

Annual Return 2023 consultation

Consultation issued by the Charity Commission in June 2022

Comments from ACCA
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GENERAL COMMENTS

ACCA welcomes the opportunity to respond to the Charity Commission's proposals in relation to the Annual Return (AR) for 2023.

ACCA takes an active interest in the not-for-profit sector, encouraging our members to give back to their local communities and supporting our members, past and present, and their dependents who are experiencing financial difficulties through [The Chartered Certified Accountants' Benevolent Fund](#).

In general terms, we understand the Commission's rationale for collecting data via the AR but are concerned at the possible uses of the data collected. We are not yet convinced that the Commission has struck the correct balance between its need for sector-wide data to perform its regulatory duties, and the cost incurred by charities in completing the AR. We encourage the Commission to consider the significant impact that some of the questions proposed will have on charities at the lower end of the spectrum, and those charities where trustees – who are, by the nature of their role, themselves volunteers – may not necessarily have a relevant financial or legal background.

We commend the Commission for changing most questions to a simple yes/no response. We have serious concerns however that some of the most difficult questions proposed for a charity to answer have little or no accompanying guidance; and where guidance is provided, preparers must look at both a glossary and explanatory guide rather than having these embedded in the return itself. We have identified opportunities to enhance the guidance, particularly for respondents without a background in finance, in our responses below. It is essential that the AR has a "save" button to allow respondents to save their progress while completing the form.

Ultimately the Charity Commission needs to consider whether charities are resourced to invest the requisite time and energy in completing the AR as proposed, or whether – as is the case in many charities at present, particularly at smaller charities – the AR can be a last minute consideration once the trustees' report and annual accounts are signed. If the Commission wishes to obtain quality data on the sector to any degree of accuracy, we encourage the Commission to include the new questions in the 'Part B' structured financial data survey for charities with income over £500,000 rather than every charity with income above £10,000.

We question whether the questions proposed might be collected via other means; for example, questions over strategy and governance might be better remedied by amending the Charity SORP in respect of the trustees' annual report rather than the AR itself.

SPECIFIC COMMENTS

1. Do you support the proposal to increase the flexibility of the AR, allowing us to select certain questions not to be run in a given year, using the criteria set out in paragraph 2.5?

We agree that the Commission needs the legislative flexibility to add or remove questions from the AR, but encourage the Commission to use this power sparingly in the case of additional questions, and with due regard to the cost-benefit of such disclosures. The AR can at times be a blunt instrument, with some questions being irrelevant or inappropriate for charities with income greater than £10,000 but at the lower end of the spectrum. While it is important that the Charity Commission can assess charities' response to unexpected risk events (such as the covid-19 pandemic), the desire for this information should be weighed against the impact on smaller charities, many of which were operating at maximum capacity while responding to the pandemic. We propose that the Charity Commission makes greater use of filter questions to direct ad hoc questions at larger charitable organisations.

We are unclear what insight the Charity Commission seeks to obtain from ad hoc questions, and whether and how this data will be used. We recommend that the Commission implements appropriate safeguards when mandating additional questions, publishing its rationale sufficiently in advance of the changes to allow respondents to prepare. Wherever possible, such questions should be forward-looking, given the limited value of historic information. We encourage the Charity Commission to reassure the sector and their professional advisors by describing the circumstances in which it would add a question to the AR for a particular year.

2. Do the changes we are making on questions about finance ask for the right information about charities based on the information provided?

As with any organisation, it is important to understand the relationship a charity has with its connected parties and the extent to which they are dependent on each other; it is not enough to know who is pulling the strings, but how they pull them. It is also vitally important to understand the extent to which a charity is reliant on a single donor and its financial vulnerability associated with that donor relationship.

We are concerned however that the income questions do not recognise that a charity's operational activities in relation to a specific fundraising campaign will often extend over more than one financial year, and that funds received in one year may be designated or restricted to a later financial period; asking a charity to indicate its reliance on a single donor above the stated threshold gives a limited and arbitrary view on its financial resilience.

We suggest the Commission aligns these income questions with the considerations in its guidance to trustees on [Charity reserves: building resilience](#) (January 2016), specifically step 4 *Reviewing sources of income*. The six bullet point examples provided in the guidance could be addressed via a qualitative free text response, rather than questions that require charities to calculate whether they exceed the thresholds stated in the current consultation draft.

We would also propose that the income questions are rephrased to include the financial year in question and the two preceding financial years to reflect the realities of fund accounting and

how this impacts the fundraising approach for many charities. We believe that these questions are more suitable for the Part B survey.

3. Are the questions on finances worded in a way that makes them clear and easy to understand?

In the main, the questions are simply phrased, but we note that smaller charities or non-finance respondents may continue to struggle differentiating between income from 'government contracts' and 'government grants', as is currently the case. We encourage the Charity Commission to explain why this data is required, given the AR is often completed by volunteers who may not have a relevant financial or legal background.

4. Is our draft supporting information and guidance sufficient to explain how to complete these questions?

Where guidance is provided, we believe this will be sufficient to allow respondents to complete the AR. We are disappointed to note the absence of any guidance for certain questions, and believe that the cross-referencing from guidance to the glossary risks further confusion for respondents. If the Commission were to proceed with the guidance and glossary as currently drafted, we strongly encourage the Commission to undertake user acceptance testing with preparers before full implementation across the sector.

7. Are the new questions about overseas income and agreements with overseas partners clear, easy to understand and answer (using the supporting information as necessary)?

It is important to understand the nature of agreements with overseas partners and how the charity interacts with those partners; we therefore support the question around formal written agreements, but believe it is more appropriate for Part B of the survey, where charities have income greater than £500,000 and are more likely to answer these questions to a degree of accuracy. Part A of the AR can at times be a blunt instrument and the Commission has other means to obtain this data under its regulatory powers. The Commission might also consider linking the requirement to respond to these questions to a common threshold, such as the external audit threshold for charities. Charity trustees have a myriad of different thresholds to contend with and consistency can only aid them in fulfilling their duties.

We have significant concerns at the time and cost involved in relation to aggregating overseas transactions by payment type; there are few accounting systems that would permit this information to be readily obtainable, and in many cases would require someone to manually review every transaction for the financial year in question. This would be unduly burdensome on most, if not all, charities with overseas income or expenditure.

It is important to emphasise that the income question refers to income from non-UK sources, while the expenditure question proposed relates to spending outside of England and Wales. This in itself creates unnecessary ambiguity and we encourage the Charity Commission to work closely with OSCR and CCNI to minimise confusion.

We are disappointed to note that there is no guidance for the question, *During the financial period for this annual return, did the charity receive income from outside of the UK: How was*

the income received by the charity? Many non-accountants may struggle to understand the options to this question.

9. Do you think the Commission should gather data on the premises from which a charity operates?

We understand the rationale for the Charity Commission seeking data on a charity's premises, but are wary of the potential safeguarding concerns, particularly if the data were to be inadvertently placed in the public domain through human error or malicious attack. Given the current international / political climate, and increased cyber-attacks by unfriendly states, this risk is not as remote as it might have been previously. Charities, by their nature, interact with some of the most vulnerable people in society and it is important they can continue to do so in a manner that does not jeopardise the safety and security of their beneficiaries/service users, volunteers and staff.

We are particularly concerned at the impact such disclosure may have on charities providing services in confidence to vulnerable people, such as a women's refuge or support group for victims of sexual and domestic violence. We fear that lives could inadvertently be placed at risk.

We would instead propose that the Commission considers the use of a 'registered office' for charities that are not incorporated or registered with Companies House, and that the requirements for such a registered office would be consistent with those applicable under the Companies Act 2006. We were surprised to note that locations used for fundraising are expressly exempted from the Commission's proposals; we believe that fundraising locations provide greater insight to the Commission than service delivery addresses, due to the potential for complaints around fundraising activity.

11. Do the changes we are making on questions about charity operations and structure ask for the right information about charities based on the information provided?

Service delivery - premises

As noted in our response to question 9 above, we are concerned at the potential safeguarding implications in relation to charities sharing their operational addresses with the Commission.

Property, data protection and security

We agree that it is appropriate to ask unincorporated charities about the property they hold, given the inherent risks associated with their unincorporated status. We also agree that cyber security is a paramount concern and it is appropriate to enquire in this area. We are disappointed, however, to note that explicit guidance is not provided for these questions and that respondents are directed towards the glossary of terms; it is vital in the final return that all guidance is in one location, visible next to the question, so as not to confuse respondents.

We are concerned that respondents without a technical IT background would be unable to answer the data protection and security questions to any degree of accuracy. Indeed, we consider the questions to be outdated and would suggest that the Commission focuses questions in this subject on whether the charity has an insurance policy in place to mitigate

any losses arising from cyber-attacks, and if so, the amount of cover purchased. The Commission might also enquire whether charities have data protection policies in place. We propose that such questions would be more appropriate for Part B of the AR.

Structure and membership

Given the vital importance of understanding the de facto decision-making processes of a charity, or indeed anybody existing for the public benefit, we support the questions proposed, but believe this data is better collected via the trustees' annual report and amending the Charity SORP than imposing these questions on the entire sector via the Part A survey. We are not convinced that collecting such data would permit the Commission to target its communications to charities and reduce the number of disputes dealt with by the Commission.

As stated elsewhere in our response, we are concerned that respondents are directed to the glossary of terms rather than merging the glossary with the guidance, and displaying the guidance next to the questions in the AR.

Subsidiaries

We do not entirely understand the inferred connection between dissolution of a trading subsidiary and a charity's financial risk. Trading subsidiaries may be wound up for a multitude of reasons, including a change of strategic objectives. If the Commission proceeds with this question, we encourage the Commission to include it in the Part B survey rather than asking this of every charity with income greater than £10,000.

12. Do you agree that the new questions about charity operations and structure are clear, easy to understand and answer?

With the exception of questions in relation to service delivery/premises, we believe that the questions are appropriate. However, many non-finance or -legal respondents will need to make extensive use of the glossary to understand the defined terms in relation to structure and membership, and so we recommend all guidance and terms appear alongside the question itself in the AR.

13. Is our draft supporting information and guidance for the questions about charity operations and structure, including the glossary, sufficient to explain how to complete these questions?

In totality, we believe there is sufficient explanation, but would encourage the Charity Commission to merge the glossary and guidance, and ensure these are visible to respondents on the AR, next to the questions.

15. Do the changes we are making on questions about employees and volunteers ask for the right information about charities based on the information provided?

We understand the Commission's rationale for posing a new question on volunteer numbers, but believe this information might more readily be available through consumer market research than the AR process. The number of volunteers in the charity sector alone will not provide insight into the sustainability of volunteering in England and Wales. Consumer research, on the other hand, will identify trends, barriers, opportunities and greater insight

into volunteering as a force for good.

We note that the Commission's questions on employees are broadly consistent with the Charity SORP and question whether this information need be repeated in the AR.

16. Are the new questions about employees and volunteers clear and easy to understand and answer?

Yes, we believe the new questions about employees and volunteers are self-explanatory.

17. Is our draft supporting information and guidance around the questions on employees and volunteers sufficient to explain how to complete these questions?

Yes, we believe the supporting information and guidance on employees and volunteers is sufficient.

19. Are the changes we are making to questions about governance of risk, incidents and safeguarding clear and proportionate, and do they ask for the right information?

We agree with the questions proposed, but were surprised to note that responses in relation to governance will not be published, given the Commission's online register currently discloses the policies implemented by each charity. We believe this would reduce transparency and lessen the importance of robust policies for charity trustees. We are also concerned that this information is already provided on the charities register and so are unsure why this data would be duplicated via the AR process.

20. Is our draft supporting information and guidance on governance of risk, incidents and safeguarding sufficient to explain how to complete these questions?

Yes, we believe the supporting information and guidance on risk, incidents and safeguarding is sufficient.

22. Do you support an additional question being available for use in response to major external change?

As noted in our response to question 1 above, we support the Commission's need for sufficient flexibility to respond to major external events, but emphasise that this power should be used rarely, and only with critical consideration to the cost-benefit, especially for smaller charities. It is paramount that the Commission implements appropriate safeguards to ensure that additional questions are published sufficiently in advance for respondents to prepare, with a full explanation of what the Commission hopes to understand, and how the data will be used.

We are concerned at the degree to which data would be collected on such events. The nature of fundraising and engaging in charitable activities means that it can be exceptionally difficult to identify the specific impact(s) of a major external event, such as the covid-19 pandemic. Some data may be readily available at a more general approximation, such as changes in the number of volunteers and employees, but to pinpoint a specific reduction in donations and/or increase in service demand could be challenging. We recommend instead that this question is reframed to permit yes/no responses, and that respondents are asked to complete

a text box (with a minimum word count) to provide a qualitative response. In the interest of transparency, recognising that charities exist for the public benefit, there may be advantage to this information being published.

Large charities are more likely to respond to precise questions such as those proposed with any degree of accuracy; we therefore propose that such questions, if included in the final AR, appear in Part B rather than Part A.