Charity Regulation and Charging

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Ladies and Gentlemen,

It's a pleasure to be speaking at the launch of this research commissioned by Charity Finance Group into charity regulation and who pays for it.

I'd like to give thanks on behalf of CFG to Dr Hogg and the Centre for Philanthropy at the University of Kent for conducting this research – they have been excellent partners and have produced a valuable piece of research. It also great to have academic research and policy teams working together in the voluntary sector, I hope that we can see more of this kind of relationship over the coming years.

I would also to thank our Senior Policy Officer Anjelica Finnegan for organising and managing this research from CFG's perspective – it is no hyperbole to say that without her efforts, we wouldn't have this research.

2015 was a year when charities were firmly in the public eye. 2016 is unlikely to be any different. There have been one a lot of stories in the media about the performance of charities, whether that is about financial management, fundraising techniques or pay within the sector. What underpins all of these issues is trust and confidence in the charity sector.

In the report, Dr Hogg outlines the difference between trust and confidence which I think it is important to keep in mind throughout our discussions about regulation.

The report considers trust to be the set of ethical relations and belief in a concept. Confidence by contrast relates to the specific knowledge about how effective an organisation is and is driven by available information. Despite what some in the media and even in our own sector may say, I believe that trust in charities is still high. If anything, the concerns of the public about the operations of charities are due to their continued belief in the concept of charity and its power. But there is no doubt that confidence has been damaged and we mustn’t take it for granted.

A high level of public confidence is a valuable prize for charities. Not only is it critical to our financial future, with research indicating that greater confidence leads to higher donations. More importantly, it is critical to our operations. Charities depend on having the confidence of their beneficiaries, it is this confidence that enables them to mobilise people and resources to reach areas that the state cannot.

Regulation underpins this confidence. Over recent years following reports by the National Audit Office and other incidents, our regulatory system has come under pressure. Yet if we are going to rebuild confidence, we need to have an effective and respected regulator. This is why CFG believed we needed to better understand the views of the public on the regulation of the sector and how it should be funded in the future.

Dr Hogg has outlined the research findings, and I do not intend to repeat his analysis. My aim is to talk about what CFG wants you to take away from this research in policy terms.

The first point, and I hope you will forgive me for its banality, is that people want an effective regulator. The public understands that charity regulation is important and there is no desire for 'deregulation' of the charity sector.

It is interesting to note that many participants when asked what they wanted the regulator to do stated activities that the regulator already undertakes such as receiving audit accounts and making them available online. Another area that was mentioned was guidance and best practice sharing which participants thought was valuable. We'll come onto the issue of funding of the Commission shortly, but it is worthwhile noting that both charities and the public believe that compliance and support are important roles for the regulator.

I think that the government also needs to take this message on seriously. Funding for regulation is not unpopular, it is not seen as waste. As CFG made clear in our pre-Spending Review letter with NAVCA and Small Charities Coalition, spending on regulatory infrastructure is just as important as infrastructure of the bricks and mortar variety.

The second point we should take away is that people don't know a lot about charity regulation. On the one hand, this is a positive. It generally means that people don't think that there is a problem and when things are going well for the sector, this isn't an issue. But given our current situation, it is now a drag on confidence in the sector.

Time and again in the media and when we listen to the public, there is an impression that the charity sector is some form of Wild West compared to private businesses. This is nonsense, but because awareness of the existence and work of the Charity Commission is low, this isn't surprising.

To adapt Viscount Hewart's famous aphorism, regulation must not only be done, it must be seen to be done.

If we wish to rebuild confidence in our sector, then we need to have the resources to educate the public about the existing regulatory infrastructure and its effectiveness. If regulation continues to operate in silence, we must public concerns about our regulation to continue. This need for promotion and education must be factored into the future resourcing of the Charity Commission.

The third point is that there is no consensus about future financing of the Charity Commission. One of the prompts for this research was polling carried out by Populus on behalf of the Commission that seemed to suggest a groundswell of support for charging. Our research demonstrates that the views of the public are much more nuanced and complexed then that.

Our research didn't find any broad consensus, it found a spectrum of views. Yes, a plurality of views did favour some form of charity contribution to the funding of the regulator but there was a significant minority of those that favour the status quo. There were even a few people that wanted an entirely charity funded regulator – so as I say, a full spectrum of views were on offer.

Even those that favoured a charity contribution only considered a few pounds of contribution by individual charities. In one discussion, there was agreement that 'a million pounds' was about right in terms of funding of the regulator – an admitted 'nominal' figure in a budget of £20m.

We need to be careful about the role of the public in this debate. Of course we need the public to have confidence in the system; and any solutions or proposals we put forward need to be able to command public confidence. But we should not pretend that there is some push from the public for charging nor is there a desire for the charity sector to take the 'burden' off the Exchequer. What we have is a more complex picture where some people see funding as a test of charities' commitment to their own regulation. This is a much richer understanding of the public's views then we have had previously.

The final point is that the regulator must remain independent. I feel that participant 'Hugh' may end up becoming a bit of a celebrity after this research – but he succinctly describes the public concern about charities 'licking their own lollipops'.

The Charity Commission must be seen as robust and separate from the charities that it regulates. The neutrality of the Commission is important and while this neutrality doesn't necessarily mean hostility, it means that we must respect that the Commission must always keep a certain distance from the sector in order to command public confidence. This must inform any discussion around the Commission being a 'friend' of the sector.

But one of the biggest challenge facing the Charity Commission is its future resourcing.

As the Chairman of the Charity Commission noted in his evidence to the Public Administration and Constitutional Affairs Committee, if the budget of the Commission falls any further – it will not be able to carry out any of its functions, including its core functions, to a high standard. At the Spending Review, the Chancellor froze the Commission's budget at £20.3m for the rest of the Parliament.

However, with the impact of inflation, this could be closer to £18m by the end of the decade. This will put pressure on the Commission's core functions, particularly areas such as providing guidance and advice to trustees. As the Chief Executive of the Commission said at its last Annual Public Meeting, prevention is better than intervening later down the line. It would, therefore, be a false economy to cut back in these areas over the long term.

Our research has demonstrated that the public views an effective regulator as important for determining its confidence in the sector. So how is the Commission to be resourced?

CFG's position is no secret. We believe that the government should recognise the value of the charity sector – not only as a commitment to a vibrant civil society but also as a provider of services, that otherwise would have to be more expensively delivered by the state. £30-40m a year for a fully resourced regulator when charities return tens of billions a year in benefits to the Exchequer and the public sounds like a sound investment. It would also not be an unpopular decision.

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But there has been a soft but determined chorus of voices saying that charities need to accept charged for their own regulation. So I want to spend the rest of my time here responding to each of the arguments that I have heard in favour of charging charities.

1. There isn't any money left.

This is the argument that I hear most regularly. We are in the midst of austerity, proponents say. We need to 'get real'.

My response to this is simple. If you think that it is impossible in the midst of a budget of £760bn to find £30-40m to underpin the work of a sector that generates billions a year in public benefit, then I fear that you need to 'get real'.

Budgets are tight that is true. But where there is a political will, there is a way. Governments never struggle to find money when they believe that something is important. Ministers will always say that there is no money; ***plus ça change.*** Government is ultimately, the language of priorities.

It is our job as a sector to demonstrate that additional funding is necessary, that it has public support and that it is critical for the furtherance of the government's policy agenda. None of this is impossible. To those that say that government won't listen, I would say that it is our job as a sector to make government listen.

We are not asking for the moon on a stick. We are asking for the government to invest in an effective regulator that is in its best interests. This is not a selfish request, it is something that is in the interests of government and sector a like.

Austerity doesn't mean that there is no money, it just means that we need to make a stronger case for government funding then we may have had to do in the past. We shouldn't confuse a challenging financial context with fiscal impossibility.

2. Everyone else pays, so why don't you?

I have heard this argument so often that I think it deserves its own latin formulation: "argumentum ex peritum" – the argument from solicitors.

Often those that justify charging say that because other institutions pay for their own regulation such as solicitors, advertising, banking; charities should also pay for their own regulation.

However this ignores something very important – charities are not solicitors, advertising agencies or banks. Ultimately, these private institutions provide private benefits. Charities are unique institutions which although they are independent from the state are closer in intent to public bodies.

This means that we need to view charities' regulation in the same way that we view the regulation of other public bodies such as hospitals and schools. These institutions have their regulation paid for by the state, rather than having to contribute themselves. This is recognition that it would be wrong and inefficient to divert resources that otherwise go from creating that benefit towards paying for regulation.

Charging charities is inefficient – with the costs of collection eating away a large portion of the gain that would made through charging. The Charity Commission isn't set up to do this and it would take a while to get an effective system in place. There is also no way of knowing what the behavioural impacts would be of charging as well; so this is a potentially unpredictable income source.

A simple transfer from the state to the Commission is the most efficient mechanism of funding the regulator. Moreover, while general taxation is generated from the private benefits accruing to individuals and corporations, charging would be taking resources directly away from beneficiaries. Effectively, we would be transferring the burden of regulation from those with the broadest shoulder to those that can least afford it.

3. We can make the Charity Commission more independent of government.

I have heard from some quarters within the charity sector that charging would be a benefit to us because we'd be able to make the Commission more independent from government.

I think that this fails for a number of reasons.

Firstly, it would depend on substantial payment by the charity sector to the Commission. A few million quid by the charity sector would give the sector no additional leverage. Those that argue this point as essentially asking for the sector to become the majority funder of the regulator. I do not believe that our research finds any public appetite for this.

But this is also contradicted the reality of politics and governing. We have seen during events over the past year that charities occupy an important space in public discussion and debate. As a consequence, no government is ever going to keep out of charity regulation. No matter how much we pay, this will never change. This is a tribute to the value of the sector, and we should hope that charities will always be of interest to the public.

Finally, as outlined by our research findings the public is more concerned that the regulation will be captured by the charity sector than it is by the government. Any movements that would be made in the wake of greater contributions by charities towards increased control over the regulator would, we believe, undermine public confidence.

There cannot be a situation, therefore, where the charity sector pays more in return for more control.

4. Paying is a symbol of charities commitment to their own regulation

This argument is a challenge for the charity sector and is linked to the negative media attention the sector has received. There is a concern amongst the public following fundraising stories that charities are not committed to their own regulation.

Charging is seen by some as a way of demonstrating that commitment.

Firstly, as I have discussed previously unless people know about the Charity Commission and our regulatory work then charging will not be an effective symbol.

Secondly, charging is not the only way that we can demonstrate our commitment to regulation. The Charity Commission isn't Gary Cooper in High Noon desperately trying to keep order and finding every call for help ignored by the sector. Infrastructure bodies such as CFG are physical embodiments of the sector's desire to be well regulated and to maintain high standards. Charities actively contribute to their own regulation through our active representation on the SORP Committee, responses to consultations, alerting the Commission and government of concerns. We need to do more in the media and in our communications with the public to show how we are willing and committed partners in our own regulatory system.

Signing a cheque to pay for the regulator may sound like a simple solution, but it could end up looking like an empty gesture. It would be far more effective for us to change our tone when it comes to regulation, to use it as part of our positive case to the public for they should support charities.

Symbolism also works both ways.

Whilst charging may be seen as a symbol of our commitment, it may also see us lumped together with all the others that pay for their regulation. A demonstration of how we are to be treated with suspicion like businesses.

Rather than a way to build trust and confidence, our paying for regulation could be seen as hair shirt, a constant reminder of the sector's failings. This would likely have a negative impact on the public's confidence in the sector.

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This is a debate that isn't going to go away and charities need to engage in it.

This research has showed that there is no public clamour or demand that we pay. Their primary concern is that we have an effective regulator.

CFG will keep making the case to government to invest more in the Charity Commission and to see that cuts are a false economy. Given the strength of our arguments and the risks that charity funding of the regulator could have on its perceived independence, we should not shrug our shoulders and merely accept charging as inevitable. Only own silence will make it so.

As I said earlier, arguments for charging must stand on their merits – and shouldn't use the spectre of public demand to railroad them through.

Any consultation on the future funding of charity regulation should not seek to rush what would be a fundamental change in the relationship between charities and the Commission. We should consider the principles and arguments for charging very carefully before we move on to practicalities. We should also not ignore other mechanisms for funding the Commission.

I hope that you have found the presentations useful and now Eddy, Anjelica and myself will be happy to take questions.