauses in grant agreements, announced this year. They are a major restriction on the ability of the voluntary sector to ensure that the views and needs of everyone in society are heard as policies and services are shaped.

Ultimately, the Independence Panel hoped that 'a new settlement' might be established between the Government and the voluntary sector. However, we recognised that this had to be underpinned by a deeper discussion about the distinctive qualities offered by an independent sector, as this sense of the importance of its independent mission was being increasingly lost. Sadly, events over the last year, including the exposure of poor fundraising practices by some charities and concerns about some commercial activities, have only served to erode a sense of that distinctive contribution.

The sector must examine collectively its future direction and how its independence can be better protected. I look forward to work starting on the forthcoming Inquiry into the future of civil society for which the Baring Foundation is currently fundraising.



Sir Roger Singleton CBE

Former Chair of the Panel on the
Independence of the Voluntary Sector

14 March 2016

About this report

This report is the fifth in a series of annual assessments of the independence of the voluntary sector, following on from the work of the Panel on the Independence of the Voluntary Sector, which published its final report in February 2015. The principal author is Caroline Slocock, the Director of Civil Exchange, with research by Ruth Davies and communications and other support by DHA. Civil Exchange is grateful to seven guest contributors, Haroun Atallah, Geraldine Blake, Judy Robinson, Caroline Schwaller, Martin Sime, Karen Ingela Smith and Maurice Wren, who have kindly offered their personal perspective on specific aspects of the sector's independence in pieces commissioned for and published in this report.

The report has been produced with the generous support of the Baring and Lankelly Chase Foundations. The Panel on the Independence of the Voluntary Sector was established by the Baring Foundation in 2011 to ensure that independence is seen as a top priority by the voluntary sector and it brought together experts and practitioners to serve on the Panel for a fixed period of time. The same team that has produced this report provided a secretariat to the Panel and Caroline Slocock has written each of the reports. Civil Exchange is particularly grateful to the Chair and members of the former Panel, Sir Roger Singleton CBE, Professor Nicholas Deakin CBE, Andrew Hind CB, and Sir Bert Massie CBE, for their informal advice at various points in the making of this report.

There will be a sixth annual assessment in 2017.

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Executive Summary

In 2016, the independence of the voluntary sector is under serious attack. For some years threats to its independence have been growing steadily. The final report of the Panel on the Independence of the Voluntary Sector, *An Independent Mission: the voluntary sector in 2015*, raised serious concerns about the challenges to sector independence. This report, which picks up where the Panel left off, concludes that the situation is now more dangerous still. Unless checked, it seems likely that the sector will face further, even more fundamental challenges to its independence in the years ahead.

Why independence is important

A vibrant and healthy voluntary sector is central to a healthy democracy and society and independence lies at its heart. Voluntary activity acts as a critical counterbalance to the power of both the state and the corporate sector, enabling diverse people and perspectives to be expressed and reflected in public policy and services and helping to create a social environment in which everyone can thrive. Independence of purpose, voice and action - the three aspects of independence set out in the Panel's Barometer of Independence - all underpin this role.

Communities need more power

These qualities are especially important now. Surveys suggest that people and communities feel less, not more, empowered compared to the past. This is particularly the case for those who have least resources. Public services and welfare systems are undergoing major change, making it vital that people's voices are heard. But the Government has taken a number of steps in recent years that have significantly curtailed the voluntary sector's ability to influence public policy and services on their behalf. At the same time, the Government is failing to take the effective action it promised to tackle what David Cameron in 2010 described as 'secret corporate lobbying' which '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.'¹ This is increasing the power imbalance in society and it is in danger of only getting worse.

The negative impact of a market based model of public sector reform

Elsewhere, there are growing strains on the market-based model of public sector reform, which has resulted in unaccountable 'privately-owned public monopolies, who largely, or in some cases wholly, rely on taxpayers' money for their income,' according to the Public Accounts Committee;² has led to a major shift in voluntary sector funding from relatively flexible grants that enabled them to help shape public services to contracts that specified what they should deliver; and has created a competitive 'race to the bottom' on price. Even some major private organisations are starting to withdraw from the social care home market, due to lack of viability, but it is as yet unclear whether further stringent cuts in spending will force a rethink of the public sector reform model.

The opportunity of greater devolution in England for more dialogue

Against this context, the voluntary sector ought to be able to contribute its grass roots and specialist knowledge to help ensure all interests are represented as decisions are taken to downsize and reshape services and policies. Greater devolution in England, and an NHS England committed to more local collaboration, create an opportunity. As our first guest contributor, Judy Robinson, the Chair of Healthwatch Sheffield, comments, the sector 'could use its know-how and more local experience in this bigger arena to.... recover a shared sense of civic and civil society.' However, she warns that 'politicians have other things to worry about. The architecture for engagement has to be re-invented' and 'The voluntary and community sector is still too focused on individual organisation survival rather than sector influence.' Indeed, serious financial challenges face many grass roots organisations, especially those working in social welfare, as well as the umbrella organisations that work collectively on their behalf.

Threats to the independent voice of the sector

It is somewhat ironic that local opportunities to access and respond to the voice of an independent voluntary sector are likely to be seriously undermined by policy changes now being made right at the centre of government – changes themselves made without any prior consultation.

New 'no advocacy' clauses for all taxpayer funded grants will undermine dialogue

Notable amongst these is the Cabinet Office's decision to include a 'no advocacy' clause in grant agreements funded by the taxpayer right across the public sector. The clause stops grant funding of '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.' Unless exceptions are made, this measure will undermine many collaborative initiatives designed to deliver good government and better services – for example, grants given by the Department of Health to the voluntary sector in order to 'work in equal partnership with the Department of Health, NHS England and Public Health England... to engage in the wider health and social care reform agenda.'³

The Department for Communities and Local Government (DCLG) had already piloted an identical 'no advocacy' clause in 2015 and this has restricted the voice of the sector, including responses to the government's own consultations. The Chancellor's Tampon Tax Fund announced in 2015 for women's causes also includes a 'no advocacy' provision with the same terms.

In its announcement, the Cabinet Office said the change was designed to ensure that 'taxpayer funds are spent on improving people's lives and good causes rather than lobbying for new regulation or using taxpayers' money to lobby for more government funding.' David Cameron, launching the Big Society initiative in May 2010, said that 'Today is the start of a deep, serious reform agenda to take power away from politicians and give it to the people' and, in 2012, the Cabinet Office's Civil Service Reform Plan promised 'open-policy making'. Both commitments require capacity in civil society to engage, and a willingness on the part of government to listen.

The Minister for Civil Society has said the new policy is not a breach of the Compact agreement signed with the voluntary sector 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.'⁴ However, the Chair of the watchdog Compact Voice, Peter Holbrook, signed a letter to the Prime Minister that said that it was. The Minister called in aid the fact that voluntary organisations can still use their own resources to influence wider policy-making. Many of the largest voluntary organisations do have such resources, especially those that have big high street brands. But this is often not the case for smaller specialist and grass roots organisations that are so important to ensuring that public services and policies are reflective of diverse interests and needs.

Sock puppets? The Institute of Economic Affairs' influence and funding

The basis quoted for these changes is a report by the Institute of Economic Affairs (IEA) called *Sock Puppets: How the government lobbies itself and why*, published in 2012. The IEA refuses to disclose its funders, though there are allegations that it has been supported by major tobacco companies, and the author has written books on smoking. His report instances Action on Smoking and Health as one example of unhealthy lobbying funded by the Government that should be stopped. *The Independent* has alleged⁵ that the Cabinet Office Minister who announced the 'no advocacy' clause had himself received donations from the Chair of the IEA, allegations not denied.

‘Gagging’ and ‘no advocacy’ clauses in government contracts gaining ground

The sock puppets report was first referenced by DCLG at the end of 2012 when it advised local government to stop funding ‘fake charities’ that lobby government.⁶ At the time, this action seemed to be a ‘one off’. Now, however, it seems unlikely that this is the end of the story. The Independence Panel uncovered the existence of ‘gagging clauses’ in government contracts in the Work Programme. This report has also found that ‘no advocacy’ clauses are now being used in contracts for refugee and women’s services. Maurice Wren, the Chief Executive of the Refugee Council, our second guest contributor, explains that in 2014 a new condition was included in a retender for services they were delivering which would have prevented them from advocating on the basis of individual cases or of data trends revealed by the operation of the service. He writes:

‘Given the structural flaws in the UK asylum system, it’s axiomatic for us that any independent service provider should be free to speak out, without fear or favour and regardless of funder. If this concept of independence is undermined, then whoever does the work ends up serving the interests of Government, not of clients. Though we chose to submit a tender, we did so flagging our opposition to the advocacy bar. Perhaps not surprisingly, we didn’t win the funding.’

More widely, the Government has continued to make it harder for the voluntary sector to take court action on behalf of individuals to correct injustices.

The ‘Lobbying Act’ has had a negative impact says independent Commission

These developments come on top of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 or so-called Lobbying Act. The independent Commission on Civil Society and Democratic Engagement reviewed its impact during the General Election and concluded ‘considerable evidence shows it has had a negative impact on charities and campaign groups speaking out on legitimate issues ahead of the election.’⁷

Promises to consult being undermined

The Government is committed in the Compact to consult the voluntary sector but there was no prior consultation on either the Lobbying Act or the ‘no advocacy’ clauses. Experience of the DCLG clause is that organisations are unsure whether they are able to respond to government consultations if they are grant funded.

Voluntary organisations are emerging that harness networks of people through the social media, such as 38 Degrees, a great source of independent power. However, according to media reports, a recent consultation on the future of the BBC was declared void by the Culture Secretary when it emerged that 98 per cent of responses were from 38 Degree members.⁸

A negative wider climate and self-censorship

Worryingly for the future, the climate has become increasingly negative toward charity campaigning amongst some newspapers and only a third of Conservative MPs now think is important for charities to highlight where government policies would negatively affect people, compared with 93 per cent of Labour MPs.⁹ Self-censorship by the voluntary sector remains a major, if unreported, issue though there are notable exceptions, for example on migration.

Threats to independent action

Independent action is the ability to design and deliver activities and innovate in order to respond to the needs of those served effectively, efficiently and creatively.

Damage to an important 'eco-system' of independent community support

The Independence Panel concluded that the current system of state funding is failing to unlock the potential of the voluntary sector to deliver positive social change and warned of very real damage to an important 'eco-system' of independent support in communities that is often undertaking vital work to tackle complex social problems. Most at risk are smaller specialist and community based organisations, and umbrella bodies and large organisations that receive significant state funding. According to the NCVO, the voluntary sector is facing an estimated £4.6 billion gap year in its finances by 2018-19, largely as a result of loss of state income.

On a more positive note, there has been some Government action over the last year to support smaller voluntary organisations, with a £20 million Local Sustainability Fund and some steps to try to make procurement and commissioning more accessible to smaller organisations. However, this report concludes a more fundamental shift is needed to counter threats to the viability and independent operation of smaller voluntary sector organisations.

Our guest contributor, Karen Ingela Smith, the Chief Executive of Nia Project, a small charity that seeks to end violence against women and children, explains what these challenges to independent action mean in practice. She writes that 'Increasingly, state funding is driving us into a narrow service delivery role and we are being required to act as an arm of the state rather than as an independent NGO.' She adds that 'organisations are left to bid for under-resourced, commissioner-led rather than needs-led tenders that often include clauses or methods that we know are not in the best interests of the women.' Competition is squeezing out quality and favouring larger non-specialist organisations who can cross-subsidise, they find. At the same time, they are seeing 'no advocacy' clauses and suspect they are being squeezed out of policy making.

Umbrella organisations are key to independent action but are in transition

Umbrella organisations are also finding it hard to find the funds to maintain their independent action but Caroline Schwaller, the Chair of the National Association for Voluntary and Community Action (NAVCA), our fourth contributor, writes about the importance of local infrastructure bodies as a broker between the public and voluntary sectors. She is optimistic about the ways in which infrastructure bodies are adjusting to a difficult funding climate, despite the evident pressures. As she says:

'At such a time of heart rending challenges for society, and such difficult decisions for local authorities, local infrastructure organisations are more important than ever, to stimulate, strengthen and advocate for civil society. Working together in partnership – across the sector – *can* produce positive results, even if it means shifting out of our comfort zones. National infrastructure bodies have a duty, more than ever, to show the way together and lead by example – enabling the voluntary and community sector as a whole to retain its independence, credibility and voice with confidence.'

Threats to independent purpose

Charities must stay true to their charitable purpose in everything they do

Over the last 12 months, the integrity of the voluntary sector has been increasingly questioned externally and, when called to account, the sector has not always been able to defend itself successfully. This comes down to independence of purpose - the ability of charities to maintain purpose, mission and values in the face of all internal and external pressures - and it requires trustees and staff to uphold that independence in everything they do.

Danger that some large charities are becoming too commercial

Contract funding has changed the relationship between a significant proportion of the voluntary sector and the state from one of partnership to that of contractor. Self-censorship and 'gagging clauses' are one consequence of this, with the fear that mission is following money, not vice versa, sometimes to keep important services running which might otherwise close. Major voluntary organisations¹⁰ have been the most financially resilient of the different types of voluntary organisations. Some have even grown, partly through commercial activities, some also gaining funds from government contracts. But there are legitimate questions about whether some are in danger of losing their charitable mission by becoming too commercial. Charities themselves must ensure they are above reproach if trust in them is to be maintained.

High salaries raise issues of transparency and accountability

High salaries for some senior staff may be justified for such complex businesses, especially in recruitment markets that include the public and private sector, but they still raise concerns about transparency and accountability. And they sit a little uneasily in a values-based sector that has twice the proportion of zero hours contracts than the private sector and where there has been an erosion of terms and conditions for lower paid staff, put under pressure from competition for public sector contracts.

Poor fund-raising practices by some charities have been admitted

Poor fund-raising practices have been admitted by some of what this report calls the 'big brand' fundraising charities and it is proposed that the sector should be subject to tighter self-regulation across the board. Allegedly exploitative commercial activities by Age UK and others have attracted criticism and have been linked to high salaries for some staff, hired for their commercial skills. The Charity Commission has issued a regulatory alert to the 1,700 charities that have commercial arrangements with credit card companies and utility firms, warning them to ensure activities are transparent and do not 'jeopardise' a charity's reputation.¹¹ Weak governance and lack of accountability at Kids Company is leading to a central register of government grants and wider questions about charities in general, despite its unusual, even unique, nature.

These issues only affect part of the sector but are spilling over to the whole of it, undermining trust and respect and leading to regulatory changes in fund-raising that may unnecessarily damage income for all charities.

Government has failed to respect the independence of housing associations

At the same time, the Government has failed to respect the independence of housing associations in seeking to enforce a tenant's 'right to buy' over housing associations' independent assets. Paradoxically, the outcome may be greater independence from the state, as the Government hastily takes legislative steps to reverse a recent decision by the Office for National Statistics to re-classify housing association debt to the public sector. But the decision, under pressure, by housing associations to agree voluntarily to sell off its assets, starting with pilots, is likely to make it more difficult for them to deliver their independent mission of providing social housing, the supply of which may well reduce as a consequence.

Independent regulation

Concerns that the Charity Commission is too politically driven

The Charity Commission should play a vital role in safeguarding the independence of the sector but the Independence Panel said that 'The Commission is giving the impression of being politically driven. Its focus seems to be on an agenda determined by the Government, despite its statutory independence.' Criticisms of the way it has been operating have continued over the last 12 months, including from Baroness Young who said 'I believe that the Charity Commission needs to examine its soul on how it is currently behaving and how it has done for the last year.'¹² The National Audit Office too has warned of the board's 'continuing close involvement in executive matters,' as documented in Chapter 4.

Perceptions of excessive and disproportionate regulation of Muslim charities

These concerns have been heightened over the last twelve months by what a number of commentators believe is excessive and disproportionate regulation of Muslim Charities by the Commission. This is a sensitive area and a difficult and important role for the Commission. However, our guest contributor, Haroun Atallah, former Chief Executive of Islamic Relief, explains how he had initially encouraged Muslim organisations to register as charities because of his admiration of the Commission, only to find that 'the Charity Commission has increasingly failed to protect charities – especially Muslim ones – from political interference.'

'The Commission behaved in an extremely high handed manner' to JRCT

Similar concerns about the Charity Commission overstepping the mark, even if some regulatory activity in this area might be merited, apply to its handling of the Joseph Rowntree Charitable Trust (JRCT) over its relationship with Cage, an organisation that made sympathetic remarks about the Islamist terrorist 'Jihadi John' when he was younger and which JRCT no longer funded. The Lord Chief Justice Thomas, who presided over a judicial review hearing about the case, said that he understood why JRCT felt that 'the Commission had behaved in an extremely high handed manner' in requiring it to commit never to fund the organisation in the future, whatever the circumstances, and acknowledged that JRCT had 'real cause for complaint'. It is clear from the papers made available to the courts that members of the board of the Charity Commission, and even a Minister, were encouraging Commission officials to take forceful action. In settlement, the Commission issued a statement clarifying that it had no powers to fetter the future exercise of trustees' fiduciary powers. However, the Charities Bill strengthens the warning powers of the Commission in ways that have caused some commentators concern.

Countering the threats to independence

Voluntary sector facing a potential crisis

The situation now facing the voluntary sector is one of potential crisis. Step by step, the legitimacy of an independent voluntary sector as an independent force is coming under challenge.

Recommendations by the Independence Panel still stand

In its final report, the Independence Panel put forward a number of recommendations to the Government that have added resonance today. These included outlawing 'gagging clauses,' repealing Part 2 of the Lobbying Act, setting up a statutory Compact overseen by Parliament and denying charitable status to organisations whose governance is unduly influenced by Government. To these might be added removing 'no advocacy' clauses in both contracts and grant agreements. The Panel also called for a 'new settlement' between the Government and the voluntary sector but recognised that this would not be achieved without a shared understanding of the distinctive qualities offered by an independent sector. It called for a new, independent commission to help establish this.

A debate on the distinctive contribution of an independent sector needed

Over the last 12 months, the situation has deteriorated dramatically and wider appreciation of that distinctive, independent contribution appears to have been eroded. The need for a debate within the sector about its role and the need to uphold its independence is even more urgent.

Many actions already being taken by the sector to defend its independence

Umbrella bodies are now working more closely together, as illustrated by the letter to the Prime Minister sent by 150 organisations protesting about the 'no advocacy' clause. As Martin Sime, the Chief Executive of the Scottish Council of Voluntary Organisations suggests in his guest contribution, the attacks on the sector are partly occurring because of its relative strength - 'They are lashing out in part because of fear and misunderstanding. As politics has become more managerial, its ideological foundations have crumbled.' It is a strength that should be deployed. As he says, 'Surely we have ambitions to be more than just delivery agents?'

Umbrella organisations have also been putting forward new and exciting ideas for funding that better supports independent voluntary action, as well as defending grant funding. Charities are increasingly taking the lead in promoting place-based collaborations with other charities and across sectors. And at organisational level, voluntary bodies are taking steps to protect their independent mission and find better funding to deliver it, as our final guest contribution from Geraldine Blake, the Chief Executive of Community Links, illustrates:

'When faced with extremely difficult decisions, we responded strategically. We made a conscious decision not to bid for any old contract in order to maintain our size but to remain focused on our core purpose and areas of expertise, despite the inevitable reduction in size. We put our mission and values – our most powerful tools - at the heart of all our decision making, ensuring that as our span of activity reduced, we maintained a coherent set of services underpinned by our unique approach... We've changed from an organisation that delivers services at a large scale to one that focuses on testing responses at a smaller scale and sharing the learning to increase our impact.'

Charitable foundations are also increasingly aware of the invaluable role they can play as potential funders of independence and the Baring Foundation is now working with other foundations with the aim of jointly funding an Inquiry into the future of civil society starting next year.

A more self-confident narrative about the role of the sector must be developed

Indeed, the sector must do more collectively to develop a more self-confident narrative about the role of the voluntary sector in society, challenging the wider framework, including the role of competition in public sector reform. More transparency and real engagement with stakeholders is needed. The starting point should be that this may lead to changes to the voluntary sector, as well as better understanding from government and society as a whole. Larger service delivery organisations in particular must take an honest look at how they are distinguishable from the private and public sectors.

To stop independence being in question, independence must be respected by all parties, not just in words but also in deeds.

Chapter 1

Introduction

In 2016, the independence of the voluntary sector is in serious question and under mounting attack. The situation has been developing over a number of years, as documented by the final report of the Panel on the Independence of the Voluntary Sector, *An Independent Mission: the voluntary sector in 2015*.¹³ But it is now near crisis point and must be checked.

Over the last 12 months, the integrity of parts of the voluntary sector has been increasingly questioned and, as explored by this report, when called to account it has not always been able to defend itself successfully. At the same time, a Government that in 2010 committed to community empowerment and social action in its Big Society initiative, and renewed that commitment in the Conservative manifesto of 2015, seems intent on breaking its promise to the voluntary sector to uphold its right to campaign, regardless of any financial relationship.¹⁴ This lies in stark contrast to David Cameron's so far unfulfilled commitment to make behind the scenes lobbying of the Government by powerful business interests fully transparent.

The voluntary sector should be an independent force; distinct from the state and the corporate world, helping to create good government and a society in which all interests have a voice and thrive. That role is especially important for those who have least power and influence in society and particularly at a time when public services and welfare support on which they may depend are being cut back and reshaped. But increasingly the sector is being portrayed as a delivery agent that has inappropriately strayed into political or commercial activity, or both.

Step by step, the legitimate role of an independent voluntary sector is coming under challenge.

This negative representation of the voluntary sector is gaining hold – and it is increasingly backed by action. In December 2012, when the Department of Communities and Local Government (DCLG) issued guidance to local authorities suggesting they stop funding what it called 'fake charities' that 'lobby and call for more state regulation and more state funding,' citing a *Sock Puppet* report by the Institute of Economic Affairs,¹⁵ it appeared to be an isolated incident. However, this position has more recently been reflected in Government-wide policy on grant funding in which, from May, central government grants to the voluntary sector cannot be used to influence Parliament, government or political parties. It is highly unlikely that this is the end of this story.

This report looks at the facts behind these and other developments and is the first of two annual updates to the Panel on the Independence of the Voluntary Sector's final report.

The source of the integrity, power and effectiveness of the voluntary sector is its independence and, as the Independence Panel identified, there are three dimensions:

- **An independent purpose**

driven by a mission that is an expression of diverse passions, beliefs, interests and needs.

- **An independent voice**

enriching democracy through the expression of diverse views, and creating better government through its influence on public service and policy design.

- **Independent action**

the ability to mobilise social forces, to develop human, not just professional relationships with people and to build new and strengthen existing communities, as well as to innovate.

These different aspects – and the factors that support them – are set out in more detail in the Barometer of Independence produced by the Panel, which is shown here.

All three are under growing threat, together with independent regulation, this report concludes.

The Barometer of Independence

DEFINITION OR CHARACTERISTIC OF INDEPENDENCE	RELATED BEHAVIOURS IN INDIVIDUAL VOLUNTARY ORGANISATIONS	THE CLIMATE: ENVIRONMENTAL FACTORS
Independence of Purpose <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
Independence of Voice <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>	<ul style="list-style-type: none"> - 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?
Independence of Action <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>	

As well as good governance and effective, independent regulation, wider factors play an important role in maintaining voluntary sector independence, including respect for independence and supportive financial and policy environments.

This report finds that the voluntary sector in 2016 has significantly less influence with the Government than in 2010 and is in a far weaker position, financially.

Chapter 2 considers the policy context in which the voluntary sector is now working and its impact on independence. Chapter 3 takes a look at those organisations most at risk to threats to independence and focuses on two important drivers: their finances and access to volunteers. Chapter 4 goes on to consider specific challenges to the sector's independence in depth. The final chapter looks at what action is currently being taken to counter these threats and what more can be done to stem the potential crisis.

Chapter 2

The policy context

This chapter considers three significant elements in the policy context that underline how important the independent role of the voluntary sector is to a healthy democracy and looks at some of the structural barriers that prevent it from operating effectively.

First, the fact that many individuals and communities lack power, especially those with least advantages in society, with evidence to suggest that this is getting worse, at the same time as cuts in public services and welfare are also having considerable impact. An independent voluntary sector plays a vital role in representing their views and needs but the Government has taken steps in recent years to curtail the sector's independence, whilst failing to take effective action to tackle behind the scenes lobbying by far more influential business interests.

Second, the growing strains on the market-based model of public sector reform, which has promoted competition rather than collaboration, resulted in public services being dominated by unaccountable businesses and undermined the financial stability of part of the voluntary sector.

Finally, the potential of more devolved government in England to lead to a new kind of collaborative relationship between the state and the voluntary sector and the barriers to this that include reduced capacity of the voluntary sector to exercise its independent voice.

Communities lack real power or influence

For many years, different administrations have talked of a new kind of state, one that gives communities more power, makes public services more responsive and accountable and which encourages social action.¹⁶ Most recently, this has been demonstrated in the ambitious rhetoric of the Big Society, of which David Cameron said, as he launched it in 2010:

'Today is the start of a deep, serious reform agenda to take power away from politicians and give it to the people.'

The voluntary sector would have been the most natural place for politicians to look as the means for empowering communities. Voluntary organisations are formed freely by individuals and even the largest are governed by volunteers. The sector enjoys huge popular support from millions of people who donate both time and money and take part in its activities. Its diversity means that it reflects and meets a myriad of different views and needs. And yet, during the time that the Government promoted the Big Society, the voluntary sector overall has lost both resources and influence and government action has put voluntary sector independence of purpose, voice and action at greater risk.

The general direction of travel on community empowerment seems to be backwards rather than forwards.

Though there has been an increase in the number of community owned assets,¹⁷ surveys show a reduction in levels of social action,¹⁸ civic engagement¹⁹ and informal volunteering²⁰ in recent years. Only 35 per cent of people thought they could influence local decisions in 2014-15 compared to 44 per

cent recorded in 2001.²¹ Although in theory, the creation of local charities to run Academy Schools is designed to increase accountability, local authorities no longer have control or oversight.

Further, there are marked differences between advantaged and disadvantaged communities and individuals regarding their feelings of empowerment and satisfaction with the political process; and in levels of social action. Despite years of public sector reform, stubborn inequalities persist in the educational attainment and health of the most affluent and the poorest in society; and cuts in public services and welfare support have hit those with least much harder than better off individuals.²²

These points reinforce the importance of an independent voluntary sector and make its relative lack of power and influence over shaping new services, as opposed to delivering existing ones, especially disturbing.

In contrast, Government policy has led to much greater power and influence being given to the private sector over key public services. The Government promised to break up big state monopolies and introduce more competition to deliver more responsive and accountable services.²³ However, the result is that a small number of large companies dominate the delivery of contracted-out public services and even many Academy schools are run by large chains. Over recent years there have been a surprising number of scandals about some of these contracts, for example Serco and G4S overcharging on electronic tagging over eight years, as recorded in Civil Exchange's last two Big Society Audits. The National Audit Office in its 2013 report on the role of contractors in public services commented on the lack of information about the level of profits being made.²⁴

Business also wields considerable behind the scenes influence over Government policy, unlike the voluntary sector.

As David Cameron said 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.'²⁵

Surprisingly, therefore, Government action on so-called lobbying has been much tougher in its impact on the voluntary sector than on the private sector.

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.

The market-based approach showing signs of strain

Ministers had stated that the voluntary sector would pick up new contracts for public services to compensate for losses in income due to cuts in public sector spending.²⁶ Competitive tendering, largely based on price, tends to favour efficiencies of scale rather than smaller, community-based organisations, which may help build the capacity of communities as well as being better tailored to their needs. As documented in the next chapter, it is the largest voluntary organisations that have fared best in this regime. Cuts in public spending have also left many smaller voluntary organisations with less money, meeting higher social demand.

The market-based approach is showing increasing signs of stress, as evidenced by the social care home sector.

Saga has been trying to sell its social care business at a book value of nil.²⁷ The respected health think tank, The Kings Fund, was reporting in September 2015 that '56 per cent of directors of adult social care report that providers are facing financial difficulties now. Three of the country's top five home care providers are planning to pull out of publicly-funded home care or have already done so; many more have handed uneconomic contracts back to local authorities. Many care homes are charging higher rates for people who pay for their own care – as much as 40 per cent higher in one study – in order to compensate for or 'cross-subsidise' the lower fees paid by local authorities.'²⁸

Kathy Evans from Children England has argued powerfully that a similar failure is likely in the market in children's services, as it is not a real market, and that it is being destroyed by cuts in funding, particularly the disproportionate effect of cuts on children's services.²⁹

It is uncertain how this will play out but, potentially, the withdrawal of the private sector from service delivery in some areas may be one development in a trend that leads some parts of government to rethink procurement approaches.

Devolution presents both threats and opportunities

Given these policy pressures, greater collaboration rather than competition may be a better way forward and also provide a more supportive environment for an independent voluntary sector. Encouragingly, as part of his vision for a 'smarter state,' David Cameron said in a speech that he hopes to see more collaboration between departments, local authorities and the voluntary sector locally in order to find new ways of delivering more effective public services.³⁰ Continuing major cuts in public spending, particularly for local authorities, may also force radical system redesign and here the voice of the voluntary sector is likely to be very important.

There have already been interesting experiments in local collaboration, especially at neighbourhood level. The Our Place and community and neighbourhood budget initiatives have resulted in public services, voluntary bodies and communities working together to improve lives.

NHS England is at the forefront of this type of innovation, with a promise in its Five Year View, published before the General Election, to do more to harness 'the renewable energy' of the voluntary and community sector at local level. In this spirit, the Department of Health, Public Health England and NHS England came together with the voluntary, community and social enterprise sector to 'coproduce' a review of investment and partnership between the two sectors, the results of which are yet to be announced.³¹ Since its publication, every local health and care system is being asked to come together to draw up plans which, amongst other things, will be judged on how they promote collaboration with local communities and voluntary groups to improve healthcare.³²

The number of new city regions in England with greater devolved powers continues to increase, with the Greater Manchester region at the forefront. It will be the first to go operational after a period of planning from April 2016. It is too early to judge what the impact on relationships with the voluntary and community sector will be. However, a report by the Communities and Local Government Select Committee has warned of lack of transparency, public engagement and consultation:

'We have found a significant lack of public consultation and engagement at all stages in the devolution process. People are keen to be involved; our public session in Greater Manchester highlighted residents' strong appetite to be included and consulted. The public should be engaged in the preparation of devolution proposals, insofar as possible during the negotiations and once the results of a deal have begun to make an impact, and communicated to throughout the process. This is particularly the case for health devolution where the systems in place are complex, changes are consequently more difficult to understand and the public's response is likely to be more emotional.'³³

The independent voice of the sector is a critical conduit through which citizens express their views on devolution and changes in local government and services.

However, NAVCA (The National Association for Voluntary and Community Action) reported in a letter to the Chancellor at the end of 2015 that 'our members' experience suggest that devolution is currently driven by local authorities and consequentially does not make the most of the transformative effect that giving people greater control can have on local services and local communities' and added that the voluntary sector 'has largely been excluded from discussions.'³⁴ In July 2015, voluntary organisations wrote a collective letter to Greater Manchester making the case for their involvement and publishing that letter in the press. The fact that they had to write it at all is perhaps significant.³⁵

There are good reasons for the voluntary to keep trying to ensure its voice is heard, as our first guest contributor, Judy Robinson, explains below. But, as she says, these developments take place at a time when the capacity of the voluntary sector to engage is reduced.

The state and the voluntary sector: independence and opportunity

By Judy Robinson, Chair of Health Watch, Sheffield, former CEO of Involve Yorks and Humber, and Board member of Voluntary Action Rotherham

There are three main reasons why future focused voluntary and community organisations will want to get to grips with devolution.

First, politics. Devolution is re-shaping how local authorities and health organisations work: their responsibilities and powers, geographies and relationship to central government. This, in turn, will affect decisions about people's lives and fortunes. Voluntary and community organisations have to understand this change if they want to affect the context in which they operate and be a voice for their members. Soon there will be mayors elected in devolved areas and influencing their agendas will be important.

Second, principles. Much of devolution is about economics and trying (again!) to narrow the north-south gap. Often, however, it's an orthodox economics model and a top down way of operating. The focus is on growth, business and jobs and too little on those factors and principles that create the conditions for *sustainable* growth such as building social capital, equality and participation: all of which lie at the heart of the voluntary and community sector.

Third, practical. Skills, worklessness, early years, business development and, in some areas, health are being devolved. In all these, the voluntary and community sector and community enterprises have both insight and practical experience. Devolution needs this capacity to engage people, create good jobs and effective services and contribute the energy and innovation of independent voluntary action.

There are, though, obstacles in the way. The voluntary and community sector has reducing policy and strategic capacity and there is precious little thinking time for the debate and reflection that system changes need. The politics of participatory democracy are tricky and politicians have other things to worry about. The architecture for engagement has to be re-invented. The voluntary and community sector is still too focused on individual organisation survival rather than sector influence; and national leadership does not have enough sub national connection to offer support.

Some will say that cuts to northern councils, the *growing* north/London SE gap and failure to develop industrial and regional strategies will be far more significant to the future of the north and the voluntary and community sector than devolution.

Devolution creates opportunities, nevertheless, for the voluntary and community sector to contribute to re-thinking the role of the state (and the market) in public services and the nature of local decision making. It could use its know-how and more local experience in this bigger arena to encourage and plan for neighbourhood institutions, community enterprise and new forms of local government that recover a shared sense of civic and civil society.

The lessons of the voluntary and community sector in Scotland in the run up to devolved government are useful. It got organised, formed alliances across sectors, collaborated and had a clear and convincing message about what it could do, how it should be involved and how it could contribute to a new Scotland. That's ambitious... and it could be done south of the border too.

Chapter 3

Which organisations are most at risk?

This chapter seeks to bring out the very different circumstances of different parts of the sector in terms of resources, in order to clarify which type of organisations are most at risk of challenges to their independence.

The Panel on the Independence of the Voluntary Sector highlighted that some organisations in the voluntary sector were more at risk than others from threats to independence, explaining that those with financial resources of their own and strong 'brand power' were in the strongest position to stand up to any external challenges. It also showed that smaller, specialist voluntary organisations, especially those working with vulnerable individuals in disadvantaged areas, had more limited power to protect themselves, and were being made less resilient by changes in state funding.

This report deepens that analysis and finds that financially resilient organisations may be in a stronger position of power against challenges to their independence from the state but are far from immune, particularly to threats to independence of purpose.

As well as finances, we look in this chapter at the other key resource for the sector - volunteering - and explore how 'people power' is creating a new kind of independent power in the voluntary sector.

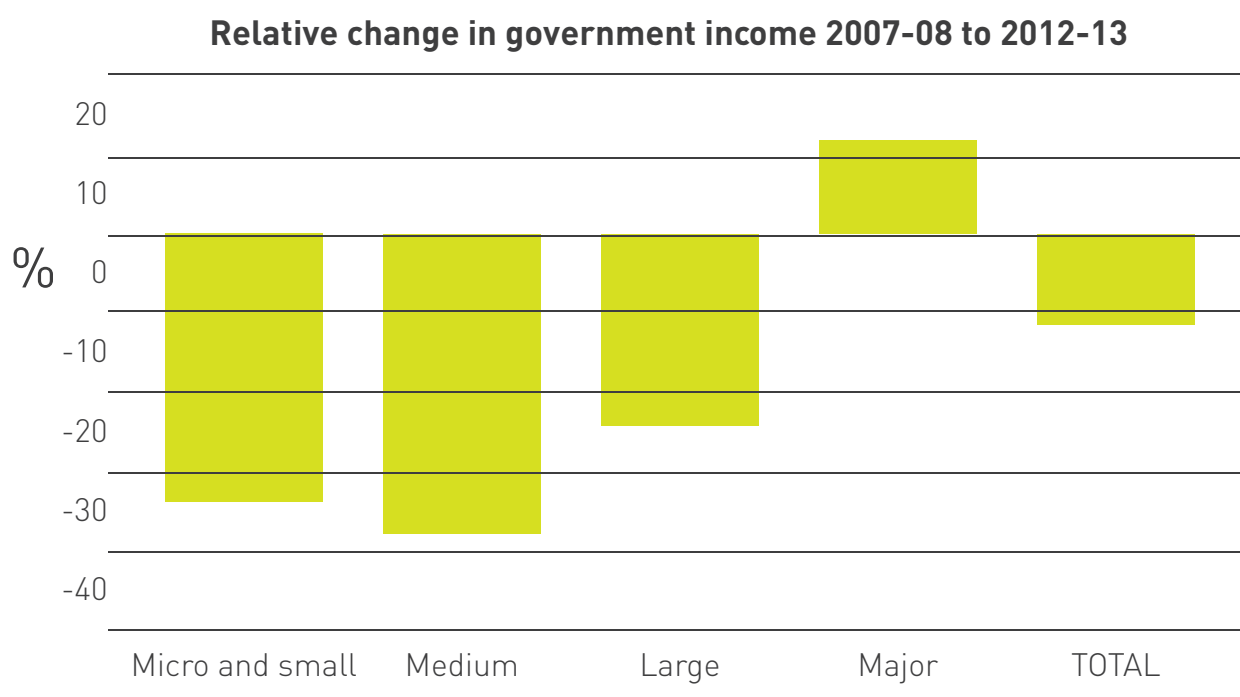
The state and the voluntary sector

The financial environment in which the voluntary sector works has a strong influence on issues of independence and the second most important financial relationship it has is with the state, the first being with individuals who donate money and buy services.

The state now provides a third of the income of the sector. However, only around a third of the sector receives grants or contracts from government. Much of that money is being given for support to the welfare state. All charities receive indirect subsidy from the taxpayer through tax relief, worth over £3 billion,³⁶ though this does not apply to that part of the voluntary sector that is unregistered.

The shift from grants to contracts has fundamentally changed the relationship between the sector and the state from one of partnership to that of a delivery agent. It has also placed voluntary sector organisations in direct competition with other organisations in both the voluntary and private sectors.

It has been easier for the largest voluntary organisations to access this source of funding. Indeed, there has been a redistribution of state funding from smaller charities to those that have an income of over £10 million since 2007-08, as shown in the bar chart overleaf.

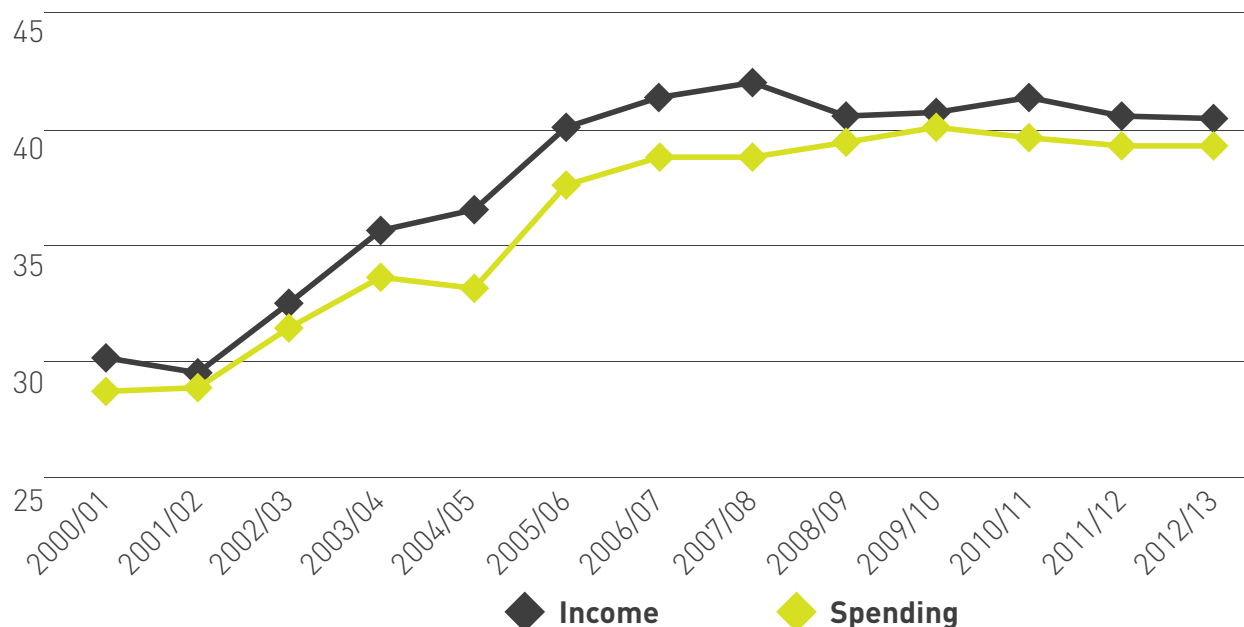


Source: *A financial sustainability review, change and adaptation in the voluntary sector as the economy recovers*, CFG, NCVO, Institute of Fundraising, Locality, NAVCA and Small Charities Coalition, July 2015³⁷

When the sustainability of voluntary organisations is under threat, there is a risk that they will feel forced to pursue sources of finance that do not fully support their mission or will be unable to fund important functions, such as policy and campaigning, that are vital to independence of voice.

It was estimated by leading bodies in the sector in July 2015 that the sector will need to find annual savings of £4.6 billion by 2018-19 just to maintain the same spending power it had during 2012-13.³⁸ After a dramatic rise in income until the financial crash of 2007-08, largely due to new income from the state, the sector has since been experiencing a funding squeeze. This is creating a worrying gap in income relative to demand for certain parts of the voluntary sector and it is likely to grow as further cuts in public spending take place.

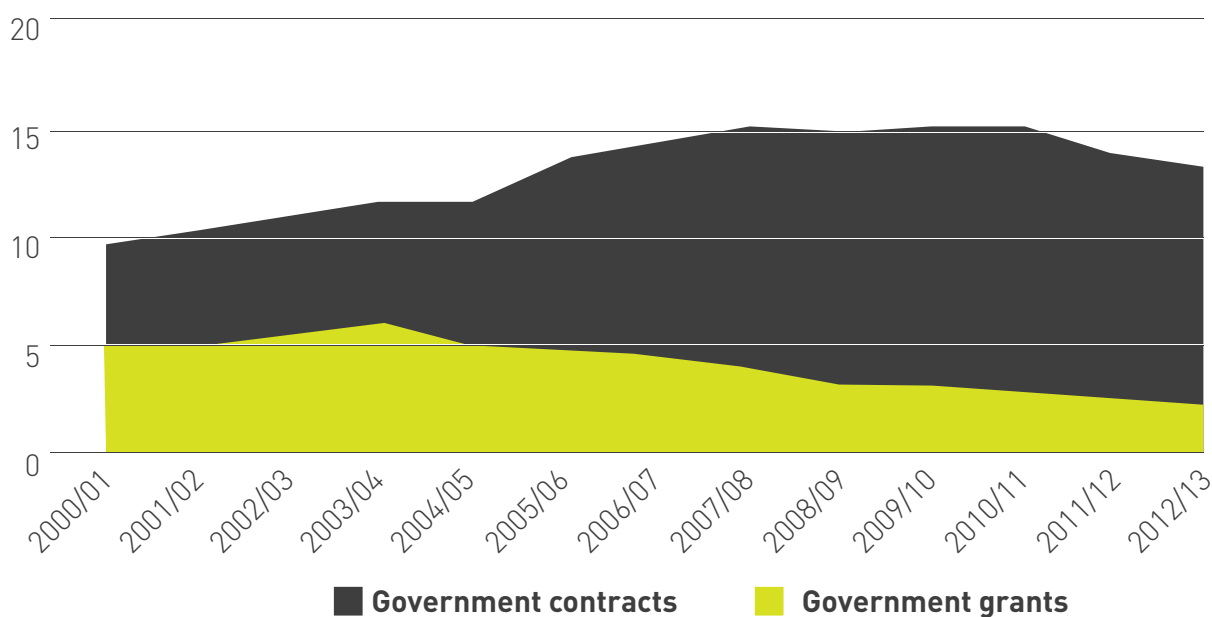
**Voluntary sector total income and expenditure,
2000-01 to 2012-13 (£ billions, 2012-13 prices)**



Source: NCVO UK Civil Society Almanac 2015

The main reason for this gap is that income from the state has been reducing dramatically and has been increasingly being replaced by contracts rather than grants, as illustrated by the graph below.

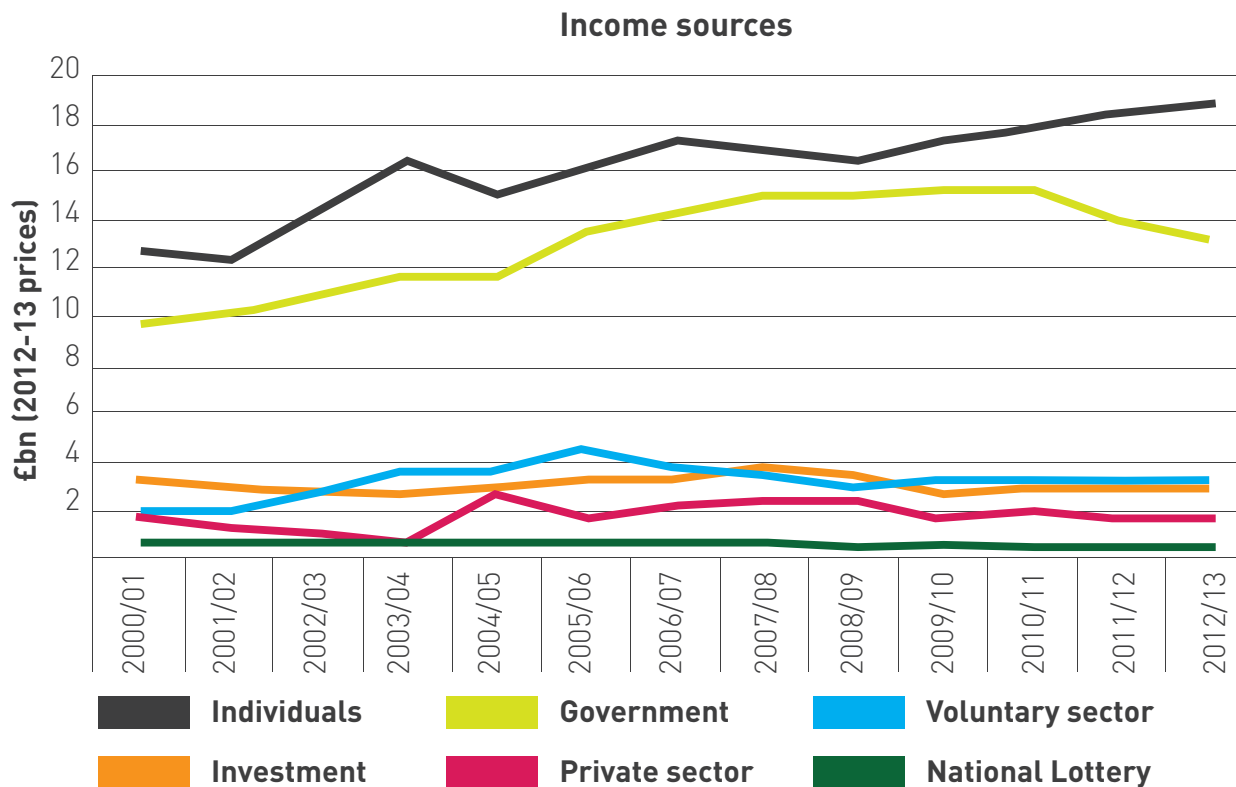
**Government grant and contract income to the UK voluntary sector,
2000-01 to 2012-13 (£ billions, 2012-13 prices)**



Source: NCVO UK Civil Society Almanac 2015

In addition to rising costs, in the year to March 2014, charities have been losing out on £300 million of rate relief. Local authorities awarded only £43 million in discretionary business rates relief to charities, out of a potential £349 million.³⁹ Given the funding climate for local government, there is every reason to expect this trend to continue.

Other sources of sector income, for example, from the private sector, the national lottery or from trusts and foundations, have either stagnated or not risen sufficiently over the last four years to cover the shortfall, as illustrated by the graph below.



Source: NCVO UK Civil Society Almanac 2015

Looking ahead, further major cuts in public spending were announced in the Autumn Statement of 2015 and the Chancellor has signalled that further reductions may need to be made in March 2016.

One of the reasons for the growing gap between income and expenditure is a rise in demand for the services of voluntary organisations. This is to some extent because vulnerable groups have been hard hit by cuts in services and welfare and now increasingly rely on the support provided by the voluntary sector. A survey of charities working in social welfare from across England and Wales found that 88 per cent reported a change in demand, largely in terms of rising and more complex needs.⁴⁰

At the end of 2015, the Government set up a new Dormant Assets Commission to look for new assets for a new fund to support the sector, with estimates that it could be worth around £1 billion. It is as yet unclear how that money might be spent and how much would be available annually. Nevertheless, even if this fund was all spent in one year this would not fill the funding gap already predicted.

Individuals and the voluntary sector

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.⁴¹

The rise of commercial activities

According to a report produced by the NCVO and others, increasing reliance by charities on income from fees charged for services creates a serious challenge for some voluntary organisations. The report warns that they 'will need to ensure any efforts to generate income do not undermine their ability to achieve their charitable objectives.'⁴²

Commercial activities include fees for services such as membership subscriptions with significant benefits or rent from property where accommodation is a charitable purpose, such as care home fees. Age UK, for example, is reported to have collected more than £100 million in commercial income last year, more than double the amount of donations it received, which included sales from insurance, funeral plans, alarms and energy packages.⁴³

Income from fundraising activities and donations

Fundraising activities, which include merchandise, raffles, fundraising events and charity shop turnover, have recovered since 2008-09 but income from this type of activity is only slightly above its previous 2007-08 peak.⁴⁴

According to figures from the Charities Aid Foundation, there has been no growth in real terms in individual donations for nearly a decade and there was a 4 per cent fall, adjusted for inflation, from £11 billion in the previous year to £10.6 billion in 2014.⁴⁵ Payroll giving has also declined. The total amount raised fell by 6 per cent to an estimated £126 million in 2014-15 from £134 million the previous year, which was also down on the £155 million donated in 2012-13.⁴⁶

Increase in competition for donations

Fundraising for individual donations has been becoming increasingly competitive and costly.

The six top fundraising charities increased their combined expenditure on individual giving by 39 per cent between 2010 and 2014, from £75m to £104m – but the income from that activity rose by only 10 per cent, from £322 million to £356 million.⁴⁷ This may partly account for aggressive fundraising practices which have come under recent criticism and which are considered in Chapter 4.

Other sources of income

Sources of income from foundations, social investment and the private sector are important but very small compared to income from individuals and the state:

- The top charitable foundations (representing 90 per cent of all giving) gave £2.5 billion to the voluntary sector in the year to March 2014 and there has recently been a rise in grants due to the recovery of investment in returns. However, grant making is still below pre-recession levels.⁴⁸
- Social investment is still 'small beer.' Big Society Capital and its co-investors committed a total of £359 million from its inception in 2012 to the end of 2014 but had only distributed (via its financial intermediaries) a total of £104 million to 135 organisations at the end of 2014, with a further £32 million drawn down in the first quarter of 2015.⁴⁹
- Private sector donations are only 4 per cent of the sector's total income and, over the last decade, with some fluctuation, levels have remained relatively stable.⁵⁰

A typology of voluntary organisations

These developments are affecting the independence of different types of organisations in the voluntary sector very differently. Excepting organisations such as independent schools and acknowledging some overlap across groups, the typology we have developed here of different kinds of voluntary organisations provides an indication of the variety of circumstances and experience across the sector.

Major and large charities and social enterprises

A common feature of the largest charities and social enterprises (with turnover between £1 million and of over £10 million a year) is that they are more likely to be more financially stable and resilient than smaller charities.

Although all sizes of organisations except major voluntary bodies have lost state income, major and large organisations saw an increase of 3 per cent in their net assets, whereas medium sized organisations saw a fall of 9.5 per cent in net assets between 2011-12 and 2012-13.⁵¹

But, within this group of the largest charities, the relationship to the state can be very different and the potential risks they face to independence vary too.

Big brand charities

Many big brand charities - which include well-known children's, health, international and animal charities - are popular causes for donations and legacies and may well have also have increased earnings from the sale of services to individuals. Some will also have contracts for services. The ten biggest fundraising or 'big brand' charities according to income and fundraising are shown below.

Top 10 Fundraising charities 2014-15

Rank		Income £ million			
2010-11	2014-15			Fundraised	Total
1	1	Cancer Research UK	Mar-15	446.5	634.9
2	2	British Heart Foundation	Mar-15	263.8	288.2
6	3	Macmillan Cancer Support	Dec-14	214.1	218.4
3	4	Oxfam GB	Mar-15	192.8	401.4
10	5	Sightsavers International	Dec-13	184.7	199.7
4	6	Royal National Lifeboat Institution	Dec-14	170.9	190.1
7	7	British Red Cross Society	Dec-14	139.1	261.8
9	8	Salvation Army Trust	Mar-14	130	196.3
13	9	Save the Children	Dec-14	125.3	370.3
5	10	NSPPC	Mar-14	115.3	125.9

Source: *Top 100 Fundraising Charities Spotlight, Annual Report, February 2016, Charity Financials*, Wilmington Insight

The income of the top 100 fundraising or 'big brand' charities grew by 7 per cent in 2014-15, according to a recent report,⁵² which concluded that they are resilient financially. But, as explored in Chapter 4, some of these organisations may be becoming increasingly commercial in their outlook, raising significant funds through commercially-focused or commercially-led operations.

The service delivery charities

Many major service delivery and social enterprise voluntary organisations and medical service delivery charities will have contracts for public services as a key part of their income and may have won more resources in recent competition for government contracts.

For example, CRI (Crime Reduction Initiatives) has doubled its income to £140 million plus in five years. In 2014-15, only £68,000 of its income came from voluntary sources, and £107,000 from investment. It had an operating surplus of £1.2 million and cash balances at year-end of almost £23million.⁵³ Risks to independence in this group will vary but may include loss of independent purpose and restrictions to independence of voice as defined within the terms of contract funding. The reliance on these contractual relationships can also encourage a degree of self-censorship.

Federated charities

Federated charities, such as Citizens Advice, are a hybrid of large and small. They may have had a mixed experience and there will be significant variations between them. In 2014-15 Citizens Advice, for example, successfully secured two major Government services, Pension Wise and Witness Service on top of existing government contracts for Consumer Futures and Money Advice. Its overall income in 2014-15 increased to just over £88 million from £77 million the year before.⁵⁴ At a local level, however, some CABs have been struggling. For example, two out of the three current Citizens Advice Bureaux in Manchester were announced to be closing in May 2015 due to cuts in council funding⁵⁵ and Birmingham Citizens Advice Bureau announced the closure of its branch at Perry Common Library in College Road and its service at Northfield Library effective from June 2015.⁵⁶ These organisations often have considerable grass roots knowledge and the ability to exercise their independent voice is particularly important.

Quasi public sector charities

Quasi public sector charities, such as housing associations, Academy schools and museums and galleries have assets or income given to them by the state.

Their income is based on those assets or they survive entirely through state funding, as Academy schools do. Their governance may not be fully independent of state control, as considered later in this report.

Social enterprises

Social enterprises are in a category of their own in that they are commercially-focused but work for a social purpose. Some are spin offs from the public sector, for example, Places for People Leisure, which runs 100 plus leisure centres for local authorities. Others operate under contract to the state, for example, the London Early Years Foundation, which runs nurseries in deprived areas. They may face the full range of threats to 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

Small and medium sized voluntary organisations

Small and medium sized organisations (those with income of less than one million pounds) are most at risk financially, mainly due to loss of state funding, with many also facing rising demand. This can put their independence of action, and even their very survival, at risk.

Lack of financial resilience and the absence of a strong brand can also leave them relatively powerless and less able to challenge threats to independence of voice, as well as limiting their capacity and resources for policy and campaigning.

Part of the reason for loss of state funding within this group is the difficulty smaller organisations have in winning government contracts. This is often because they lack economies of scale and can find procurement processes unduly burdensome. Many of these organisations are embedded within communities, helping to draw on their strengths as well as build on these assets. Pressure to scale up in order to win contracts can take these organisations away from their specialisms and community roots, leading to a false economy – a case made cogently by a Locality Report, *Saving money by doing the right thing: why 'local by default' must replace 'diseconomies of scale.'*⁵⁷

The long-term viability of many small and medium sized organisations is under significant threat. One study has concluded that around one in five (21 per cent) of these smaller charities are 'struggling to survive' and 'if this experience is replicated across the c.130,000 charities of this size currently in operation, it could prove devastating for the sector'.⁵⁸ Another report⁵⁹ describes how smaller organisations 'have eaten into reserves, cut investment in their own capacity, reduced expenditure on training, and frozen staff salaries, while staff have increased their working hours – all to avoid reducing the support they provide day-to-day'. It concluded that such charities are experiencing a 'capacity crunch' that limits their ability to adapt, or to even engage with funder programmes designed to improve their sustainability. In 2014-15, Locality said in its annual report that it had helped 50 organisations in financial distress with advice and support.⁶⁰

According to recent research by the NCVO and IPPR North, smaller charities⁶¹ have worked hard to combat the cuts, increasing income from individuals by up to 21 per cent. But this has not been enough to offset losses of government income of up to 38 per cent. Survival tactics have included mergers, takeovers, diversifying income sources, increased partnerships, reducing costs and ultimately services. Nonetheless, at its worst, for this group a single funding decision can make the difference between survival and shutdown.⁶²

Specialist and community based organisations

Specialist and community-based organisations that tend to work in the poorest areas and with the most vulnerable people in society are most likely to be affected by the changing financial climate for voluntary organisations.

Impact on voluntary organisations working with least advantaged

Small and medium-sized charities in the North East, North West and West Midlands have lost the highest proportion of income overall. Those smaller charities working in deprived neighbourhoods are more likely to have been affected, as well as those that work with Black and Minority Ethnic communities. One explanation is that cuts in local authority funding, which have fallen hardest in more deprived areas, are feeding through into the third sector more severely than is the case in richer areas.⁶³ A study⁶⁴ in the North East found that voluntary organisations were progressively more likely to have had stable income from 2012-2014 if they operated in more affluent areas. In the same study, organisations were more than three times as likely to have experienced significantly falling income over the last two years if they were located in the poorest area (33 per cent) when compared with the richest (10 per cent).

Organisations working in social welfare services have been most affected. Employment and training saw a fall of nearly £400 million in government funding between 2010-11 and 2012-13, and culture and recreation had a cut of £244 million.⁶⁵ For small and medium sized charities, legal services, social services and health have been seeing particularly large reduction in state funding.⁶⁶ Children's and young people's charities have also been affected disproportionately. Between 2010 and 2013, the latest data available for analysis, government contracts and grants to these groups fell by 18 per cent compared to 11 per cent overall.⁶⁷

Umbrella bodies

Umbrella bodies, which act as representative bodies for the sector as a whole or different parts of it, are important to the whole of the voluntary sector, particularly for independence of voice. However, most have also lost significant funding from government in recent years and have scaled back in size and/or sought new forms of funding, sometimes through the delivery of services.

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

Non-service delivery voluntary organisations

An important part of the sector does not deliver services in the conventional sense and has a very different relationship to the state in relation to independence to those that do. Organisations in this category are most at risk from threats to independence of voice.

Amongst these, network organisations derive their power and effectiveness from volunteers or networking and are unlikely to be affected by reductions in state funding to the sector across the board. Single cause organisations are dedicated to the delivery of specific goals through education and campaigning and enjoy significant public support. Think tanks, some of which are charities, produce ideas and analysis, not services.

Non service-delivery voluntary organisations: a typology

Network voluntary organisations eg sports and choir groups, self help groups, eg AA, 38 Degrees, Mumsnet	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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
Think tanks eg IPPR, Institute for Economic Affairs	<ul style="list-style-type: none"> • Dependent on major donors, charitable foundations and/or consultancy funding • Education based, seeking to increase knowledge for the wider good
Charitable foundations and trusts	<ul style="list-style-type: none"> • Most are entirely independent from state • Source of independent finance for sector • Able to fund innovation, voice, risk-taking • Source of knowledge on what is working or not in sector and on social issues

Charitable foundations also fall into this group and are unique in that they distribute funds to the rest of the sector in the form of grants in order that they can achieve their charitable objectives. Foundations both enjoy financial independence and can give a measure of it to others, as well as being in an excellent position to share information and insight across the sector.

Volunteering: a source of independence?

Volunteering is a major, independent resource for the voluntary sector and an important way to connect with and empower different individuals and communities of interest and maintain legitimacy of voice and connection to independent purpose, as identified by the Panel's Barometer of Independence, included in Chapter 1.

However, the ability to mobilise the resources of millions of individuals in voluntary action is arguably undervalued. Over many years, perhaps linked to increased delivery of state services, the voluntary sector has become progressively more professionalised.⁶⁸ It has also become a commonplace for sector leaders to demonstrate the significance of the sector to those outside in terms of its financial turnover and number of paid staff, rather than in terms of supporters, activists and volunteers.

Volunteering is of course alive and well in the voluntary sector. Perhaps surprisingly, only 9 per cent of charities employ staff.⁶⁹ Unlike financial income, formal volunteering has remained relatively stable in recent years, with just over 40 per cent of people saying that they had volunteered over the last year; 27 per cent saying they do so once a month, in both 2013-14 and 2014-15.⁷⁰ It brings benefits to volunteers who say that it helps them develop new skills, become more involved and engaged in community life and keep physically and mentally active.⁷¹

The term volunteering obscures significant differences. Some volunteers raise funds, for example through sponsored running. Others work for voluntary organisations as unpaid staff, often alongside paid staff, carrying out pre-determined duties to deliver services. For example, the National Trust has around 70,500 volunteers and only 6,000 regular full time staff.⁷² But there is also another kind of volunteering, here called 'networking,' in which people share their individual experiences, knowledge, interests and skills with others, as little or as often as they wish. These kinds of networks exist in self-help groups and longstanding organisations such as the Women's Institute.

Network volunteering has particular potential to build
and empower different communities and ensure a strong
independent voice in the voluntary sector.

We are increasingly seeing the rise of powerful and resourceful 'network' organisations, driven by volunteer action using social media. These are often organisations with relatively few staff but huge numbers of individual supporters who, by their engagement with causes, provide the outputs of those bodies. 38 Degrees, the campaigning organisation, lists 20 staff on its website, two of whom are interns plus two volunteers. Yet it currently claims to have over 2.5 million 38 Degrees members.⁷³ Mumsnet has recently enjoyed its 15th birthday and now has about 7.5 million users, with the network facilitated by 100 staff.⁷⁴

Chapter 4

The challenges to independence

In this chapter we review what has been happening since the Independence Panel's final report in February 2015, and also match threats to those parts of the sector that appear to be most at risk, drawing on the typology developed in Chapter 3. At the end of this chapter, we look at the picture internationally.

As set out in Chapter 1, the Panel broke independence down into three elements – purpose, voice and action – dimensions that are supported by strong governance and effective regulation and can be affected by the funding and policy environment. The Panel identified six specific challenges, which are brought together under these four headings in this report:

- Threats to the sector's independent purpose, due to a loss of distinctive identity, commercialisation and external control over governance by funders.
- Threats to independence of voice, including threats to the right to campaign and lack of consultation.
- Threats to independent action, due to unsupportive statutory funding and contracting arrangements.
- Threats to independent regulation, due to a politically-driven Charity Commission and weak Compact.

This report finds that not only do these challenges remain – *the situation has deteriorated over the last 12 months*.

1. Threats to independent purpose - due to a loss of distinctive identity, commercialisation and external control over governance by funders.

'To avoid mission drift, the voluntary sector needs to be much clearer about what its role is and where and how it adds value to society, not just as a service deliverer under contract with the state, or working alongside it, but as an agent of social change or support.'

The Panel on the Independence of the Voluntary Sector, *An Independent Mission*

Most at risk?

Big brand charities, major and large service delivery charities, medical service delivery charities and quasi public sector charities.

Summary

The Panel concluded in its final report that the voluntary sector had been losing its distinctive identity and that its *independent mission* or purpose was in danger of being undermined. The Panel identified the public sector's contract culture – established under successive Governments – as a key cause of the threat to the voluntary sector's independent mission. It was also concerned about threats to the independent governance of some charities.

This report concludes it is now time for the largest charities to ask searching questions about whether they are staying true to their independent purpose.

Money should always follow mission but some charities have been criticised for appearing to have been chasing money in order to fund their charitable activities in ways that are not consistent with their fundamental mission. A wider danger is that the conduct of some larger organisations is putting the whole sector's right to independence in question.

At the same time, in the case of housing associations, the Government has failed to respect their independence.

Have some charities become too commercial?

It is true that there are similarities between the voluntary and private sectors. Many charities are companies, registered with Companies House, and some charities, for example Action for Children, have formed for profit companies as trading subsidiaries. Many voluntary bodies also deliver public services, for example care homes for the elderly, with very little if any difference in what they do compared to private sector competitors. Some charities do generate funds through sales – for example, through the sales of donated goods in high street shops – and this income has grown considerably in recent years, as described in Chapter 3. The difference is that this income is used only for charitable purposes.

Nevertheless, it is important that the distinction between the voluntary and private sectors remains clear.

The voluntary sector can harness and generate *social value* by tapping into and strengthening communities, for example. It can also give expression to diverse views and interests through its independent voice. Funding is a major difference, too, with the exception of social enterprises. Many if not all charities receive funds from donations and most receive an indirect subsidy from the public through their tax treatment, worth £3.4 billion in 2014-15, according to *The Times*.⁷⁵ That support relies on a belief that they are pursuing public good and their charitable purpose in everything that they do.

Over the last 12 months some prominent, well-funded organisations within the voluntary sector – big brand and service delivery charities – have come under direct fire for behaving in a way that is incompatible with public expectations of charity values. As an *Observer* editorial in February 2016 declared:

'What's the difference between a Serco, or a G4S, and a charity, providing services on behalf of the state? It ultimately comes down to values. But who is the guardian of those values? This is a profound question facing the modern charity sector that it has been slow to debate, relying too much on the respect once automatically bestowed on charities. This has left it vulnerable to attacks.'⁷⁶

Excessive salaries?

Over the last 12 months, the media have been increasingly questioning levels of salary for senior staff in charities that they regard as more appropriate to the private sector, with *The Sun* referring to them as 'Charity Fat Cats.'⁷⁷

The spotlight has been on big brand charities well known to the public, such as the NSPCC, Cancer Research UK, Marie Stopes International, Marie Curie and the Alzheimer's Society.

The public can be ill-informed about the sheer scale of these operations and the need for them to be professionally managed by staff with appropriate experience which may come from other sectors. There is a commonly held view amongst a section of the public that charities are generally staffed by volunteers, or should be, according to the National Council of Voluntary Organisations' review of charity pay.⁷⁸ This inquiry recommended that a charity's pay policy should attract appropriately qualified staff but:

'this should always be consistent with the charity's aims and recognise that for certain charities, particularly those with a volunteer ethos, it is possible to attract senior executives at a discount to public sector or private sector market rates.'⁷⁹

It is the case that, on average, the salaries of senior staff in the voluntary sector are relatively low compared to the private sector, as shown by the source below, included in an analysis provided by *Third Sector News*.⁸⁰

Comparison of pay between charities and all sectors

Rank and responsibility	National			Greater London		
	Charity pay	All sectors	Diff %	Charity pay	All sectors	Diff %
Chief executive	78,839	105,700	-25.4	90,441	117,520	-23.0
Other director	69,880	84,000	-16.8	71,623	84,525	-15.3
Head of function	53,045	61,978	-14.4	54,642	69,253	-21.1
Senior manager	42,976	47,800	-10.1	45,090	49,115	-8.2
Middle manager	35,978	38,511	-6.6	37,740	39,359	-4.1
Junior manager	30,321	31,500	-3.7	32,908	31,794	+3.5
Trainee manager/supervisor	25,765	26,116	-1.3	27,590	27,446	+0.5

Source: Croner/Wolsters Kluwer

It is also true that the highest salaries are often in organisations that arguably work in a specialist employment market where they are competing very directly with the public and private sectors, for example in healthcare. In a survey of senior pay by *Third Sector* of the top 150 charities, it concluded that the highest pay was found in charitable private hospitals and medical charities, philanthropic foundations, independent schools and professional bodies, which are arguably competing directly with the private and public sectors in specialist markets.⁸¹

Housing association pay for Chief Executives over the last year has also come under media scrutiny. In April 2015, *The Mail* described the 'lavish salaries' of 'housing fat cats'... 'Eighty pocket more than Mr Cameron's salary of £142,500.'⁸² *The Guardian* reported: 'On average, the housing association chief executives who responded to our survey' (comprising 54 associations) 'earned 10.6 times that of their organisation's lowest-paid worker, who typically earned £7.69 an hour, 16p short of the living wage'.⁸³ Again, they arguably operate in a specialist recruitment market.

Salaries for Chief Executives in general charities (which include the main big brand and service delivery charities but which excludes medical charities, independent schools and quasi-public sector bodies) are still attracting notice. The median salary for general charities was £145,000 in 2015, according to *Third Sector*. The table below shows those Chief Executives whom *Third Sector* report as earning above that level.

Highest paid Chief Executives of General Charities reported by *Third Sector* in 2015

Position (2013 position)		Highest-paid employee	Income
GENERAL CHARITIES			
1 (1)	Consumers' Association	£310k-£320k	£87m
2 (2)	Marie Stopes International	£260k-£270k	£212m
3 (3)	Save the Children International	£257k-£267k	£559m
4 (4)	Cancer Research UK	£220k-£230k	£537m
=5 (18)	Turning Point	£200k-£210k	£94m
(=5)	British Red Cross Society		£228m
7 (-)	Canal & River Trust	£190k-£200k	£165m
=8 (=20)	Royal Horticultural Society	£180k-£190k	£72m
(=5)	Age UK		£159m
(12)	British Heart Foundation		£275m
=11 (=8)	Alternative Futures Group	£170k-£180k	£55m
(=8)	Crime Reduction Initiatives		£100m
(=5)	Shaw Trust		£108m
(=13)	Macmillan Cancer Support		£190m
=15 (=13)	Marie Curie Cancer Care	£160k-£170k	£155m
(=20)	Charities Aid Foundation		£418m
(=8)	National Trust		£460m
=18 (=20)	Zoological Society of London	£150k-£160k	£52m
(-)	Royal Voluntary Service		£71m
(=30)	RNIB		£119m
21 (26)	Historic Royal Palaces	£153,903	£80m
22 (=27)	Action for Children	£150,000	£180m

Source: *Charity pay study: who are the highest earners?* Third Sector, 26 February 2015

Since this list was prepared, *Third Sector* have reported that the Chief Executive of the Consumers' Association (which produces the *Which?* Magazine, for which readers pay) will receive £809,000 in the financial year to June 2016, including a long term incentive payment, a bonus and allowances, potentially making him the highest earner in the whole of the charity sector.⁸⁴ In an editorial, *Third Sector's* editor, Stephen Cook, said this:

'What appears to have happened here...is that the trading arm has, in effect, become so successful and dominant that it has taken over control from the charity. The ethics and values of the charity world appear to have been elbowed out by some of the less attractive values of the business world, where bonuses and incentives and personal reward – not to mention unequal pay – are dominant. The tail is wagging the dog, and it is not a pretty sight... The CA is not alone in this. There are many other charities that are, in effect, big businesses, run according to business principles.'

That said, private sector organisations in direct competition for public sector contracts, for example, Serco, are paying much higher rates. Contrast the pay of the previous Chief Executive of Serco, at nearly £2 million, with that of CRI (Crime Reduction Initiatives) above at £170-180,000. Chief executives at FTSE 100 companies average salaries top £4.9 million per year – 28 times the average charity chief's salary. NHS managers at leading hospitals can expect to earn at least £400,000.

Nonetheless, many of these salaries would appear to be high and it is up to the unpaid trustees of the charities to justify them to all their stakeholders.

The NCVO enquiry into pay recommended that arrangements should be transparent, with a clear policy in place and a 'two click' practice, whereby information on salaries should be available within two clicks on a charity website. The majority of charities have not applied this recommendation, according to a recent investigation.⁸⁵

Competition for public sector contracts may be a factor in pushing up salaries, as charities seek leaders with private or public sector experience who can successfully bid for work against much larger corporate businesses. These same pressures are pushing down pay levels and terms and conditions lower down in charities, it has been argued.⁸⁶ According to the Chartered Institute of Personnel Development, voluntary and community organisations are twice as likely as the private sector to employ people on zero hours contracts.⁸⁷

Poor fund-raising practices

Shock waves went through the sector when dubious and even unlawful fund-raising practices were uncovered by *Daily Mail* investigations into specialist firms that were sub-contracted by the charities to call potential donors. This happened after the suicide of Olive Cooke, a veteran fund-raiser who had been deluged with requests from charities. Amongst the alleged abuses uncovered were ignoring the Telephone Preference Service; making it deliberately difficult to opt out of future calls; selling data to others without their permission; and obtaining donations from vulnerable people and even targeting them. Some of the details are shocking. In the case of Samuel Rae, The *Daily Mail* were able to show that his data was sold on hundreds of times, including to scamming companies. One

call centre company, GoGen, had a call script for vulnerable people in which the fundraiser continued to press for a donation after discovering the individual was confused or suffered from dementia.⁸⁸

Investigations by the Fundraising Standards Board (FRSB) into Oxfam, Diabetes UK and their subcontractor Listen UK substantiated some but not all of these allegations. The FRSB revealed that in 2014 there had been 50,000 complaints from the public about the all forms of fund-raising by its 1,300 member charities⁸⁹ and there had been complacency, according to the Information Commissioner.⁹⁰

Leaders of some of the biggest charities have put their hand up and admitted that they have got things wrong on fund-raising.⁹¹ But there are wider questions to ask.

The turning of fund-raising into a sub-contracted business without strong safeguards for the protection of vulnerable people points to a loss of identity and values in parts of the sector even if the bad practice was committed by independent companies at arms length.

Exploitative commercial activities?

A number of charities have come under media investigation for their commercial activities but the most prominent of these is Age UK. In early 2016, Age UK was accused of selling energy deals with E.ON that are more expensive than other tariffs. Age UK eventually suspended the arrangement. According to *The Guardian*,⁹² the charity collected more than £100 million in commercial income last year, more than double the amount of donations it received, which included £22 million from selling insurance, £9.3 million from funeral plans, £6.3 million from selling energy packages with E.ON, and £8.7 million from selling alarms. *The Guardian* added that the charity's accounts show that eight executives involved in its commercial operations earned more than £100,000 last year and reported that some local charities that had been part of Help the Aged before the merger refused to join the new charity because of concerns about these practices.

According to the Charity Commission, 1,700 charities have commercial arrangements with credit card companies and utility firms.⁹³

Kids Company

A common thread in many of the accusations made against the sector is the failure of voluntary led trustees to avoid these problems.

The spectacular failure in the summer of 2015 of Kids Company, a major charity which had received millions of grants from the Government as well as many major donations from individuals, also provoked public debate about the nature of charity and whether it was worthy of the support it had been given by the Government and others.

The pursuit of large donations and government grants by Kids Company, apparently without effective governance, lack of control over spending and lack of transparency about what it was achieving, has understandably attracted criticism.

As this report is published, the Charity Commission has yet to publish its own report into what happened. But it is clear already that Kids Company was far from typical. The Chair of the Parliamentary Administration and Constitutional Committee referred to 'an extraordinary catalogue of failures of governance and control at every level: trustees, auditors, inspectors, regulators and Government,' when it published its report.⁹⁴ Allegations of poor governance were furiously denied by the trustees but nonetheless many commentators questioned whether governance by volunteers had in this case failed to keep sufficient control.

The BBC documentary about the collapse, *Camila's Kids Company: the Inside Story*, first shown on 3 February 2016, showed Camila Batmanghelidjh boasting about how she stretched the rules in order to pursue her charitable mission. For her, pursuit of charitable mission included giving long-term financial support to vulnerable individuals and to others whom she thought deserved it, even where they did not fit the criteria of the charity at all. The programme also reported allegations that she had used some funds for her own benefit, including keeping a chauffeur and having sole use of a swimming pool in a mansion rented by the charity. Although she defended herself, for example, saying that she paid rent for the swimming pool, the impression was left of a luxurious lifestyle.

The impact of recent scandals

Immediately, a number of changes have been announced or are in train in response to these various scandals.

First, the NCVO, at the request of the Government, has undertaken a review of fund-raising and put forward recommendations that are designed to lead to more responsible behaviour. However, the sector is under warning from the Government that if the sector is unable to put its own house in order, the state will step in with further direct intervention and regulation. It has taken reserve statutory powers to enable it to do so.

Second, the Charity Commission has announced that it is issuing a regulatory alert to the trustees of charities with such arrangements to ensure that 'the nature of the commercial partnership and the fee or commission received by the charity is clear and transparent,' warning that such ventures, although providing valuable income, must not 'jeopardise' a charity's reputation.⁹⁵

Third, the Cabinet Office is undergoing a review of its grant making processes and is to establish a new central register of grants to charities. It is reported that it is considering extending the Freedom of Information Act, which was originally intended for public bodies, to voluntary organisations receiving public money.

It seems unlikely that this is the end of the matter. Various commentators have called for stronger governance across the whole sector. ACEVO have called for more investment in leadership and governance.⁹⁶ A few have called for rationalisation.⁹⁷

It is unfortunate that the reputation of the voluntary sector as a whole, including financially fragile smaller organisations, could be damaged by accusations that should only be answered by some large-scale charities and social enterprises.

For example, in 2014, the FRSB estimated that charities with a turnover of over £10 million were responsible for 85 per cent of direct marketing and 73 per cent of public collections by value. Charities with a turnover under £1 million pounds were responsible for just 0.5 per cent of direct marketing and a negligible amount of public collections (fund-raising on the street or at the door).⁹⁸ There is considerable concern that the new Fundraising Preference Service will harm the income of many smaller charities, which did not have a problem in the first place.

As the Public Administration and Constitutional Affairs Committee commented in January 2016, 'The behaviour of some charities has damaged the reputation of the sector as a whole.'⁹⁹ Although criticisms have come largely from outside the sector, comments at the 2015 ACEVO conference reported by *The Guardian*¹⁰⁰ demonstrate concerns in the wider sector. Laura Parker, chief executive of Children and Families Across Borders apparently said 'I do think that the big guys – and they are mostly guys, I am afraid to say – have let down the rest of us;' and David Babbs, chief executive of 38 Degrees reportedly said 'It's hard to see how anyone running a charity should be on £200,000,' and he added, 'I don't think you have got answers to that that the public recognise.'

If public trust in the sector begins to be lost, then the danger this will undermine its very viability, given the vital importance of donations and volunteering.

Indeed, there is some evidence that, together, these scandals are beginning erode public trust in the sector.

YouGov's *Charity Reputation Research* published in February 2016 found that, out of 2000 people, 38 per cent of respondents agreed charities were trustworthy, compared with 54 per cent in 2013; and 45 per cent believed charities had high ethical and moral standards, compared with 56 per cent in 2013. 67 per cent of respondents said it was fair for charities to have been accused of aggressive fundraising, 21 per cent said it was unfair. Similar proportions of respondents thought it was fair or unfair for charities to have been accused of paying senior staff excessive salaries.

Threats to independent governance

According to the Panel, the clear distinction between public and voluntary sector was also being eroded by quasi public sector bodies with charitable status, some of which are in effect public sector bodies in almost all but name. These include museums and galleries, or former state assets managed by voluntary sector, such as housing associations and Academy Schools. Interestingly, NHS Trusts are reported to be seeking charitable status with local authorities in order to gain £1.5 billion worth of backdated rates relief.¹⁰¹

Quasi-public sector charities experience some of the benefits of being charities but lack independence from the state.

Academies, for example, are regulated by their funder, the Secretary of State for Education, not by the independent Charity Commission.¹⁰² Housing Associations are regulated (at first glance) more independently by the Homes and Communities Agency (HCA). However, the HCA is under the direct control of Ministers, with regulation exercised by a special Regulatory Committee appointed by the Secretary of State, with a distinct statutory function to try to ensure the regulatory function has a degree of operational independence from the HCA's parallel investment role.

Both provide vital services where accountability to those they serve – either through government or through independent voluntary governance, is essential. However, a degree of confusion about for whom the charities are working potentially undermines that accountability and their independence.

Housing Associations

Over the last 12 months, these challenges have been brought into sharp focus by the case of housing associations. Housing associations are not for profit social businesses that are intended to be independent. Most are charities. As well as building and maintaining houses, they have wider social purposes as part of their mission, as celebrated by the NHF.¹⁰³ The history of some housing associations as charitable entities goes back to the middle ages and alms houses and many have assets that pre-date close involvement with government. But a significant group, known as the LSVTs (Large Scale Voluntary Transfer), have grown through the transfer of assets from local authority control. In recent decades housing associations have largely grown through capital loans from Government, amounting to over £43 billion since the introduction of the modern funding regime in 1988. Moreover, government money is also received indirectly via rents financed through housing benefits.

Housing associations found themselves in the midst of a storm about their independence when – during the 2015 General Election – David Cameron announced that tenants of housing associations would be given a new ‘right to buy’ the homes they were living in, with a corresponding duty for local authorities to finance the building of replacement homes.

After a period of locking horns, the Government and the National Housing Federation reached an agreement in which housing associations were given some flexibility about which homes would be sold and the plan, rather than being introduced wholesale, would be piloted. The clear risk in this proposal was their independent status from government, which amongst other things, allows them to borrow freely in order to build. Compromise was inevitable. As one commentator, Rob Gershon, a council housing tenant, put the dilemma:

'The debate has now been framed as acquiescence; the surrender of independent action, being the only way to retain independence.'¹⁰⁴

Ironically, however, the Office of National Statistics went ahead with a review and decided to reclassify housing associations as public sector, putting the whole of their £60 billion of borrowing onto the national balance sheet and thus increasing national debt. The reason given was that housing associations were not independent but were being controlled by government through its non-independent regulator, the HCA. The ONS said that they had not factored in the extension of the 'right to buy' as it had not yet come into force. Their decision was instead based on HCA consent powers over the disposal of assets and over the restricting and winding up of housing associations, as well as their powers over management, in particular to appoint managers and officers.¹⁰⁵

DCLG has since introduced legislative proposals designed to return them to the voluntary sector. If passed, housing associations will no longer need HCA permission to sell or change the ownership of their stock or charge their stock for security, nor when they merge, change their status, restructure and wind up; and the regulator would only be able to appoint officers and managers to housing associations that were significantly in breach of legal requirements.¹⁰⁶

This may be a somewhat unplanned step forward for the independence of housing associations from government, but the decision to agree voluntarily to the sale of their assets is likely to make it harder for housing associations to pursue their independent mission in the future. Over many years, there has been a shortage of supply of houses, particularly social housing for which housing associations are responsible, and respected commentators - including the former Permanent Secretary at the Department of Communities and Local Government and joint Head of the Civil Service, Sir Bob Kerslake - think that this move will contribute to a reduction in affordable and social housing, for which housing associations are mainly responsible.¹⁰⁷

Although the main threat to the independence of housing associations has been external, there are some who argue that there are internal threats too. A report in 2010 by Andrew Purkis funded by the Baring Foundation and the Joseph Rowntree Foundation¹⁰⁸ raised some concerns about whether housing associations had become largely commercial in character, were losing sight of their broader social purpose and were too focused on creating new social housing and powerful balance sheets, rather than serving specialist needs. The increasingly high salaries of some senior staff, akin to private sector rates, were also noted.

Some housing associations have been criticised for being inaccessible and unresponsive to local needs, as they merge into larger groups, and being too bound up in commercial considerations. For example, Margaret Moran MP said during the passage of the 2008 Housing and Regeneration Act, 'Are some (housing associations) simply selling off at open market rates to bolster their reserves, rather than to create more affordable housing?'¹⁰⁹

2. Threats to independence of voice – including threats to the right to campaign and lack of consultation.

‘The independent voice of the voluntary sector is vital to a fully functioning democracy and properly functioning judicial system. And yet it has been ever more visibly under fire and attack over the last few years.’

The Panel on the Independence of the Voluntary Sector, *An Independent Mission*

Most at risk?

Large and smaller charities with service delivery knowledge that want to use that knowledge to shape better services and public policy but also rely on state funding for much their work.

Single cause charities and network campaigning organisations, for whom campaigning is central to their activities.

Charities that provide advice and undertake advocacy on behalf of individuals, including taking court cases on their behalf.

Umbrella 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.

Summary

Over the last twelve months, the Government’s attitude toward campaigning by the voluntary sector has become increasingly negative and restrictive; and the direction of travel is looking increasingly dangerous, with the legitimacy of the sector’s independent voice increasingly in question.

The overall climate has become increasingly negative toward charity campaigning, whether these organisations are in direct receipt of central funded government funds or not.

A wedge is slowly being driven between the idea that charities should pursue good causes on the one hand and the use of their knowledge to shape better government and democratic debate on the other.

The decision to include a ‘no advocacy’ clause in all government grant agreements follows on from an earlier pilot of this clause by the Department of Communities and Local Government (DCLG) and from the ‘gagging clauses’ in government contracts uncovered by the Independence Panel. This report has also found that ‘no advocacy’ clauses also being applied to the new Tampon Tax Fund and are also being used in contracts for services for refugees, refuges for domestic violence and victims of trafficking. It may well only be a matter of time before they are extended further. The Government has also continued to make it harder for the voluntary sector to take court action on behalf of individuals to correct injustices. The so-called Lobbying Act muted the voice of the voluntary sector during the last General Election. Consultation – non-existent on the all Government ‘no advocacy’ clauses – continues to be patchy. Self-censorship remains a major, if unreported, issue though there are notable exceptions.

Overall, this report concludes that the Government must now face serious questions about why it is taking such a restrictive view of campaigning and policy work by the charity sector but taken so little effective action in relation to corporate lobbying, despite the huge imbalance in their relative influence.

Restrictions on lobbying when receiving government funding

The Government continues to break the terms of its own agreement between the Government and the voluntary sector as set out in the Compact which commits explicitly 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.'¹¹⁰

A lop-sided approach to lobbying - in which long-promised controls on the private sector have proved weak and unexpected and tough constraints on charitable organisations have emerged suddenly and without consultation – continued when, in February 2016, the Cabinet Office announced:

'The Institute of Economic Affairs has undertaken extensive research on so-called 'sock puppets', exposing the practice of taxpayers' money given to pressure groups being diverted to fund lobbying rather than the good causes or public services.

'A new clause to be inserted into all new and renewed grant agreements will make sure that taxpayer funds are spent on improving people's lives and good causes, rather than lobbying for new regulation or using taxpayers' money to lobby for more government funding.

'It will not prevent organisations from using their own privately-raised funds to campaign as they see fit. This will ensure that freedom of speech is protected, whilst stopping taxpayers' money being diverted away from good causes. The Department for Communities and Local Government (DCLG) have successfully piloted these new rules over the last year.'

'This builds on action in the last Parliament which stopped quangos, such as the Audit Commission and Ordnance Survey, hiring lobbying firms to lobby politicians and Whitehall departments. The government has also increased transparency on consultancy lobbyist firms.'

The new clause specifies that:

'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.'¹¹¹

According to Cabinet Office guidance, except where explicit exceptions are agreed, these provisions must be included in all new grant agreements or renewals from 1 May 2016, ideally earlier, and will apply to all types of grant recipient and to all taxpayer funded grants, presumably therefore applying to local authorities and the NHS as well, and quite possibly to NGOs working abroad.¹¹²

A senior Conservative MP, the Chair of the Commons Committee on Health, Sarah Wollaston has already criticised the new clause. According to *The Times*, she said that the move would have serious consequences for public health and that the 'balance [of lobbying] is already distorted in favour of industry.'¹³

This is perhaps not surprising as 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.'¹⁴

Matthew Hancock, the Minister for the Cabinet Office, announced the changes but came under fire from media accusations that he had received donations from the Chair of the Institute for Economic Affairs,¹⁵ whose report featured prominently in the decision. The same newspaper report said that 'the IEA accepted a £15,000 donation from an unnamed individual to 'develop' the lobbying proposals which were eventually adopted by Mr Hancock.'

The Institute of Economic Affairs report cited here alleged that some charities were acting like 'sock puppets' by receiving government funds and then arguing for the growth of the state.¹⁶ The same report was called in aid back in 2012 when DCLG issued guidance just before Christmas to local authorities to cut back on spending on so called 'fake charities' that 'lobby and call for more state regulation and more state funding.'¹⁷ The wording of the new clause is identical to the one already put in place by DCLG and announced just before the 2010 election, which also cited the same IEA report. What at first appeared to be an isolated incident is fast becoming the basis of government-wide policy and it seems likely that there will be further policies based on this report, for example, similarly-intentioned clauses in all government contracts.

For this reason, we take a closer look at who funds the Institute of Economic Affairs overleaf.

There is a lack of transparency but there have been suggestions that the tobacco industry has in the past funded the IEA and the author of the report holds strong opinions in this area.

Who funds the Institute of Economic Affairs?

In the Moral Maze, *Have charities become too commercial?*¹¹⁸, Christopher Snowden from the IEA appeared as a witness. Matthew Taylor made the point that there were no restrictions on private sector companies making profits from the taxpayer via public sector contracts and then using those profits to lobby for more contracting out. He asked the IEA where its money came from. Christopher Snowden said that the IEA would not disclose this.

The Guardian in 2014¹¹⁹ reported that the BBC had come under repeated recent criticism for inviting commentators from the IEA to talk about its opposition to the plain packaging of cigarettes, without disclosing the Institute's tobacco funding. The same paper reported that, although the IEA does not disclose who funds it, British American Tobacco conceded it had recently paid the IEA £30,000, with more to come that year. *The Guardian* also reported that leaked documents from another major tobacco company, Philip Morris International, also revealed the thinktank is one of its 'media messengers' in its anti-plain-packaging campaign.¹²⁰ The IEA 'sock puppet' report lists (on page 30) Action on Smoking and Health as one of the 'numerous activist groups which have received significant state funding from the state in recent years' and on which its sights are set for banning state funding.

The author of the report, Christopher Snowden, is also reported by Andrew Purkis¹²¹ to have made a number of belittling and defamatory remarks about leading academics on smoking and public health, for example, Professor Stan Glantz, Director of the Center for Tobacco Control Research and Education at the University of California, whom he has described as a 'a raving lunatic,' 'deranged' and 'a clueless clown.'¹²² Christopher Snowden is also the author of *Velvet Glove, Iron Fist: A History of AntiSmoking* (2009) and *The Art of Suppression: Pleasure, Panic and Prohibition Since 1800* (2011) which looks at the prohibition of alcohol, drugs and tobacco.

The funding behind the 'sock puppet' report is not disclosed, despite it being good practice to do so.

According to *The Independent*, the Chair of IEA, who has given donations to the Cabinet Office Minister, Matthew Hancock, has donated £245,000 to the Conservative Party since 2010, and is on the board of the Global Warming Policy Foundation, which takes the view that the science for manmade climate change is not yet settled.

According to the NCVO, the 'pilot' DCLG clause has already had a negative impact. A number of organisations subject to the clause have told the NCVO that they had not been able to share the findings of research funded by DCLG grants and felt that they would not have been able to use the research in response to government consultations.

NCVO have also been told that the clause has prevented some expert staff from speaking to the media. Overall, those with whom the NCVO have spoken reported a strong pressure to self-censor, in part due to significant uncertainty about what the clause actually means in practice due to poor or vague wording.¹²³

The practice had been spreading even before the Cabinet Office announcement. The guide to applicants for the Tampon Tax Fund, a new annual fund for women's charities announced in the 2015 Autumn Statement by the Chancellor and administered by the Treasury, included the following:

'Proposals will be ineligible for funding if they include activities:

- Intended to influence or that attempt to influence Parliament, Government or political parties
- That attempt to influence the awarding or renewal of contracts and grants
- That attempt to influence legislative or regulatory action.'¹²⁴

No advocacy and gagging clauses in contracts

This worrying development comes on top of the use of so-called 'gagging clauses,' including in the Work Programme, as documented in earlier reports by the Independence Panel.

We have come across direct evidence that some departments have moved beyond gagging clauses to requiring organisations bidding for work to sign up in advance to 'no advocacy' clauses in contracts.

One example is provided by our second guest contributor, Maurice Wren, the Chief Executive of the Refugee Council, which took a stand against these restrictions.

Losing a contract, finding a voice

By Maurice Wren, Chief Executive, The Refugee Council

Running a small or medium sized voluntary organisation is, at the best of times, like spinning plates. It's a challenge, but if you know what you're doing, you'll keep lots rotating and breakages will be minimal. Of course, that assumes you're on a level platform and there isn't someone trying, unwittingly or otherwise, to slant the stage.

In 2014, the Refugee Council was invited to retender for a Government programme we had previously run for a number of years. Though the purpose of the programme was unchanged – providing independent advice to adults in the asylum system – the service specification had been updated to reflect changing demands and needs, and to generate efficiency savings. So far, so predictable.

What we didn't anticipate was the 'no advocacy' clause inserted into the grant agreement that would prevent the service provider from advocating on the basis of individual cases or data trends revealed by the operation of the service.

Given the structural flaws in the UK asylum system, it's axiomatic for us that any independent service provider should be free to speak out, without fear or favour and regardless of funder. If this concept of independence is undermined, then whoever does the work ends up serving the interests of Government, not of clients. Though we chose to submit a tender, we did so flagging our opposition to the advocacy bar. Perhaps not surprisingly, we didn't win the funding.

As this represented almost half our total income, we teetered on the brink of viability. But instead of going under, we licked our wounds, raided the reserves and reorganised for an alternative future in which the commitment to dissent and, if necessary, to bite the hand that funds us, was expressed as a non-negotiable feature of who we are and what we do.

We deliberately made our advocacy focus integral, rather than ancillary, to our profile as a service provider, and we prioritised collaborative working within and without what we purposefully started calling a movement, not a sector. This didn't mean declining all Government funding – we continue to receive Home Office grants for work with separated children in the asylum system and with resettled refugees – but to take it on our terms only.

Two years on, we are financially stable, having worked hard to attract more unrestricted income. As a result, we have been able to amplify our voice, most notably in leading calls for the UK to do far more for Syrian refugees, while also continuing to deliver vital Government funded services.

Rooting advocacy in the rich evidence base generated by direct, quality, services is, in many ways, an ideal NGO model, though often one that's unachievable at scale without an element of statutory funding. What I hope our experience demonstrates is that NGOs can take the Government shilling, yet still criticise and dissent, though they'll have to take risks to remain in control. Plates may fall along the way, but our experience shows that the show can still go on.

The Lobbying Act

Before the last election, considerable concerns were raised by the Panel and many in the sector about the impact of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, or the so-called Lobbying Act – details of which are set out in the box below.

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration 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 the period will be four months.

Once registered, the maximum amount non-party campaigners can spend at the UK parliamentary general election during the regulated period 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 8 months before the general election (but still 12 months before subsequent elections) and a commitment to review the Act after the election in the light of experience. A Government review, led by Lord Hodgson, was also set up in January 2015 but had yet to report at the time this report went to print.

Since the Act was passed, a General Election has taken place and the impact of the Act has been reviewed by the independent Commission on Civil Society and Democratic Engagement in a September 2015 report.¹²⁵ It said 'considerable evidence 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, it found, was confusion and ambiguity in the definition of regulated charity with charities having to invest 'significant resource in understanding it and ensuring compliance.'

The Commission concluded that the Act 'amounted to an infringement on legitimate democratic engagement ahead of the election' and asked for it to be repealed, or at least suspended and substantially amended, before further elections.

The Commission also recommended that the definition of regulated activity in the Act should be amended to clarify that campaigning should be regulated only when it is 'clear that the subjective intention is to influence the outcome of an election, rather than to raise awareness and generate discussion amongst competing parties and candidates.'

Amendment to guidance on political campaigning

Before the Election, the Chief Executive of the Charity Commission, Paula Sussex, announced that the Commission would be reviewing campaigning during the Election and its guidance on political campaigning, known as CC9. At the launch of the Panel's final report, Sir Stuart Etherington said that discussion on the guidance had already started and Sir Stephen Bubb said he feared that it would be watered down.

However, in October 2015, a Charity Commission spokesperson said to *Civil Society News* that 'there were no immediate plans to review CC9' adding that 'If we were to review it we would consult widely.'¹²⁶ The Commission has also decided not to ask charities to include in their annual returns the amount they have spent on campaigning because of concerns about the administrative burden.¹²⁷

However, the Charity Commission has since said it will review its policy on campaigning by non-charitable subsidiaries after a complaint by the company, Cuadrilla, about anti-fracking leaflets distributed by a subsidiary company of Friends of the Earth. The Commission is reported to have suggested in 2014 that Lord Lawson's charity, the Global Warming Policy Foundation, should set up a non-charitable arm to carry out campaigning after complaints were made that the Foundation's campaigns did not fit with its objectives.¹²⁸

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.

Two 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'.¹²⁹
- Just for Kids Law won its longstanding battle against the Home Secretary to ensure that 17 year olds in custody are treated as children when the law was changed by a House of Lords amendment in November 2014. This followed a successful judicial review in 2013 by the NGO and a further campaign to close legal loopholes.¹³⁰

But this role has been under increasing challenge in recent years, with a view being expressed by the then Justice Secretary, Chris Grayling, speaking to the House of Lords Constitutional Committee, that '... increasingly we are seeing pressure groups which are there to campaign - we have people who are professional campaigners - and it is one of the tools they use ... The use of judicial review is being used to delay, to make a campaigning point or to try to challenge with a campaigning view, as opposed to an injustice.'¹³¹

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 3 months to 30 days for judicial reviews that challenge procurement decisions. Thirdly, after a short consultation in 2013, detailed changes were confirmed in September 2013 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 that would prevent many vulnerable people from challenging decisions, for example, to make them homeless or to refuse to accept them as a child.

In 2015, changes were set out in legislation that – although watered down by amendments by 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 facing the costs of other parties. 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.'¹³²

However, the Government consulted in September 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.¹³³

Following a *Daily Mail* campaign revealing, as the paper puts it, 'how troops who served in Iraq are being mercilessly hounded by legal aid lawyers' David Cameron announced in January 2016 that he would introduce through legislation a new time limit for making claims to prevent cases being taken against troops who had served in Iraq; and that there would be restrictions on the use of legal aid for these cases. He also raised the possibility of legal action against a firm, Leigh Day, that had taken an unsuccessful case in the past, with the possibility that it might be refused access to legal aid cases in future.

In response, a Leigh Day spokesman is reported by *The Daily Mail* to have said: 'Over the last 12 years many cases of abuse made against the MoD during the course of the occupation of Iraq have come to light and been accepted by the Government. They include the appalling torture and murder of Baha Mousa in 2003. In addition, the Government has paid compensation for over 300 other cases relating to abuse and unlawful detention of Iraqis.... We have made it very clear that we refute all of the allegations that have been laid before us by the Solicitors Regulatory Authority.'¹³⁴

An increasingly negative political climate

In sections of the media and amongst some Ministers and Conservative MPs, the legitimacy of the voluntary sector in expressing opposing views continues to come under question and seems to be gathering force.

It is the legitimate right of a free press to criticise the voluntary sector and it is understandable that some newspapers such as *The Daily Mail* and *The Telegraph* should take a strong stance against what they see as opposing views. However, what has been particularly striking over the last 12 months has been the characterisation of campaigning voluntary sector bodies as actually undermining democracy and good government because they are allegedly being driven by left wing activists.

For example, a *Daily Mail* leader in August 2015 referred to the ‘countless charities and quangos that have been hijacked by the left’ and said that ‘together, many could be forgiven for thinking they form an insidious Fifth Column who are giving succour to Britain’s enemies and undermining at every step all attempts to make our streets safer.’¹³⁵ Earlier that month, a Mail Online article commented:

‘...something strange, and perhaps worrying, has lately come to characterise the nature of the immigration debate. For, in recent weeks, it has seemed as if opposition to Government immigration policy is being led not by MPs but by a hostile cabal of combative charities.’

The article described how a number of migration charities received a high proportion of government funding, employed or were governed by people with left wing connections or sympathies and also received money from charitable foundations with similar links. The specific cause of this article was criticism by these charities of remarks by the Prime Minister that the root cause of the Calais situation is a ‘swarm of people coming across the Mediterranean, seeking a better life’.

Not only specific charities but also the charitable foundations that fund them are condemned. It concludes ‘And so it seems these insidious fifth columnists — funded by taxpayers, of course, and hijacked by the Left — are able to continue to give succour to Britain’s enemies and undermine all attempts to control illegal immigration.’¹³⁶

The RSPCA has come under fire from commentators over a prolonged period of time, partly for taking expensive prosecution cases rather than focusing on its enforcement role, including against the Heythrop fox-hunting group in which David Cameron used to hunt, which admitted that it had acted illegally but still complained about being taken to court. Campaigns against the Grand National and badger culling have come under attack for a number of years, in a turbulent period for the charity when it reviewed its own strategy on campaigning, two CEOs in six months resigned, and donations fell. Recently, some trustees resigned.

Criticism of the RSPCA took a more official turn in June 2015 with Ministers apparently briefing the media about their concerns. ‘An anonymous source’ from the Department of Environment told *The Telegraph* that the charity risks ‘eroding its credibility’ by prioritising contentious political campaigns over animal welfare, was accused of opposing the badger cull just to increase donations and told it risks losing public support once and for all unless it reforms. The paper reported that concerns had come to a head amid reports new hard-line animal rights activists were recently elected to the 23-person ruling council of the charity. The article goes on to say that:

‘While the government is wary of directly intervening given the charity’s independence it is understood that ministers favour the RSPCA returning to its more traditional role of rescuing animals in need.’

The newspaper adds that this comes at a time when Neil Parish, the new chairman of the Commons Environment, Food and Rural Affairs Select committee, said he wanted to call an inquiry into RSPCA’s recent behaviour. The Conservative MP told the *Mail on Sunday*: ‘A lot of people give money to the charity for genuine animal welfare work. But it is the management and lack of governance that is letting the charity down.’¹³⁷

MPs are increasingly divided on party lines in the UK Parliament about how the sector uses its independent voice. In a Charities Aid Foundation survey in 2015, overall, 62 per cent of MPs thought it was important for charities to highlight bad practice by the Government. But only a third of Conservative MPs thought it was important for charities to highlight where government policies would negatively affect people, compared with 93 per cent of Labour MPs.¹³⁸

Lack of consultation

In 2012, the Government published a Civil Service Reform Plan, which introduced ‘open policy-making,’ a commitment to not just relying on the civil service but going outside to experts to make joint policy making.¹³⁹ Taken with commitments in the Big Society initiative to strengthen partnership with the voluntary sector, expectations were naturally quite high that this was a Government that wanted to bring in fresh views.

Practice has, however, been different. 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 and the increasingly shortened or non-existent consultation periods that have followed in key areas, for example, the introduction of the Lobbying Act, where no consultation took place.

In its last report, the Panel also described the negative reception received by the Trussell Trust when they asked for a meeting with the Secretary of State for Work and Pensions to discuss ways to reduce food poverty, which included behind the scenes threats to seek to close it and accusations in the media that the charity was simply seeking to raise its profile in order to raise funds. Since then, the Trussell Trust has worked with others and gained cross-party support, with an all party report on food poverty being positively received by the Government in 2014.¹⁴⁰

Dialogue here may have improved but significant problems remain.

Ian Duncan Smith, the Secretary of State for Work and Pensions, announced in October 2015 that Jobcentre staff were to be placed in some foodbanks, without any consultation or notification of this to the Trussell Trust.¹⁴¹

An all-party parliamentary group published a report, one year on, in December 2015 which said that despite some improvements, Britain was still ‘a huge distance from abolishing hunger as we know it in our country’ and the Trussell Trust announced that it had distributed enough emergency food aid to feed 1,085,000 people for three days in 2014-15 up by 16 per cent from 913,000 the previous year.¹⁴²

According to newspaper reports, the Culture Secretary, John Whittingdale, has decided to run a second consultation on the future of the BBC rather than listen to the overwhelming majority of responses expressed in the first, which, it was reported, he felt lacked legitimacy because they had been ‘whipped up’ by 38 Degrees.¹⁴³

In July 2015, Sir Stephen Bubb said that – one year on – there appeared to have been no dialogue between NHS England and the third sector about creating community services for people with learning disabilities who are to be moved from residential accommodation, following the report that he had chaired at the request of NHS England, following the Winterbourne scandal.¹⁴⁴

There are increasing signs that central Government is taking the view that policy making is something that happens locally in the context of devolution, a trend which is being accelerated by reduced manpower and resources in the key departments of government. Civil Exchange has been hearing reports from some umbrella organisations that the kind of constructive dialogue that used to be common between the voluntary sector and many departments, often supported by infrastructure bodies which used to be given government grants for this very purpose, has been significantly diminishing. Kathy Evans from Children England, for example, has told us that she has observed

a change over several years, from what used to be quite extensive and frank dialogue between Whitehall and many charities on matters of their practice expertise, and real collaboration on policy developments for children, to a dialogue in which charities are often viewed more narrowly as a competing 'marketplace' of businesses.

Greater devolution creates an opportunity, as discussed in the last chapter, not just with the new city regions but also with NHS England, which is looking to engage with the voluntary sector more.

Local infrastructure bodies reported in their annual 2015 survey that more than half thought that their relations with their local health bodies were improving whereas the majority said their relationships with local authorities had stayed the same, although nearly 20 per cent felt they had got worse.¹⁴⁵

However, the impact of the new 'no advocacy' clause in grants could be considerable.

Self censorship?

The Independence Panel was concerned by the impact of this negative climate on the sector. Self-censorship can be hard to document but the Panel did identify some survey results that demonstrated its reality and it heard of specific instances documented in a *Face the Facts* programme made in 2014.¹⁴⁶

During 2015, there has been some clear evidence that parts of the sector under most direct attack, particularly the migration and human rights sector, have not been stifled, and are working collectively to make their voice stronger and perhaps bolder than individual charities might have felt able to be. The relevant charities have continued to speak out vociferously, including sending a joint letter to the Prime Minister in January 2016. The letter came from two dozen agencies, including bodies such as Oxfam, the Refugee Council and Amnesty, to the Prime Minister, saying, 'Last year's announcement that the UK will resettle 20,000 Syrian refugees over five years was a welcome first step, but given the numbers of people searching for safety across the globe, this response is clearly inadequate: it is too slow, too low and too narrow. The UK can and should be doing much more to ensure that refugees are not compelled to take life-threatening journeys or forced into smugglers' hands.'¹⁴⁷

However, one respected commentator, the retiring CEO of the umbrella organisation for criminal justice charities, Clinks, Clive Martin, said in a *Third Sector* article:

'As I leave this criminal justice charity after more than 18 years, I think the sector has lost its collectivism, which is remarkably damaging. Social scapegoating, lack of social mobility and the conditionality of service provision has made our society less fair. In the face of such barren social policy, the sector should be speaking out about system change, opportunity and hope, but we do it less and less.'¹⁴⁸

3. Threats to independent action – due to unsupportive statutory funding and contracting arrangements

‘Statutory funding is not supporting a strong, independent and diverse sector, with particular problems for smaller, local organisations.’

The Panel on the Independence of the Voluntary Sector, *An Independent Mission*

Most at risk?

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

Summary

Small and medium sized voluntary organisations that rely to an extent on government funding, mainly those that work in social welfare, often working in poorer communities, are vital to the empowerment and support of the least advantaged in society and key to the independence of the sector as whole.

The Independence Panel concluded that the current model of public service reform - based on competition- is failing to unlock the potential of the voluntary sector to deliver positive social change through independent action. It was specifically concerned about poor commissioning and procurement practices that failed to draw on the distinctive strengths of voluntary organisations, particularly in working with people with complex, specialist needs. The use of Payment by Results in the Work Programme came under particular criticism. The Panel called on the Government to ensure that funding and commissioning processes support independence and are not biased against small, specialist organisations.

Since the Panel’s last report, the Government has provided some limited additional support for smaller voluntary organisations, though less than expected, and some adjustments to commissioning and procurement are being made.

But fundamental problems with the statutory funding regime
persist and continue to cause ever deeper damage
to independent action.

Umbrella organisations are losing grant funding from the state and are seeking to replace this from other sources, including in some cases contract funding. This has been successful for some but the overall impact of this transition is not yet clear.

How independent action can be lost

The struggle for survival, especially in competition for statutory funding that increasingly comes in the form of tightly defined contracts can take charities off mission and threaten independent action – see the example below.

How independent action can be lost

Drawn from an anonymous example published in the Guardian Voluntary Sector Network: confessions of a charity professional

In October 2015, a business development manager wrote about his attempts to save his charity and how the charity started to lose its way, to the detriment of those it served.

Local government support for the charity's flagship service – support for children of parents who misuse drugs and alcohol – was cut earlier that year, despite running successfully with that support for 10 years. Without that funding the charity would fold, according to the author, and they had no option but to bid for another contract to deliver a portion of treatment services for the same group, despite the fact that it soon became clear their staff were not qualified to deliver these new more specialist services and the funding for it was insufficient to do it properly.

The result was that service users were having to wait longer to see staff, waiting lists doubled, and the author said that 'we are making mistakes and cutting corners because our staff are overworked and too stressed to be able to do the job properly'.

The author concludes: 'But what choice do we have? Either we do what is asked on the limited budget we are given, or someone else will.'¹⁴⁹

Better financial support for smaller voluntary organisations

Since the Panel's last report, some Government support has been made available to smaller charities to try to stem the crisis in their funding – but less than originally signalled – and certainly not enough.

In June 2015, the Cabinet Office launched a £20 million Local Sustainability Fund, delivered over two years, to help around 250 medium-sized voluntary organisations that support vulnerable and disadvantaged people to secure their futures, despite a previous Minister stating this would be about £40 million.¹⁵⁰ The fund, delivered by the Big Lottery Fund, provides grants to access professional advice to strengthen their resilience and long term sustainability.¹⁵¹ The Cabinet Office has also provided up to £100,000 to help provide subsidised training in fundraising. In this case small charities are defined as those with an annual income of up to £1 million.¹⁵²

The Social Value Act was an attempt to reduce some of the bias against voluntary organisations by giving social value more weight in procurement. But it has failed to deliver this potential, due to lack of awareness, varying understanding of how it should be applied, and an undeveloped measurement of social value itself.¹⁵³ Public sector health bodies routinely ignore the Social Value Act when they commission services that charities could deliver, according to Jane Payling, head of health and integration of the Chartered Institute of Public Finance and Accountancy.¹⁵⁴

There have been some Government attempts to open up a larger share of contracts to small and medium sized organisations (SMEs), though these are still very large organisations in the context of the voluntary sector. The Coalition Government met its target of 25 per cent of *central* government procurement spend being awarded to SMEs (using the EU definition of businesses with fewer than 250 staff and turnover of less than 50 million euro) and the 2015 Conservative manifesto included a pledge to increase the percentage to a third. The Public Contracts Regulations 2015 has a welcome focus on making public procurement more SME friendly by for example: encouraging procurement to be split into lots making it easier for SMEs to bid; allowing certain public services contracts to be reserved for mutuals/social enterprises for limited period of time; and creating a new special 'light touch' regime for social, health and some other types of services that is less stringent than for other types of procurement.¹⁵⁵

Payment by results

Previous reports by the Independence Panel documented a series of issues with payment by results contracts, including the voluntary sector being disadvantaged and disempowered as sub-contractors of mainly private sector companies and insufficient funding for the most complex cases. Some changes were made but these did not go far enough.¹⁵⁶ The hope was that the lessons would have been learnt in the Rehabilitation Services contracts let in 2014. However, it seems this is not the case. A preliminary survey of voluntary sector organisations working alongside the Transforming Rehabilitation reforms found continuing problems including lack of clarity about funding and responsibilities.¹⁵⁷

Voluntary sector organisations are increasingly making the case that payment by results as currently formulated is not working for people with complex needs, for example in a Revolving Doors report, in February 2015, which suggests a different approach.¹⁵⁸

Social impact bonds continue to be one way of encouraging innovation that is supported by many charitable foundations and favoured by the Government; and Rob Wilson, the Minister for Civil Society, has said 'We want to massively increase the number of social impact bonds.'¹⁵⁹ However, the process is experimental and the flagship pilot at Doncaster Prison, which is run by Serco, with the pilot delivered with Catch 22, was cut short because it failed to deliver the promised results.¹⁶⁰ And, as noted in Chapter 3, the money involved is currently 'small beer.'

The impact on smaller organisations

Our guest contributor, the CEO of Nia, explains below the threats to independence that they are facing in order to live within the current commissioning and procurement and market based environment.

How the state is restricting our independence of action and voice

By Karen Ingala Smith, Chief Executive of Nia Project

Nia is a small charity which delivers cutting edge services to end violence against women and children. We have three aims: first, to provide services; second, we work to end male violence against women and girls; and, third, to inform and influence policy and public awareness.

Increasingly, state funding is driving us into a narrow service delivery role and we are being required to act as an arm of the state rather than as an independent NGO. Women deliberately seek out independent organisations, we have high levels of self-referrals and we have a far better understanding of the needs of women who have experienced male violence.

Through the current political and economic icon that is 'competition', prices are being driven down to the point where services don't work for women and ultimately it's also a false economy. We see tenders where the weighting of the scoring criteria is top heavy in favour purely of price – commonly weighting at around 55 per cent on price but others in our sector have seen tenders that blatantly say the decision will be 70 per cent based on price. Organisations are left to bid for under-resourced, commissioner-led rather than needs-led tenders that often include clauses or methods that we know are not in the best interests of the women.

So, for instance, a local authority may say that in our monitoring they will only recognise referrals that have come via statutory partners yet we may be supporting several other women as well who have self-referred and indeed self-referrals are a marker of how much an organisation is trusted. Other tenders might try and require us to work with men and while some men may need services it is not appropriate for the men or the women to require a women only specialist service to deliver that support. Some public sector contracts try to own the data even though this acts directly against the interests of women who are coming to us wanting confidentiality. We have to explain that we can't guarantee confidentiality and they disengage. We find tenders may include no advocacy clauses. The latest example is the new funding for women's services being financed by the so-called 'tampon tax' announced last year.

Often it is much larger but non-specialist organisations that end up being awarded the contract, preventing specialist organisations from providing the support they do best and leaving those larger organisations to cross-subsidise services. The reassignment of the trafficking services contract previously held by the specialist women's charity, Eaves (now sadly closed due to lack of funds as a result of these kind of changes) to the Salvation Army constituted, by our reckoning, a 60 per cent per person cut in funding. The Salvation Army themselves recognise they had to subsidise the contract by over £1 million. We understand too that they agreed not to take legal challenges on behalf of women where the State identification process had made 'a reasonable or conclusive grounds decision' that she was 'not trafficked'. Yet there are extremely high rates of successful appeal against wrongful decisions and it is a core component of upholding the rights of trafficked women to bring such challenges.

More generally, we suspect we are being squeezed off decision-making and strategic boards in local authorities and particularly so if we are a critical voice. We are being replaced by apolitical organisations that are more politically palatable and do not engage with the underlying structural analysis of the causes. We can see this in the increasing tendency to sub-contract and consult with children's organisations for issues of rape, sexual violence and sexual abuse at the expense of specialist rape, sexual violence and women's organisations.

Yet we know that better dialogue before services are commissioned could be so much better and save money downstream. We can often see an identifiable cause and pattern and structural inequality at the root of problem that we think should and could be addressed. One such example is the misguided attempt to try to address male violence against women from a gender neutral perspective.

Unfortunately, too, forced competition also means that the women's sector ends up competing against each other, rather than collaborating and pooling resources for the good of everyone. By way of example, we knew that a larger women's organisation was bidding for a contract for a service that we had developed. Because of the price/quality division in the scoring of the tenders, we felt obliged to bid at a lower cost than we would have if they had not been competing. This may look like competition and money saving but it is not. It is to the detriment of the reality of the quality of the service that can be offered. It's one of the reasons why we decided to write this piece: we need to share and own this problem and work together to tackle it.

The impact on umbrella bodies

As Caroline Schwaller explains in her piece below, NAVCA, like many other infrastructure bodies, sees itself as having a key brokerage role between the voluntary and public sectors, facilitating effective dialogue. In this way, NAVCA helps the voluntary sector safeguard its independent action, for example through arguing for funding arrangements that respect its independence, as well as giving the sector as a whole an independent voice.

Umbrella bodies are going through a transition that is forcing many to scale back and look for new funding. Over a number of years, infrastructure bodies have lost state funding and reduced in size.

ACEVO, for example, received £1.2 million from government funds as recently as 2011, which reduced to zero in 2015. ACEVO's income, which was £2.97 million in 2011, was £1.78 million in the year ending in 2015.¹⁶¹

This creates challenges but also, as Kathy Evans, Chief Executive of Children England, explained at the annual conference of the Association of Charitable Funders, greater opportunity to develop a stronger, independent voice. The role of charitable foundations in providing replacement funding was, in the case of Children England, essential.

NAVCA's member bodies – the local infrastructure bodies – have a vital role to play locally, particularly in the context of greater devolution in England, the impact of cuts in public expenditure and the stresses on public sector contracting described in Chapter 2. They are dealing with an increasingly complex patchwork of local government and health institutions, a task potentially made even more challenging by the creation of new city regions. Through NAVCA, their collective voice is also very important in the national debate, where the interests of smaller and larger organisations can be very different.

Yet local infrastructure bodies have been facing a particular challenge financially. Involve Yorks and Humber, for example, closed in 2015 due to lack of funds despite being a vibrant, active and highly respected umbrella body.

A year ago, NAVCA published *Change for the Good*, which recommended that local infrastructure bodies should do more to 'work together in solidarity across local and regional geographies, for best possible support and representation, to influence decision-makers at all levels' and recommended that they diversify their income, including seeking more from business. The report also recommended that independent funders should provide both short and longer term funding to help move these bodies to a more sustainable footing and that central and local government and local commissioning bodies should provide strategic funding and ensure that they have a seat at the table in policy discussions.¹⁶²

The annual survey of its members by NAVCA in 2015 showed that more local infrastructure bodies are seeking to develop new forms of support for voluntary activity, presumably for both their member groups and themselves, including local business giving, social prescribing (where GPs prescribe activities or support groups rather than drugs) and social investment. The survey also found that demand for local infrastructure support is increasing.¹⁶³

Many may be finding a way forward but there are questions about the extent to which new forms of fundraising could put their independent action at risk. To make ends meet, they are bidding for public contracts.

Tight local authority funding makes it harder to speak out, according to some. Adrian Barritt, chief officer of Adur Voluntary Action said:

'One has to be very careful and tactical about what one says... The fundamental issue is that CVSs are funded by local authorities and we don't have a national funding stream such as, for example, rural community councils. If you lose your local authority funding, you lose your main source of funding.'¹⁶⁴

And Sally Young, chief executive of Newcastle CVS reported:

'If local authorities are cutting back, it can seem bizarre to them that they should be funding organisations that could cause them problems.'¹⁶⁵

Nonetheless, another of our guest contributors, the Chair of NAVCA, Caroline Schwaller, strikes an upbeat note.

The future of local infrastructure

By Caroline Schwaller, Chair of the National Association of Voluntary and Community Associations

NAVCA, like its members is at the pinch point in an egg timer: the sands of communication, intelligence, learning, opportunities... running through it between the public sector at one end and civil society at the other. You can tip the egg timer which way up. That brokerage role is essential if we are to ensure there is an ongoing assertive and brave voice that speaks up for the issues people face, for local community action and the most effective ways of stimulating and supporting that.

In 2014 NAVCA set up a commission with an independent panel to consider the future for local infrastructure, and as a result *Change for Good* was launched in January 2015. The panel members had a wide range of objective viewpoints and an interest in teasing out the key issues that need addressing if local infrastructure is to be effective and resourceful for the long term.

The panel reaffirmed what NAVCA and its members believe, that we are needed more than ever but in some cases need to change our ways. They had anticipated providing new ideas to help local infrastructure organisations face the future, but instead they found that many were often entrepreneurial, adventurous, operating with new and more business-like structures, and demonstrating good leadership for the sector. However, not all were and the report usefully opens up issues that NAVCA and its members must tackle if we are to reassure all stakeholders – local and national – that infrastructure continues to have huge significance and value.

While the future can be very bright for modern forward looking adventurous infrastructure organisations, as the case studies in *Change for Good* illustrate, some – such as Involve, Yorkshire and Humber – have had to close down, but have been able to leave a legacy and ongoing work with others. And for those unable to innovate before the funding cuts, the outlook can appear quite bleak, which means that the local voluntary and community sector may lose out.

Although we all know that grant funding is diminishing and charitable funding is also more competitive, the argument for a mixed funding economy continues – with grants in the mix alongside contracts and income generation – for the whole voluntary sector. There is a strong emphasis on social enterprise and social investment, but the very nature of local infrastructure organisations' work makes it difficult to rely on charging for services as the very organisations we help are often new, or struggling, or working with very vulnerable people.

In addition, by striving to resource and support local charities, through sub-contracting for example, a local infrastructure organisation can find themselves criticised for becoming too business-like or competitive with its own constituency, or losing touch with its roots and values. We have to articulate more clearly that a change in structure and functions does not have to mean that; and that the end game is to strengthen voluntary and community organisations and enable them to focus on their services and activities while others may look after their back office functions.

At such a time of heart-rending challenges for society, and such difficult decisions for local authorities, local infrastructure organisations are more important than ever, to stimulate, strengthen and advocate for civil society. Working together in partnership – across the sector – *can* produce positive results, even if it means shifting out of our comfort zones. National infrastructure bodies have a duty, more than ever, to show the way together and lead by example – enabling the voluntary and community sector as a whole to retain its independence, credibility and voice with confidence.

4. Threats to independent regulation

‘The Commission is giving the impression of being politically driven. Its focus seems to be on an agenda determined by the Government, despite its statutory independence.’

The Panel on the Independence of the Voluntary Sector, *An Independent Mission*

Most at risk?

Charities that are working in politically controversial areas such as migrant and human rights.

Summary

The Charity Commission continues to be criticised for an over-politicised style of enforcement, and there are concerns about the extension of those powers in the latest charities legislation. There are those involved in and observing Muslim charities who feel its approach has been particularly heavy handed towards them, as evidence by our guest contributor, Haroun Atallah, previously the Chief Executive of Islamic Relief. The 2015 court hearing on the Charity Commission’s interventions with the Joseph Rowntree Charitable Trust in relation to the organisation, Cage, illustrate some of these points and concerns that the board of the Commission may be engaging too closely in regulatory activity. An NAO report has warned of the dangers of the board’s continuing involvement in executive matters and there is evidence that the Commission is seeking to address this. The Compact has been broken by the Government and is proving ineffective.

The Charity Commission

Over the course of the last 12 months, the Charity Commission has continued to be criticised for its heavy-handed enforcement approach, its lack of independence from government and failure to promote the overall independence of the sector.

In Parliament, Baroness Young said ‘I do not think, in the 45 years that I have been connected with charities, that I have ever seen a Charity Commission that feels more hostile to the sector that it undoubtedly is regulating, but which it is also there to promote and enhance. I believe that the Charity Commission needs to examine its soul on how it is currently behaving and how it has done for the last year.’¹⁶⁶

The Panel has in the past criticised the Commission for failure to maintain a strategic role in promoting, monitoring and maintaining independence and trust of charities. It is not alone in thinking that the Charity Commission is focusing too heavily on regulation – this was a point also made by Lord Low, at 2015 ACEVO conference.¹⁶⁷ Andrew Purkis has attacked William Shawcross, the Chair of the Commission, for making vague attacks on the sector and besmirching the reputation of charities, the converse of championing.¹⁶⁸ While public knowledge of charity regulation is on the whole low, people are nonetheless clear that charities should be regulated but also that the regulator should provide guidance on best practice to charities.¹⁶⁹

In January 2015, an NAO report¹⁷⁰ warned that the board's 'continuing close involvement in executive matters' could become the norm, and the risk 'that if the board is too involved in executive decisions for an extended period, the important separation between executive and non-executive becomes blurred, impairing the board's independence, which is critical to its role of holding the executive to account.' A later internal report allegedly said that the Commission should put in place a comprehensive induction programme for new board members and a programme of board development activity, focusing on board performance and key strategic challenges and emphasizing that 'it is important to maintain a distinction between the exercise of delegated functions and the oversight and scrutiny of how they are carried out. It should always be clear whether the board is exercising a function itself, or overseeing the conduct of a delegated function.'¹⁷¹

Against a background of constrained funding and criticism in the past by the Public Accounts Committee of its lack of effectiveness, the Charity Commission has focused its efforts on enforcement activities. 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. The possibility of its funding by charities has been discussed and is looking increasingly likely. It has, however, received specific grants from the Government to counter terrorism - £9 million over three years.

Concerns about its treatment of Muslim charities

There is no doubt that the Commission has a sensitive, important and difficult regulatory task to do in relation to counter-terrorism. However, for a number of months questions have been raised about the way in which the Charity Commission treats the Muslim voluntary sector.

In July 2014, Sir Stephen Bubb, of Acevo, said there is a perception that the Charity Commission is disproportionately targeting Muslim charities.¹⁷²

Later that year a report was published which accused it of an anti-Muslim bias, calling these facts in aid:

- Muslim charities were the subject of 38 per cent of all disclosed statutory investigations initiated after 1 January 2013 and still ongoing during the period between 1 January 2014 and 23 April 2014.
- The Commission initiated a new issue code called 'extremism and radicalisation', without any written criteria for applying or removing this label, and has applied it to 55 charities without their knowledge.
- William Shawcross, the Chair of the Commission, has spoken publicly on numerous occasions about extremism, radicalisation and the funding of terrorist organisations within the charity sector, and that his claim that it is a growing problem within the sector is a position that remains unsubstantiated through evidence.¹⁷³

William Shawcross is a former Director and trustee of the Henry Jackson Society, an organisation seen by many as taking an anti-Islamic stance. When representing the organisation in a lecture to the World Affairs Council he said 'Europe and Islam is one of the greatest, most terrifying problems of our future.'¹⁷⁴

In July 2015 a *Guardian* article again referred to a high level of statutory investigations by the Charity Commission and also the withdrawal of a DCLG grant in September 2014 to the Muslim Charities Forum to foster integration.¹⁷⁵ A Commission spokeswoman, however, said: 'We challenge the assertion that a disproportionate number of inquiries are open into 'Muslim charities'.¹⁷⁶

More widely, action is being taken against Muslim charities that others consider inappropriate - for example, the sudden cancellation of a joint ACEVO and Muslim Charities Forum event to be held at the Conservative Party conference, without telling the speakers. The cancellation took place after the Party was contacted by *The Telegraph* with allegations that some of the speakers, including the Chief Executive of the charity Human Appeal, had links to terrorism. ACEVO issued a statement which said 'The move is being seen as a direct attack on free speech and further evidence of the reactionary instinct to demonise rather than engage with the Muslim community.'¹⁷⁷

Banks have also been withdrawing bank account facilities. For example, in 2014, HSBC closed the account of a charity working in Gaza, the Ummah Welfare Trust, and Islamic Relief as well as other Muslim organisations including the Finsbury Park Mosque.¹⁷⁸ In February 2016, a former Conservative International Development Secretary of State, Andrew Mitchell, warned that the closure of these accounts was hampering international aid efforts.¹⁷⁹

These actions are causing concern. Here is one perspective from the former Chief Executive of Islamic Relief, Haroun Atallah, an enthusiast for the Charity Commission model but who says that it has 'increasingly failed to protect charities - especially Muslim led ones - from political interference.'

The impact of the charity commission on Muslim charities in recent years

By Haroun Atallah, Group Director corporate services, Transparency International, Berlin, Germany, previously Chief Executive, Islamic Relief

I am an admirer of the Charity Commission model, with its assumption that charitable activities are good for society, should be independent from government interference and supported and regulated. Most of my experiences with the Commission have been positive. But I am concerned about its treatment of Muslim charities.

Following the drive by the UN and the Financial Action Task Force (FATF) to counter the financing of terror, the Charity Commission tried to encourage Muslim NGOs - including Mosques, Schools and Islamic centres - to register as charities so they could be properly regulated. I also encouraged registration, pointing mainly to the benefits of an independent state body that promoted good governance and was responsible for investigating any wrong doing in an independent manner. Those opposing registration were mostly concerned about possible state interference in an Islamophobic way.

Over the last few years, the Charity Commission has increasingly failed to protect charities - especially Muslim led ones - from political interference. I am now more cautious with my advice!

So what changed?

Early measures seemed focused on the good governance of charities - a welcome call to many.

The Commission then targeted charities that operate internationally. This seemed like a fair risk to be looked into. It was however bitter sweet for the Muslim community to see the Commission incapable of defending properly registered and investigated entities in England against foreign interference and accusations.

The next battle front was the so-called 'de-risking' by the banks in a manner that has harmed Muslim charities disproportionately. Financial institutions were transformed into intelligence agencies that were expected to collect data, analyse it, stop transactions, report suspicious activities, freeze accounts, and close accounts completely. This they have done in an opaque manner not subject to any legal review. When charities sought redress from the Government, regulators and the Charity Commission, they would only get told that they could not interfere in the way banks do their business.

More than 100 civil society organisations internationally are campaigning for a change of the UN's FATF recommendation 8 wording, to ensure it recognises that the risks posed from civil society have been proved to be very limited and to put a stop to the draconian measures taken by governments to limit civil society activity. Indeed, a report issued by FATF to highlight cases of terror abuse of charities only reported on 120 cases around the world.

The Commission then started to obstruct genuine efforts to set up charities, contrary to its earlier drive. I was involved in a charity seeking to house an Islamic endowment. The Charity Commission called for a meeting with Trustees, which included a managing partner from a firm of accountants with 400 staff, a university professor, a retired local authority chief executive, an investment banker, and a senior vice president of a bank and myself. Some of the trustees were from an Arab Gulf state. The Commission's manner was arrogant and their representative made threats on the spot. The consequence from this meeting and subsequent actions was that we decided to wind up the charity.

The Commission then progressed to 'combating extremist views'. One Trustee of a large Islamic centre, that also owned events facilities, told me that the Commission required every speaker at the Mosque or the other facilities to sign a public speaking policy and also required that microphones be switched off immediately if someone spoke inappropriately! I wonder if every speaker at a church has to sign a policy to say they will comply with the government's anti-extremism message?

In my enthusiasm for the Charity Commission model, I was blind to the influence of politicians and I see the prejudiced influence political appointees have had in recent years. The independence of the commission needs to be protected and those appointed should have a track record that justifies their appointment. Government interference should be checked by an independent parliamentary committee.

Joseph Rowntree Charitable Trust and Cage

Early in 2015, the Commission sought assurances from the Joseph Rowntree Charitable Trust and the Roddick Foundation that they were no longer funding the advocacy group Cage, and required from JRCT 'an unequivocal assurance' that 'it will not fund CAGE either now or in the future' despite knowing that JRCT were no longer funding the organisation. Under the threat of imminent serious regulatory action (ie a statutory inquiry) and personal liability and in order to protect the interests of its grantees and other work, the trustees gave the assurances demanded. The approaches had followed Cage becoming the subject of controversy and negative media coverage over the organisation's public statements about Mohammed Emwazi, the ISIS militant popularly known as 'Jihadi John'.

The Commission was doing its job in seeking to safeguard the reputation of the sector but JRCT also had grave concerns about the implications such an imposition would have on the ability of trustees to exercise their independent fiduciary powers and duties. Upon discovering that CAGE had applied for permission to bring proceedings for a judicial review of the Commission's actions, JRCT therefore sought permission to participate as an interested party.

The Commission's position in the subsequent litigation was that it had done no more than offer advice, and that it had not intended that JRCT's trustees should fetter their discretion. JRCT's position was that the Commission had given a direction, beyond the Commission's powers in the Charities Act 2011, to just that effect.

At a hearing on 21 October 2015, the Lord Chief Justice Lord Thomas was highly critical of the 'ludicrous time limits' under which the Commission had required the assurances to be given, said he could understand how it was felt that the 'Commission had behaved in an extremely high handed manner' and acknowledged that JRCT had 'real cause for complaint.'

The Lord Chief Justice also noted that 'it is the duty of any institution to withstand pressure from the media' and that the Commission should have spent more time 'talking, as people normally do' at the start of the dispute 'and not issuing ultimatums,' particularly when dealing with a 'reputable body' such as JRCT.

The Commission said that it had not sought to fetter the discretion of JRCT for all time irrespective of changed circumstances. 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.'

After the High Court heard submissions, the application was withdrawn after the parties agreed a settlement. The Charity Commission confirmed that 'it has no power to require trustees to fetter the future exercise of their fiduciary powers under its general power to give advice and guidance' and that 'there is no obligation on the trustees of JRCT to fetter the proper and lawful exercise of their discretion in future.'

During the hearing, evidence emerged of Commissioner and Ministerial engagement with the case which could be seen as overstepping the boundaries between the board and the Executive and political interference, though officials denied that they had influenced operational decisions.

One of the Charity Commission board members, Orlando Fraser QC, emailed other board members and Commission executives to urge them to open a statutory inquiry into JRCT, for example. A sequence of emails released during the court case called for ‘a strong message’ and circulation of critical articles about the JRCT in *The Daily Mail*, *The Times* and *The Daily Telegraph*.¹⁸⁰ It was also reported that, on 2 March, Theresa Villiers, the Northern Ireland secretary, wrote to the Chair of the Commission saying, ‘It is wholly unacceptable for charities supported by the taxpayer (through the generous tax treatment afforded to all charities) to be funding an extremist group like this one.’ It was after this communication that pressure was put on JRCT to give the disputed commitment.¹⁸¹

Charities (Protection and Social Investment) Bill

ACEVO, the Charity Finance Group, Directory of Social Change and the charity law firm Bates Wells Braithwaite wrote to MPs warning that measures proposed in the Charities (Protection and Social Investment) Bill could threaten the independence of charities by giving the Charity Commission new powers. The signatories warned that some of these new powers lack sufficient safeguards and said they had ‘serious concerns’ about the proposed power to issue statutory warnings because it included no right of appeal. Amongst the changes they sought were a right of appeal to the charity tribunal against a statutory warning, for adequate notice before warnings were made public and for legislation to make it clear that the Commission could not use warnings to direct trustees or fetter their discretion.¹⁸² Sir Stephen Bubb commented:

‘This new power, unrestricted, could see the Charity Commission become a law unto itself. As we saw with the CAGE case recently, this type of over-reaching is not entirely alien to them. As it stands, this Bill would give the Charity Commission unprecedented new powers, which would allow them to pursue agendas as they feel is appropriate. This particularly concerns me in the light of William Shawcross’ near fanatical pursuit of the Muslim charity sector.’¹⁸³

The Bill is about to receive royal assent with the new warning power intact. The Civil Society Minister said that the right of appeal to it would still exist through judicial review.¹⁸⁴

The Compact

The Panel’s last report noted that the Compact, the agreement between the Government and the voluntary sector, has not to date been effective in protecting the voice of the sector or adequate consultation. It 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.

Since then, there have been two major breaches to the Compact. As noted earlier, the change to grant funding breaks the part of the agreement that says that the Government will ‘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.’ It was also introduced without consultation.

The Chair of Compact Voice, Peter Holbrook, was a signatory to the letter sent to the Prime Minister, which pointed out, amongst other things, this breach. However, the Minister for Civil Society still denied in an article in *Third Sector* that a breach had occurred, saying that:

‘The new clause is absolutely compatible with the Compact because it does not restrict the rights of charities to campaign on behalf of their beneficiaries. What it rightly prevents is this being done with taxpayers’ money, where this was not the intention of the funding.’¹⁸⁵

The picture internationally

The UK in many ways remains a beacon of good practice for civil society compared to many other countries across the world. The Compact, for example, has been used as a model by a number of northern European countries. What happens in the UK may therefore be taken as a model by other countries. CIVICUS, an international alliance dedicated to strengthening citizen action and civil society across the world, registered its concerns about the latest restriction on the use of grant funding in the UK in strong terms. Its Secretary-General, Dr Dhananjayan Sriskandarajah, said:

‘This move restricts the freedom of expression of UK civil society, and fundamentally reduces the opportunity for the voices of the people who receive the vital support of charities to be heard. Coming from a country with a long tradition of free speech, this is a serious step in the wrong direction for democracy, transparency and human rights. Moreover, it only serves to further stoke up a worrying global trend where governments around the world are trying to silence civil society.’¹⁸⁶

The change may also have implications for the use of UK development funding in other countries, according to Bond, the UK membership body for organisations working in international development, though the details are as yet unclear.¹⁸⁷

Just a few days after the Government announcement on grant funding, Justine Greening, the Development Secretary, said in a speech about social mobility in the UK that a key lesson from civil society abroad was the vital role of campaigning and added that:

‘Looking at all that, I don’t think we will have the sort of step-change on social mobility we need here in the UK, without that kind of coordinated advocacy and campaigning from civil society. You’ve got to be out there, beating the drum, holding all our feet to the fire as well as doing the amazing projects you do.’¹⁸⁸

According to Civicus’ *2015 State of Civil Society* report, there is already a new donor conservatism with aid being more strongly connected to the strategic foreign policy and trade agendas of donor governments, and the stronger pushing of free market policies on recipient countries to create opportunities for donor country businesses.

Preliminary research by CIVICUS this year points to threats to civic space in over 100 countries, including in many democracies, the UK and several European countries.¹⁸⁹ Examples of these restrictions include:

- Hungary's prime minister, has called for the monitoring of certain 'foreign-funded civil society organisations' that he describes as 'agents of foreign powers'. The targeted organisations – referred to as 'the dirty 13' in pro-government media, and include Transparency International, the Civil Liberties Union and the Roma Press Centre – received letters demanding two years of financial and administrative documentation within one week.¹⁹⁰
- In Russia, 'undesirable' international voluntary organisations can be closed, the National Endowment for Democracy being the first victim,¹⁹¹ the MacArthur Foundation and even the British Council also being targets.¹⁹²
- The Indian government has labelled Greenpeace as 'anti-national,' blocking its bank accounts, deporting foreign workers and preventing local staff from travelling abroad. Licences for more than 13,000 organisations have been revoked for alleged violations of a law on foreign funding.
- Israeli organisations that are critical of the government, in particular the country's continued occupation of the Palestinian territories, are facing severe new restrictions. The 'foreign agents' bill would require any organisation that receives more than £32,000 from a 'foreign political entity' to be defined as a 'foreign organisation' and pay tax on that funding. The law would also see an end to any cooperation between government ministries and 'foreign agent' groups, while organisations would be required to be labeled as 'foreign agent' on every document, web page or publication.¹⁹³
- Governments in Pakistan, Turkey, Ethiopia, Egypt and Russia, for example, have also introduced legislation which restricts the rights of organisations to operate and limits their ability to receive foreign funding.

There are concerns across the world about mission following money, rather than money mission. As Dhananjayan Sriskandarajah and Oliver Henman have put it 'increased interactions with government have in many cases led to a growth in civil society organisations delivering large-scale public contracts...this has often led to an increasing focus on project delivery and a loss of focus on core aims being about social change.'¹⁹⁴ CIVICUS also warns of what it calls 'logframitis' by donors. 'They want us to package the long-term and systemic change we are passionate about into neat little fundable projects that fit their programme and timelines. They work through complex chains of 'fundermediaries' who channel ever-smaller chunks of money into ever-larger relative reporting requirements.'¹⁹⁵

Smaller organisations are under particular threat worldwide. Out of the \$166 billion spent on official development assistance (ODA or aid) by OECD-DAC countries in 2013, only 13 per cent, or \$21 billion, went to civil society and many of the small community organisations based in the Global South receive an even smaller fraction of funding that goes to the sector, at an estimated 1 per cent of all aid directly. The result, according to CIVICUS, is that often many smaller organisations lack the capacity to defend themselves against attacks on civic space, because donors have systematically underinvested in local organisations¹⁹⁶

Restrictions to the ability of the voluntary sector to influence government policy must be placed in the context of comparable regulation or restriction on the capacity of the private sector to lobby government and their access to disproportionate resources to do so, compared with the voluntary sector. A report by the UN Special Rapporteur on Freedom of Assembly & Association, Maina Kiai, *Sectoral Equity*, observed:

‘stark and significant differences in the treatment of businesses and of associations,’ differences which ‘are motivated more by politics than practicality. Economic and commercial interests are prized over what are perceived as non-economic activities. Consequently, the influence and opinions of industry take precedence in State policy over social justice and fundamental rights. This approach ignores the fact that a vibrant civil society is essential for sustainable economic development, and that businesses benefit from an empowered civil society sector.’

The Special Rapporteur calls on States, amongst other things:

‘To take proactive measures to increase civil society’s access to power and participation in high-level decision-making processes, including during the consideration of new legislation and treaties, and particularly for social movements and grass-roots associations.’¹⁹⁷

Chapter 5

Countering the threats to independence

The situation now facing the voluntary sector is one of potential crisis. As documented by the Panel on the Independence of the Voluntary Sector, threats to its independence have grown year-on-year since 2011. Step by step, its legitimacy as an independent force has come under question and in 2016 the situation is looking increasingly dangerous. Those who challenge its right to campaign are gaining traction. And the actions of some of the largest organisations have further opened the door to those who believe that there is very little difference between the activities of commercial operations and charities and, in so doing, undermine justification for charities' special treatment.

Unless checked, it seems likely that 2016 and beyond will see further damaging limitations on the independence of the voluntary sector.

Recommendations by the Independence Panel

In its final report, the Independence Panel made a number of recommendations to the Government that are just as relevant today as now. These included outlawing 'gagging clauses,' repealing Part 2 of the Lobbying Act, setting up a statutory Compact overseen by Parliament and denying charitable status to organisations whose governance is unduly influenced by Government. To these might be added removing 'no advocacy' clauses in both contracts and grant agreements.

The Panel also called for a 'new settlement' between the Government and the voluntary sector but recognised that this would not be achieved without a deeper discussion about the distinctive qualities offered by an independent sector through its independent mission. It called for a new Commission on the future of the voluntary sector to help establish this.

Over the last 12 months, the situation has deteriorated dramatically and it is probably fair to say that the appreciation by the wider public and opinion formers of the need for a distinctive, independent contribution has been eroded. Taken together, these threats mean that debate within the sector about its role is even more urgent.

Review of action being taken

At the same time, there have been various attempts at national and organisational level to strengthen the independence of the voluntary sector. It is worth considering how successful they have been and what can we learn from them.

A strong collective voice

Some voluntary sector commentators have said that the infrastructure bodies should have done more - in the face of media revelations, unfair attacks and challenges to its campaigning role - to defend the reputation of the sector in order to increase public knowledge and respect for the nature of its work.

The Independence Panel concluded that infrastructure bodies could do more to protect the independence of the voluntary sector. Leading infrastructure bodies came under particular criticism by the National Coalition of Independent Action (NCIA) in their research in 2015 for, amongst other things, failing to stand up against what the NCIA describes as a privatisation of public services, for failing to speak up about the negative impact of welfare changes and cuts on individuals as opposed to member organisations – in contrast to the church – and for failing as a group to back the Keep Volunteering Voluntary Campaign – and for focusing instead on how best the voluntary sector could deliver public services.¹⁹⁸

However, infrastructure bodies are established to serve their members, which in the case of the national bodies are extremely diverse in size, function and spheres of interest. Many voluntary sector bodies do see a positive role for the sector in the delivery of public services. With limited resources, umbrella organisations will naturally tend to focus on the areas of most common interest and agreement across their members.

The sector is now looking to improve how it communicates the voluntary sector's purpose and to act in a more co-ordinated way. The NVCO had already started one initiative – The Understanding Charities Group – but it was said not to be sufficiently advanced or staffed to act to defend recent attacks on the sector.¹⁹⁹ In February 2016, ACEVO and NCVO invited 60 Chief Executives to talk about how they will go about getting a better hearing for charities in the media and how this might be funded.²⁰⁰

Over the last year, the sector's leaders have taken a strong individual and increasingly *collective* stance against specific threats to independent voice and misrepresentation of charities in the media. For example, an incorrect article in *The Telegraph* which claimed that one in five charities spend less than half their funds on charitable activities was eventually amended by the paper, after the NCVO intervened.²⁰¹ A letter to David Cameron on 10 February signed by the NCVO, ACEVO, NAVCA and 150 other charities and umbrella bodies protested in strong and effective terms against the new 'no advocacy' clause in grant agreements.²⁰²

We asked Martin Sime, the Chief Executive of the Scottish Council of Voluntary Organisations (SCVO) to give his observations on what lessons might be drawn from the experience in Scotland, bearing in mind that the climate for charities is a more positive one there. His message is a very positive one: the attacks in the UK are so strong because 'the old epicentres of power are crumbling' and the voluntary sector is inherently powerful and should use that power. He admits dialogue is much easier in Scotland because politicians and the voluntary sector have a shared narrative but he suggests that the answer UK-wide is to use the sector's voice more confidently, including challenging the growth of procurement.

Tackling a negative political climate - a view from Scotland

By Martin Sime, Chief Executive of the SCVO

Scotland is in many ways distant from establishment London but UK-wide politics and the UK government still holds important sway over aspects of our environment and funding. Many large charities operate across the UK; the BBC is still very influential, and so on. Anti-charity rhetoric is dangerous to the Scottish sector.

Politicians as far apart as Alex Salmond and Chris Grayling have both claimed, over the course of 20 years, that our sector is joined at the hip to the Labour Party just because we have disagreed with them.

Beyond being highly patronising, this perspective is fast becoming obsolete. Just look at what's happened to politics in Spain, Italy and especially Greece. Yet still, the old guard want to reel us in and put us back into their left/right boxes.

They are lashing out in part because of fear and misunderstanding. As politics has become more managerial, its ideological foundations have crumbled.

This weakness is one of the main reasons why the old tribalism is dying. Our sector has become the epicentre for energy, ideas, expertise, and passion for society's many causes.

The same phenomenon is true in almost every country in the world. Technology has played a huge part in enabling this to happen. It's now so easy to connect up with like minds, to find out what you need to know and to challenge authority.

This change is at the root of the problem as far as our critics are concerned. We are too well armed. Too often we are able to expose weak, self-interested or incompetent plans.

We know how governments work and how to get the job done in a way which was unimaginable before. Civil society is better organised, more professional and experienced, and more effective than ever. It threatens the old order.

In Scotland things can look a bit different due to the success of the SNP and the positive climate which still exists towards the third sector.

Our governance structures are more open and porous. We share a narrative with our politicians about the need to address inequality, even if we are sometimes miles apart in how this should be done.

Scotland too is yet to succumb fully to the notion that markets should govern everything. Contrast this with the UK level where it feels like the barbarians are at the gates, and even some basic freedoms and rights are under threat.

Of course we have our own problems. More power and authority needs to be transferred to citizens and communities to help themselves and each other but the vested interests of the state are often in the way.

We also need to curb the growth of procurement where we deliver exactly what government wants. Surely we have ambitions to be more than just delivery agents? Smothering us with contracts may dampen our edge, but it is unlikely to stifle our many voices.

New funding ideas

Over the last year or so, many of the key umbrella organisations have produced excellent publications and ideas for new forms of funding that challenge traditional commissioning and procurement, for example:

- Children England has made its Declaration of Interdependence, with many signatories, which advocates more collaboration.²⁰³
- ACEVO has come forward with the idea of alliance contracting - collaborative approaches to replace competition as the dominant commissioning model for 'relationship based' services. This would involve, for example, the NHS working directly with groups of third sector organisations before the contract is put out to tender, to most effectively involve charities and social enterprises in the design of the intervention; a contractual arrangement that relies on all parties having an equal decision-making role in the delivery of services; and risk and reward being shared between contract providers. The model will have advantages for users as it provides a mechanism for delivering joined-up care.²⁰⁴
- An alliance of charity groups launched a campaign to save grant funding in February 2016.²⁰⁵
- Locality's report on the value of local community based action has already been mentioned earlier in this report.²⁰⁶

Collaboration at local level

Many voluntary organisations are increasingly seeking to initiate and lead collaborative action at local level with other sectors, trying to identify and deliver shared goals. This kind of activity is increasingly being supported by some charitable foundations, for example through the Early Action Neighbourhood Fund, supported by the Big Lottery, Comic Relief and the Esmée Fairbairn Foundation. The London Communities Commission has recently recommended place-based collaboration across sectors in London to the candidates for the Mayor of London, drawing on existing models.²⁰⁷

Action at organisational level

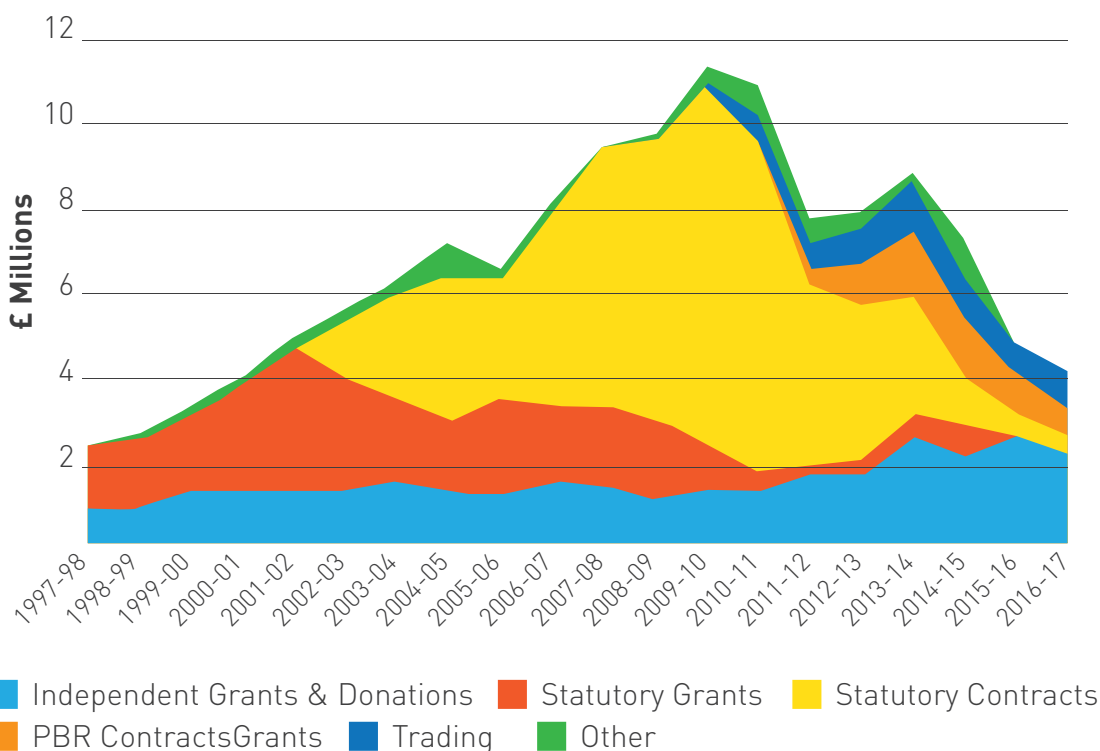
Some individual charities are also finding ways through these challenges, and even emerging stronger, by diversifying funding, avoiding contracts which threaten independent action, keeping a focus on mission and making sure that they exercise their voice to promote better services more generally, even if they are helping fewer people - as illustrated by Geraldine Blake, the Chief Executive of Community Links, explains in her case study below.

Community Links: independent mission, voice and action

By Geraldine Blake, Chief Executive of Community Links

The story of Community Links may mirror the experiences of others – possibly at a more extreme level – which is why we think it is useful to be open about it and hope that there is useful learning to share.

For some years in the first decade of this century, Community Links was probably the largest local, community-based organisation in the country. We were extremely successful at securing and delivering contracts from both our local authority and from national government. Our turnover grew significantly, we expanded in east London, built new centres, and grew our workforce.



In 2009-10, Community Links reached the largest it had ever been with a turnover of £11.4 million – of which £8.4 million (75 per cent) was public sector contracts.

This graph is an analysis of Community Links' income sources over 20 years – public sector contracts are shown in yellow – and shows the fast growth and equally fast disappearance of that source of income.

We don't regret the years of public sector income – we were able to reach many thousands more people, delivering much needed outcomes. Of course, we suffered from the usual tensions of any organisation that both delivers and campaigns – with significant amounts of income from government sources, needing to be careful that our campaigning approach remained evidence-based and solutions-focused.

However, although at the time our financial model was judged to be sound, we, along with many others, did not foresee the speed and the depth of the cuts that would hit after the 2010 election. As the money disappeared, we did five things proactively:

1. We increased independent grants and donations, doubling from £1 million to £2 million (pale blue on the graph) by investing in fundraising and communications.
2. We also invested in our Trading Company (dark blue on the graph) and now have two established and profitable enterprises (an events company and an outdoor centre) which return unrestricted income to the charity.
3. We engaged fully with Payment by Results, having at one point 10 contracts (pale orange on the graph). The challenge has been that the PBR model is predicated on a smooth pipeline of people: wider economic unpredictability has made making long term forecasting extremely challenging – not sustainable for a smaller organisation without significant reserves.
4. We tested Social Investment: our pilot three year partnership delivered to target but the time and capacity required to manage the partnership means this is unlikely to be a major part of our business model in the future.
5. We established the National Early Action Task Force to make the business base for investing early – i.e. in the kind of work we are doing in our local community but for which funding has become scarce.

We also restructured our local delivery: reducing centres from 26 to 7, and staff numbers from 300+ to 120. We inevitably reach fewer people now than we did in 2010, down from 25,000+ to 14,000 last year. However this reduction is not proportionate, which demonstrates that we have made strategic and thoughtful decisions about which activities to cut and developed new ways of working which both reach more people through fewer centres and provide deeper, more integrated support to them.

Faced with extremely difficult decisions, we responded strategically. We made a conscious decision not to bid for any old contract but to remain focused on our core purpose and areas of expertise, despite the inevitable reduction in size. We put our mission and values – our most powerful tools – at the heart of all our decision making, ensuring that as our span of activity reduced, we maintained a coherent set of services underpinned by our unique approach. We used the opportunity to join up local services more effectively, thereby providing service users with more integrated support. We maintained our national research and policy team so that we were able to track the local impact of policy changes, share what was working, challenge what wasn't and test and evaluate solutions. And we continued to try and shape the environment around us, for example by establishing the Early Action Task Force.

Over the last five years we have transformed the business model of Community Links to one which has more balanced income sources, fewer risks and as much predictability as is possible. We've changed from an organisation that delivers services at a large scale to one that focuses on testing responses at a smaller scale and sharing the learning to increase our impact.

The key lesson to share here is that in a world where nothing is predictable, what matters is not stability but resilience, the ability of your Board and team to move fast in response to your users' needs and changing resources, and to never stop trying to shape the environment in which you work alongside responding to it.

The role of charitable foundations

The Association of Charitable Foundations devoted its 2015 national conference to the subject of independence and interdependence with a powerful speech by its Chief Executive, David Emerson CBE, which captured why charitable foundations are so important:

‘...our role within civil society – as independent funders, willing allies and free agents in our own right – is increasingly vital.It is our assets and the relative stability of our income that allow us take a long-term view, to take risks and back innovation, to fund unpopular causes, and crucially, to provide a source of funding that is not subject to the same level of restriction that so often accompanies contracts. Unlike all other types of funder we are not fettered by the requirements of political time-scales or the short-term demands of market cycles, meaning we are well equipped to weather storms in our aim of conserving social good that is under threat and catalysing it where it is absent.’

The Baring Foundation is currently seeking to raise from other charitable foundations the resources needed for the Commission recommended by the Independence Panel, which will be called an Inquiry into the future of civil society and is likely to start its work next year. This will take a deep look at the changing role of the sector and what is needed to allow it to achieve its charitable mission and retain its independence.

Conclusion and recommendations

The voluntary sector’s independence is under growing threat in all three of its dimensions. The independence of the charity regulator is also facing challenges. Some of these threats are external and, as noted above, the recommendations made by the Independence Panel to the Government still stand and need to be extended. Others require trustees and staff to reflect on whether they are doing all they can to ensure that they remain true to their charitable purpose and accountable to all their stakeholders. That may mean not just defending how things are, but also changing.

This is a dangerous moment and the sector needs to up its game in putting forward a defence if further attacks are to be prevented.

This report concludes that the key to defending external threats to independence is to work collectively to defend the legitimate voice of the sector; to identify new forms of funding and working that better support independent action and collaboration; and at an organisational level to maintain a clear focus on independent mission with funding that supports it.

It is important to aim high, challenging the existing framework, including the assumption that better services are always delivered by markets, and developing a much more self-confident narrative about the role of the voluntary sector in society and the conditions that it needs to thrive.

That narrative must not just promote the voluntary sector as it currently is, but consider how it could be much better at delivering its mission, including by abandoning narrow organisational self-interest and working collaboratively with others, both inside and outside the sector.

In October 2014, voluntary sector leaders contributed to a group of essays published by Civil Exchange called *Making Good: the future of the voluntary sector*. There were many different perspectives but some recurring themes were that the sector could do more to identify a shared mission, promote more preventative action, raise its voice more confidently and help shape, not just deliver, public services. Charities should not just be the 'campaigners' and 'doers' that they currently are but seek to become 'enablers' and 'changemakers,' suggested one of the essayists, Paul Farmer the Chief Executive of Mind and currently also the Chair of ACEVO.

To develop that more confident narrative about the independent mission of the sector, it will be important, first, for umbrella bodies to work with each other, not just alone. They and individual charities must also engage more with stakeholders, both those directly served and those more widely, some of whom may hold hostile views of the current operations and role of the voluntary sector.

The starting point should be that greater transparency and more engagement may lead to changes in the practices of the voluntary sector, as well as better understanding from government and the public.

The sector – particularly the largest and most successful institutions – must be clearer about their own independent mission and how that is best served and then must communicate that not just through words but also actions.

References and notes

¹David Cameron: *Rebuilding trust in politics*, Monday, 8 February 2010

²*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

³<http://www.voluntarysectorhealthcare.org.uk/strategic-partnership-programme/>

⁴*The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England*, HM Government and Compact Voice, December 2010

⁵Matthew Hancock: *Tory MP ‘accepted £4,000 donation before announcing charity lobbying clampdown’*, The Independent, 17 February 2016

⁶<https://www.gov.uk/government/publications/50-ways-to-save-examples-of-sensible-savings-in-local-government>

⁷*Non-Party Campaigning ahead of elections, Report 4: Consultation and recommendations relating to Part 2 of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Bill*, Commission on Civil Society and Democratic Engagement, September 2015

⁸*BBC charter review consultation hijacked by left-wing campaign group*, The Telegraph, 27 February 2016

⁹*Under the Microscope, Examining the future of charities in Britain*, Charities Aid Foundation, September 2015

¹⁰Those with turnover of over £10 million.

¹¹William Shawcross, speaking at a public meeting in Solent Conference Centre, Southampton, 29 February 2016

¹²During the third reading of the Charities (Protection and Social Investment) Bill, House of Lords Hansard, 14 September 2015

¹³Published by Civil Exchange, February 2015. For more information on the Panel, visit www.independencepanel.org.uk

¹⁴Set out in the Compact, the agreement between the Government and the voluntary sector.

¹⁵*50 ways to save: examples of sensible savings in local government*, Department for Communities and Local Government, December 2012

¹⁶Civil Exchange’s Big Society Audits detail these commitments under previous Labour and Coalition Governments.

¹⁷By February 2016, there were 338 community shops and 40 community pubs, for example, (source: Plunkett Foundation) and more than 1,200 pubs (source: CAMRA).

¹⁸In 2014–15, 18 per cent had been involved in social action at least once in the last year, a significant decrease compared to 23 per cent in 2012–13. Social Action is defined as people getting together to support a community project in their local area, for example trying to set up a new service or amenity to help local residents, or organising a community event for example a street party. Source: *Community Life Survey: 2014–15 Statistical Bulletin*, Cabinet Office, July 2015

¹⁹30 per cent of people were engaged in some form of civic participation during the period May 2014 – April 2015, a significant decrease from 41 per cent in 2012–13. 17 per cent of people participated in civic consultation at least once in the last 12 months in 2012–13, compared to 2012–13 (18 per cent). Eight per cent of people had participated in some form of civic activism in the last 12 months, a significant decline compared to 10 per cent in 2012–13. Civic participation is defined as engagement in democratic processes (both in person and online), such as contacting a local councillor or MP, taking part in a public demonstration or protest, or signing a petition; Civic consultation is defined as active engagement (both in person and online) about local services or issues through activities; Civic activism is defined as involvement (both in person and online), in either direct decision-making about local services or issues, or in the actual provision of these services by taking on a role such as a local councillor, school governor or magistrate. Source: *Community Life Survey: 2014–15 Statistical Bulletin*, Cabinet Office, July 2015.

²⁰59 per cent of people volunteered informally at least once during May 2014 – April 2015, compared to 62 per cent in 2012–13. Informal volunteering is the giving of unpaid help to people who are not relatives. Source: *Community Life Survey: 2014–15 Statistical Bulletin*, Cabinet Office, July 2015.

²¹*Community Life Survey: 2014–15 Statistical Bulletin*, Cabinet Office, July 2015

²²*Whose Society? The final Big Society Audit*, Civil Exchange, 2015 documents each aspect in the chapter, A Divided Society.

²³David Cameron, Speech to the Conservative Party Conference, 2010

²⁴*The role of major contractors in the delivery of public services*, National Audit Office, November 2013. See also PAC report noted at 2 above.

²⁵David Cameron: *Rebuilding trust in politics*, Monday, 8 February 2010

²⁶Nick Hurd, Minister for Civil Society, Open letter to the voluntary sector, 11 October 2011

²⁷*If homecare businesses collapse, the health system will be in real trouble*, David Brindle, The Guardian, 19 May 2015

²⁸*We need to talk about social care providers*, Richard Humphries blog, The King’s Fund, 18 September 2015

²⁹*Government can’t ask charities to compete for contracts while savaging council spending*, Kathy Evans, Civil Society Blog, 15 June 2015

³⁰*Prime Minister: My vision for a smarter state*, Speech by David Cameron, 11 September 2015

³¹*VCSE Review, Investing in partnerships for health and wellbeing* at <http://vcsereview.org.uk/about/>

³²*Delivering the Forward View: NHS planning guidance 2016/17 – 2020/21*, December 2015

³³*Devolution: the next five years and beyond, First Report of Session 2015–16*, House of Commons Communities and Local Government Committee, 25 January 2016

- ³⁴Letter from Neil Cleeveley to George Osborne, 23 November 2015 at <http://www.navca.org.uk/news/view-article/navca-highlights-ways-chancellor-can-support-charities>
- ³⁵*Devolution: some thoughts in July 2015*, Mike Wild Blog, Manchester Community Central, 17 July 2015
- ³⁶*Charity Tax Map*, Charity Tax Group, Nuffield Foundation, December 2012
- ³⁷Micro: £0-£10,000, Small: £10,000-£100,000, Medium: £100,000-£1,000,000, Large: £1,000,000-£10,000,000
- ³⁸*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
- ³⁹*Charities lost out on £300m on rate relief last year*, Civil Society, 15 July 2015
- ⁴⁰*Expert yet undervalued and on the front line, the views and voices of small and medium sized charities*, Lloyds Bank Foundation, England and Wales, July 2015
- ⁴¹*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
- ⁴²*Ibid.*
- ⁴³*Age UK's commercial tactics first questioned five years ago*, The Guardian, 5 February 2016
- ⁴⁴*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
- ⁴⁵*UK Giving 2015 – an overview of charitable giving in the UK during 2014*, CAF, April 2015
- ⁴⁶*Payroll giving schemes*, HM Revenue & Customs, August 2015
- ⁴⁷*Fundraising controversy: What does the data from 10 top charities tell us?* Fundraising Detective, 16 July 2015
- ⁴⁸*Giving Trends, Top 300 Foundation Grant Makers, 2015 Report*, Cathy Pharoah et al, ACF, September 2015
- ⁴⁹*Big Society Capital Annual Review, 2014*, BSC, 2015
- ⁵⁰*UK Civil Society Almanac 2015*, NCVO, June 2015
- ⁵¹*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. Major is defined as income over £10 million. Large is income between £1 million and £10 million. Medium is income between £10,000 and £1 million.
- ⁵²*Top 100 Fundraising Charities Spotlight, Annual Report, February 2016, Charity Financials*, Wilmington Insight
- ⁵³*Crime Reduction Initiatives plans to expand its health services and carry out a rebrand*, Third Sector, 20 August 2015
- ⁵⁴*Our annual report and accounts 2014/15*, Citizens Advice, 2015
- ⁵⁵*Manchester to lose two out of three Citizens Advice Bureaus as a result of funding cuts*, Manchester Evening News, 4 May 2015
- ⁵⁶*Advice Service in Erdington forced to close due to funding cuts*, Royal Sutton Coldfield Observer, 4 June 2015
- ⁵⁷*Saving Money by doing the right thing*, Professor John Seddon, Locality and Vanguard Consulting, March 2014
- ⁵⁸*Social Landscape, The state of charities and social enterprises in 2015*, AECVO and CAR, March 2015
- ⁵⁹*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
- ⁶⁰*Waving not drowning: Supporting community organisations at times of crisis*, Locality, 2015
- ⁶¹This study refers to 'small and medium' sized charities, defined as having income between £25,000 and £1 million.
- ⁶²*Navigating Change: An analysis of financial trends for small and medium-sized charities*, NCVO, February 2016, and *Too Small to Fail: How Small and Medium-Sized Charities are Adapting to Change and Challenges*, IPPR North, February 2016
- ⁶³*The situation of Third Sector organisations working in rich and poor areas: key findings from North East England and Cumbria*, Tony Chapman, Community Foundation Tyne & Wear Foundation and Northumberland, Policy and Practice, St Chad's College, Durham University, August 2015
- ⁶⁴*Cost of the Cuts: the Impact on local government and poorer communities*, JRF, March 2015
- ⁶⁵*UK Civil Society Almanac 2015*, NCVO, June 2015
- ⁶⁶*Vital local services lost most in Government funding cuts and tough commissioning climate*, Lloyds Bank Foundation press release, 10 February 2016
- ⁶⁷*Kids Company closure triggers warnings of tough line on 'value for money'*, The Guardian, 8 August 2015
- ⁶⁸*Is the third sector so special? What is it worth?* Angus McCabe, TSRC, 2013
- ⁶⁹*Report of the Inquiry into charity senior executive pay and Guidance for trustees on setting remuneration*, NCVO, April 2014
- ⁷⁰*Community Life Survey: 2014-15, Statistical Bulletin*, Cabinet Office, July 2015
- ⁷¹*Giving back going forwards, How volunteering should respond to changing needs*, Citizens Advice, June 2015
- ⁷²*Information for journalists*, National Trust Press Office, accessed 6 January 2015
- ⁷³38 Degrees.org.uk
- ⁷⁴*Mumsnet co-founder reflects on the growth of her 'fifth child'*, The Guardian, 21 March 2015
- ⁷⁵*No belt-tightening as coffers boosted by tax-relief billions*, The Times, 17 December 2015
- ⁷⁶*The Observer view on charities and their role in society*, Observer, 7 February 2016
- ⁷⁷For example, *The Sun attacks NSPCC chief executive Peter Wanless over pay*, Civil Society News, 8 June 2015, *The Sun has missed the point on Alzheimer's Society salaries, says chief executive Jeremy Hughes*, Third Sector, 14 July 2015; *Hospices rely on volunteers while paying their bosses up to £160,000*, The Times, 11 September 2015; *The Times targets high pay at medium-sized charities*, Third Sector, 17 December 2015

⁷⁸*Report of the Inquiry into Charity Senior Executive Pay and Guidance for Trustees on Setting Remuneration*, NCVO, April 2014

⁷⁹*Ibid*

⁸⁰*Charity pay study: who are the highest earners?* Third Sector, 26 February 2015

⁸¹*Ibid*

⁸²*Housing fat cats' hypocrisy: Furious backlash at PM's right-to-buy revolution...from housing chiefs with lavish homes and six-figure salaries*, Mail Online, 15 April 2015

⁸³*Housing association chiefs earn up to 23 times more than rank and file staff*, The Guardian, 25 June 2015

⁸⁴*Executive pay: Which? Bonuses are questioned*, Third Sector, 25 February, 2016

⁸⁵Only four of the largest 100 charities in the UK currently follow the NCVO's 'two clicks to clarity' recommendations when it comes to transparency on senior executive pay.

- 4 out of 100 charities explicitly disclose their chief executive's salary on both the website and in their annual reports.
- 31 out of 100 disclose the chief executive's salary in their annual reports only.
- 54 of out 100 charities have their annual reports available "two clicks" away from their website homepage.
- 6 out of 100 do not publish a link to their annual reports anywhere on their website.

Source: *Only four out of 100 top UK charities follow NCVO guidelines on executive pay*, Civil Society, 2 February 2015

⁸⁶*'More for Less' Public sector outsourcing and cuts to spending: the impact on voluntary sector workplace conditions, and the role of Trades Unions*, Rosie Walker and Frances Sullivan, October 2014, NCIA Inquiry into the Future of Voluntary Services

⁸⁷Quoted by *A Strong Voluntary and Community Sector: the foundation for a thriving society*, Unite Strategy document, April 2015

⁸⁸*The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and Regulators*, PACAC, House of Commons, January 2016

⁸⁹The FRSB's annual complaints report for 2014

⁹⁰*ICO warned eight charities over potential breaches of TPS rules in March 2014*, Civil Society, 20 October 2015

⁹¹*Third Session on Fundraising in the Charitable Sector*, Public Administration and Constitutional Affairs Select Committee, 2 November 2015

⁹²*Age UK's commercial tactics first questioned five years ago*, The Guardian, 5 February 2016

⁹³<http://www.thirdsector.co.uk/regulator-warns-charities-scrutinise-commercial-arrangements/governance/article/1385420>

⁹⁴*The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall*, PACAC, House of Commons, January 2016

⁹⁵William Shawcross, speaking at a public meeting in Solent Conference Centre, Southampton, 29 February 2016 also *Today Programme*, BBC Radio 4, 29 February 2016

⁹⁶*Today Programme*, BBC Radio 4, 1 February 2016

⁹⁷*The charity sector is crying out for a Big Bang*, The Telegraph, 8 February 2016

⁹⁸Written evidence to the PACAC enquiry (see footnote below) by the Fundraising Standards Board

⁹⁹*The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators*, PACAC, House of Commons, 25 January 2016

¹⁰⁰*Are charities in denial about the true harm done by fundraising scandals?* David Brindle, The Guardian, 23 November 2015

¹⁰¹<http://www.thirdsector.co.uk/nhs-trusts-ask-treated-charities-bag-15bn-backdated-rates-relief/finance/article/1385279>

¹⁰²*Exempt charities and the role of the Secretary of State as Principal Regulator*, Department for Education, February 2014

¹⁰³*What is a housing association? How associations deliver decent homes and strong communities*, National Housing Federation, March 2010

¹⁰⁴Opinion: *An offer housing associations can't refuse*, Rob Gershon, 24dash.com, 25 September 2015

¹⁰⁵*Housing associations reclassified to public sector: £63bn of debt to move onto national balance sheet*, Social Housing, 30 October 2015

¹⁰⁶*New insolvency regime for housing associations in Housing Bill amendment*, Social Housing, 6 January 2016

¹⁰⁷*Our last chance to restrain the housing bill is with the Lords*, Bob Kerslake, The Guardian, 26 January 2016

¹⁰⁸*Housing Associations in England and the future of Voluntary Organisations*, Andrew Purkis, 2010

¹⁰⁹*According to Heroes or Villains? MPs Perceptions of Housing Associations*, The PlaceShapers Group, December 2008, there was marked criticism of associations by some MPs during the passage of the Housing and Regeneration Act 2008.

¹¹⁰*The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England*, HM Government and Compact Voice, December 2010

¹¹¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498271/Implementation_Guidance_for_Departments_on_Anti-Lobbying_Clause.pdf.

¹¹²*Ibid*

¹¹³*Tory attacks lobbying ban on charities*, Dominic Kennedy, 8 February 2016

¹¹⁴<http://www.voluntarysectorhealthcare.org.uk/strategic-partnership-programme/>

¹¹⁵*Matthew Hancock: Tory MP 'accepted £4,000 donation before announcing charity lobbying clampdown'*, The Independent, 17 February 2016

- ¹¹⁶*Sock Puppets: How the government lobbies itself and why*, Christopher Snowden, June 2012
- ¹¹⁷<https://www.gov.uk/government/publications/50-ways-to-save-examples-of-sensible-savings-in-local-government>
- ¹¹⁸First broadcast on Radio 4 on 10 February 2016
- ¹¹⁹*The truth about lobbying: 10 ways big business controls government*, The Guardian, 12 March 2014
- ¹²⁰Ibid
- ¹²¹*Sock puppets: all the reasons why the evidence for anti-advocacy is rubbish*, Andrew Purkis, Civil Society, 17 February 2016
- ¹²²These comments are included on the website Tobacco Tactics, according to Andrew Purkis
- ¹²³*Three types of grant funding that will be affected by the new anti-advocacy clause*, Nick Davies blog, NCVO, February 2016
- ¹²⁴<http://www.homeless.org.uk/connect/blogs/2016/feb/09/%C2%A315-million-annual-fund-to-support-womens-charities-this-years-deadline>
- ¹²⁵*Non-Party Campaigning ahead of elections, Report 4: Consultation and recommendations relating to Part 2 of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Bill*, Commission on Civil Society and Democratic Engagement, September 2015
- ¹²⁶*Charity Commission rules out immediate review of campaigning guidance CC9*, Civil Society, 28 October 2015
- ¹²⁷*Charity Commission sets out plans for the annual return 2016*, Charity Commission press release, 4 September 2015
- ¹²⁸*Charity Commission to review naming of non-charitable campaign bodies*, Third Sector, 29 January 2016
- ¹²⁹*A nation imperiled by the Human Rights Act*, Daily Mail, 1 August 2015
- ¹³⁰*Victory for bereaved parents as 'Kesia's law' is passed by the House of Lords*, Just for Kids press release 11 November 2014
- ¹³¹*Unrevised transcript of evidence taken before The Select Committee on the Constitution*, House of Lords, 26 March 2014
- ¹³²*Legal aid figures: the vital statistics of access to justice are failing*, Law Centres Network press release, 25 June 2015
- ¹³³*Umbrella bodies unite in rejecting proposed judicial review changes*, Charity Times, 15 September 2015
- ¹³⁴*David Cameron declares war on witch-hunt lawyers: PM backs Mail campaign to crack down on hounding brave British soldiers*, Mail Online, 21 January 2016
- ¹³⁵*A nation imperilled by the Human Rights Act*, Daily Mail, 1 August 2015
- ¹³⁶*The-charities using YOUR money to sabotage all efforts to rein back migration: How a cabal of tax-payer funded groups is waging a vicious war on ministers trying to solve the Calais*, Daily Mail, 22 August 2015
- ¹³⁷*RSPCA faces grilling by MPs after animal rights fanatics who compare farming to the holocaust and want people to take a test before getting a pet hijack key post*, Mail on Sunday, 27 June 2015
- ¹³⁸*Under the Microscope, Examining the future of charities in Britain*, Charities Aid Foundation, September 2015
- ¹³⁹*The Civil Service Reform Plan*, Cabinet Office, June 2012
- ¹⁴⁰*Food Banks, Rob Wilson in House of Commons debate*, Hansard, 17 December 2014
- ¹⁴¹*Trussell Trust statement on Department for Work & Pension's comments about placing advisors in foodbanks*, Trussell Trust press release 28 October 2015
- ¹⁴²<http://www.trusselltrust.org/stats>
- ¹⁴³*BBC charter review consultation hijacked by left-wing campaign group*, The Telegraph, 27 February 2016
- ¹⁴⁴*Launch of 'Winterbourne View- Time is Running Out' Report*, ACEVO press release 14 July 2015
- ¹⁴⁵*Chief Officer Survey 2015*, NAVCA, 2015
- ¹⁴⁶*Charity's new mission?: Do more say less, Face the Facts*, BBC Radio 4 July 27 2014
- ¹⁴⁷*Don't let them drown*, Kirsty Davies, Oxfam blog, 23 April 2015 at www.oxfam.org.uk
- ¹⁴⁸*Parting shot: Clive Martin of Links*, Third Sector, 21 January 2016
- ¹⁴⁹*My charity is forced to deliver services it is not qualified for*, Anonymous, The Guardian, 18 October 2015
- ¹⁵⁰*Sustainability fund launched with half expected amount*, Third Sector, 23 July 2015
- ¹⁵¹*Cabinet Office has launched a £20 million Local Sustainability Fund to help around 250 voluntary organisations to secure their futures*, Cabinet Office press release 25 June 2015
- ¹⁵²<https://www.gov.uk/government/publications/small-charities-fundraising-training-programme-provider-application-form>
- ¹⁵³*Social Value Act Review*, Cabinet Office, February 2015
- ¹⁵⁴*Health bodies routinely ignore Social Value Act, NCP conference hears*, Civil Society News, 19 October 2015
- ¹⁵⁵*Public Procurement, Briefing Paper Number 6029*, House of Commons Library, July 2015
- ¹⁵⁶*ERSA welcomes potential changes to benefit system, but warns they don't go far enough*, ERSA press release 22 October 2015
- ¹⁵⁷*Early doors, The voluntary sector's role in Transforming Rehabilitation*, Clinks, NCVO, TSRC, August 2015
- ¹⁵⁸*Adding Value? Reflections on payment by results for people with multiple and complex needs*, Revolving Doors Agency, February 2016
- ¹⁵⁹*Rob Wilson: 'We can't afford to have the goodwill of the public haemorrhaging away'*, Civil Society, 16 July 2015
- ¹⁶⁰*HMP Doncaster, Payment by results pilot, Final re-conviction rates for cohort 2*, Ministry of Justice Statistical Bulletin, July 2015
- ¹⁶¹*Sir Stephen Bubb- 'I won't stop speaking up'*, Third Sector, 19 November 2015
- ¹⁶²*Change for good, Report of the Independent Commission on the future of local infrastructure*, NAVCA, January 2015
- ¹⁶³*Chief Officer Survey 2015*, NAVCA, 2015
- ¹⁶⁴*The changing story of local infrastructure*, Third Sector, 1 August 2015

¹⁶⁵Ibid

¹⁶⁶During the third reading of the Charities (Protection and Social Investment) Bill, House of Lords Hansard, 14 September 2015

¹⁶⁷*Charity Commission focusing too heavily on regulation, says Lord Low*, Third Sector, 20 November 2015

¹⁶⁸“Policing” charities the Shawcross way, Andrew Purkis blog accessed at <https://andrewpurkis.wordpress.com/>

¹⁶⁹*What regulation, Who Pays? Public Opinion and Charity Regulation, A report for the Charity Finance Group*, Dr Eddy Hogg, University of Kent, Centre for Philanthropy, 2016

¹⁷⁰*Follow-up on the Charity Commission*, National Audit Office, January 2015

¹⁷¹*Review of governance framework and board effectiveness: summary report and recommendations*, Charity Commission, December 2015

¹⁷²*Sir Stephen Bubb says perception of bias by regulator damages Muslim charities*, Third Sector online, 3 June 2014

¹⁷³*Muslim Charities: a suspect sector*, Adam Belaon, Claystone, November 2014

¹⁷⁴*Muslim Charities: a suspect sector*, Adam Belaon, Claystone, November 2014

¹⁷⁵*Islamic charities in the UK fear they are being unfairly targeted over extremism*, The Guardian, 22 July 2015

¹⁷⁶*Sir Stephen Bubb says Charity Commission has ‘disproportionate focus’ on Islamic extremism*, Third Sector, 20 November 2015

¹⁷⁷*Muslim charities barred from speaking at Tory conference in ‘direct attack on free speech’*, Civil Society News, 5 October 2015

¹⁷⁸*HSBC decision to withdraw services from Islamic Relief blocked Nepal aid relief*, Civil Society News, 4 January 2016

¹⁷⁹*Former minister Andrew Mitchell calls for inquiry into banks and Muslim charities*, Third Sector, 15 February 2016

¹⁸⁰*Board member Orlando Fraser urged Charity Commission to open statutory inquiry into Joseph Rowntree Charitable Trust*, Third Sector, 5 November 2015

¹⁸¹*Charities can fund Cage campaign group, commission agrees*, The Guardian, 21 October 2015

¹⁸²*Sector leaders write to MPs urging amendments to the charities bill*, Third Sector, 2 December 2015

¹⁸³*Time for Change – the challenge ahead*, Bubb’s Blog, Tuesday 15 December 2015

¹⁸⁴*Statutory warning provision of charities bill under fire in the Commons*, Third Sector, 3 December 2015

¹⁸⁵*Rob Wilson: How the no-lobbying clause in the sector grants will work*, Third Sector, 17 February 2016

¹⁸⁶*Civicus condemns UK Government’s attempts to silence civil society*, Civicus Press Release, 17 February 2016.

¹⁸⁷Ibid

¹⁸⁸*UK Social Mobility: Lessons Learnt from International Development*, Speech by Justine Greening to the Centre for Social Justice, 16 February 2016

¹⁸⁹*Civicus condemns UK Government’s attempts to silence civil society*, Civicus Press Release, 17 February 2016.

¹⁹⁰*Human Rights Groups face global crackdown ‘not seen in a generation’*, The Guardian, 26 August 2015

¹⁹¹*Human Rights Groups face global crackdown ‘not seen in a generation’*, The Guardian, 26 August 2015

¹⁹²*MacArthur Foundation leaves Russia amid NGO ‘witch hunt’*, Bloomberg, 22 July 2015

¹⁹³*Human Rights Groups face global crackdown ‘not seen in a generation’*, The Guardian, 26 August 2015

¹⁹⁴*Don’t lose your voice! Responding to the gradual restriction of ‘civic space’*, Oli Henman & Danny Sriskandarajah, *Making Good: the future of the voluntary sector*, Civil Exchange, 2014

¹⁹⁵*State of Civil Society Report*, CIVICUS, 2015

¹⁹⁶*State of Civil Society Report*, CIVICUS, 2015

¹⁹⁷*Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, UN Special Rapporteur, Maina Kiai, 4 August 2015

¹⁹⁸*Fight or Fright, Voluntary Services in 2015, NCIA Inquiry into the Future of Voluntary Services, A Summary and Discussion of the Inquiry Findings*, NCIA, January 2015 and *The position and role of national infrastructure bodies concerning the cuts to and privatisation of public services*, Lis Pritchard and Andy Benson, April 2014

¹⁹⁹*Director’s update: improving the public’s understanding of charities*, CharityComms, 20 October 2014 at <http://www.charitycomms.org.uk/>

²⁰⁰*ACEVO and the NCVO invite chief executives to discuss media initiatives*, Third Sector, 8 January 2016

²⁰¹*Telegraph corrects article on charitable spending after NCVO intervenes*, Third Sector, 11 February 2016

²⁰²*Charities urge David Cameron to reconsider anti-campaigning clause in charity grants*, Third Sector, 11 February 2016

²⁰³<http://www.childrenengland.org.uk/declaration-of-interdependence/>

²⁰⁴*Alliance Contracting, Building new collaborations to deliver better health care*, ACEVO, February 2015

²⁰⁵*Charity groups launch campaign to save grant funding*, Third Sector, 5 February 2016

²⁰⁶*Saving Money by doing the right thing*, Professor John Seddon, Locality and Vanguard Consulting, March 2014

²⁰⁷*Recommendations for action by the Mayor of London*, London Communities Commission, January 2016

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