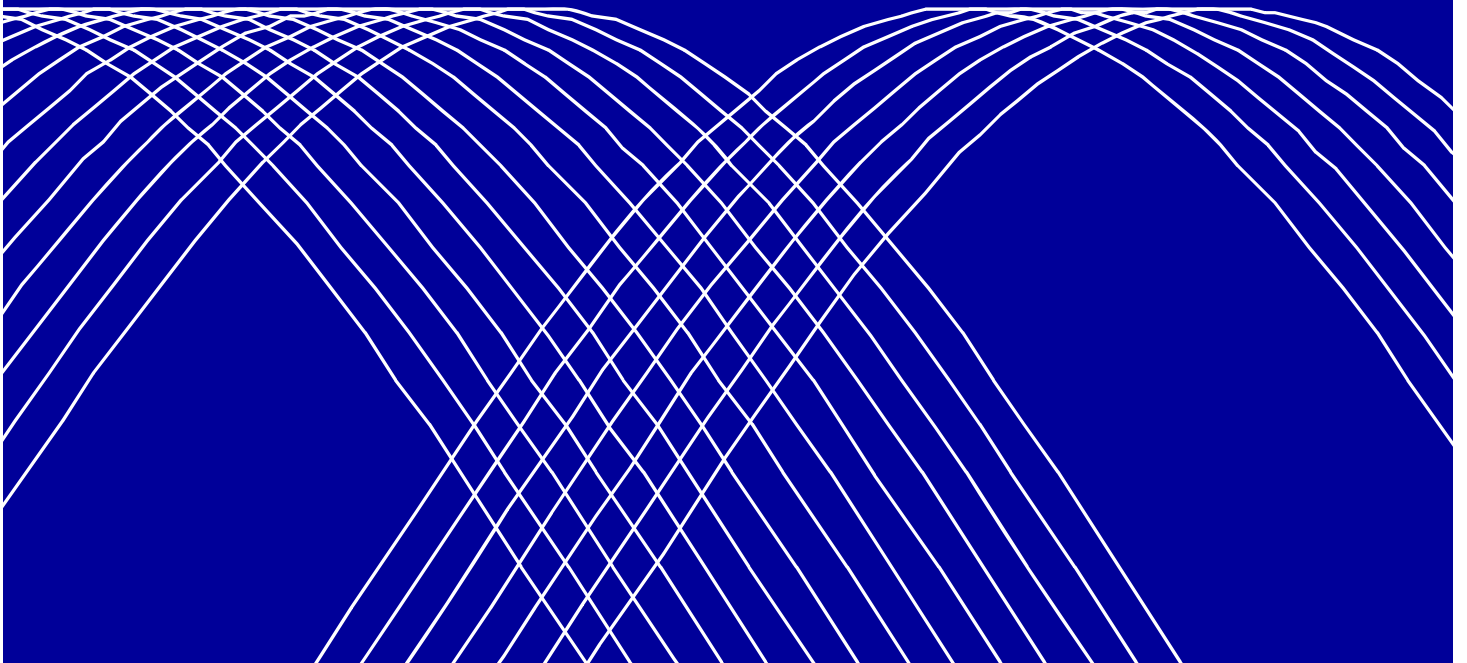




# **‘Better Regulation for Civil Society’ The Government’s Response**

Response to the Better Regulation Commission Report  
Recommendations and areas for further work



**The Government's response to**  
**"BETTER REGULATION FOR CIVIL SOCIETY"**  
**a report by the Better Regulation Commission<sup>1</sup>**

**Response to the report's recommendations and areas for further work.**

**FOREWORD**

The third sector plays a vital role in civil society. Third sector organisations not only change the lives of those who benefit from their work, but also provide opportunities for participation through voluntary action. The Government has a responsibility to ensure that the legal and regulatory framework within which the third sector operates, does not stifle the sector with unnecessary or disproportionate regulation, and does not inhibit the sector's ability to benefit society. At the same time the framework needs to safeguard public confidence in the sector by ensuring that there are minimum standards and protections that the public have a right to expect.

The Government welcomed the Better Regulation Task Force Report "Better Regulation for Civil Society" when it was published in November 2005. The report helpfully highlighted some of the specific burdens and barriers that the sector faces, and a number of the Report's recommendations have already been taken forward. This document sets out the Government's formal response to each of the recommendations of the BRTF Report, and the areas for further work that it identified. In several areas, work is already underway. For example, we have already worked with Volunteering England to fund and promote its helpful publication "Volunteering and the law". We have also worked closely with other Departments to prepare a Public Service Delivery Action Plan which will be published later this year and will include practical measures and proposals to tackle some of the concerns raised about commissioning and contracting.

However we want to go further in reducing the regulatory burdens that the sector faces. The creation, earlier this year, of the Office of the Third Sector in the Cabinet Office, places the third sector agenda at the heart of government. The Office will work as an advocate for the third sector across government, as well as

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<sup>1</sup> The body that prepared the report was called the Better Regulation Task Force at the time the report was published. Later its name was changed to the Better Regulation Commission. This Government response refers throughout to the Better Regulation Commission or the BRC.

delivering our own policy programmes, and in addition to the recommendations of the BRTF Report, we are improving the regulatory regime for third sector organisations in a number of ways.

The Charities Bill has almost completed its Parliamentary journey. It makes a number of de-regulatory changes that will particularly benefit smaller charities. For example, by raising various thresholds for registration and audit, or through the creation of a new legal form designed specifically for charities – the Charitable Incorporated Organisation (CIO). The CIO will enable charities to reap the benefits of incorporation without the dual registration and regulation that is currently required of charities in company form.

Later this year will see the publication of Cabinet Office and Charity Commission Simplification Plans. These will outline existing actions and future proposals for reducing the burdens within the regulatory framework for charities. This material, coupled with measures which impact on third sector organisations and appear in other Department's simplification plans, should amount to a substantial agenda for change in the regulatory environment affecting the third sector.

We look forward to working with the sector on this important agenda, and would particularly welcome any further suggestions from the sector for tackling unnecessary or burdensome regulations.

Ben Jupp  
Director, Office of the Third Sector

### **Recommendation 1**

**The BRC recommends that the Charity Commission, when giving written advice to charities, provides greater clarity as to which parts of its advice are legally binding and which parts are best practice suggestions. Its good work in some areas should be extended to all advice.**

The Charity Commission welcomes the BRC's recognition of the work it has already done to be clearer in its guidance between legally binding advice and good practice. Since the BRC reported the Commission has made further progress in converting its guidance publications into a style that clearly distinguishes between legal requirement and best practice. Publications in the new style include guidance on finding new trustees; on collaborative working and mergers; and on the framework of statutory accounting requirements.

The Commission points out that making a clear distinction between that which is legally binding and that which is best practice can sometimes be difficult - for example when answering charities' questions as to what practical steps they should take in practice to comply with a broad legal requirement. Nevertheless, the Commission accepts that charities want this distinction to be made as far as possible in their dealings with the Commission. The Commission therefore accepts this recommendation and will continue to work with charities towards achieving it.

## **Recommendation 2**

**The BRC recommends that, by the end of 2007, the Charity Commission review the Summary Information Return (SIR) and the Annual Report and Accounts with a view to integrating them so that charities only provide one set of information once a year. Following this integration, it should consider abolishing the other parts of the Annual Return. The Charity Commission should also work with other information providers (such as Guidestar) to remove duplicate requests for information and improve information sharing.**

The Charity Commission agrees, as it had already planned, to review the operation of the Summary Information Return of Aims, Activities and Achievements (SIR) by the end of 2007.

The Commission points out that because:

- 97% of registered charities have an annual income below £1m; and
- the SIR applies only to charities with an income of £1m or more,

the requirement for completion of the SIR will have no impact at all on the great majority of charities.

The Annual Report and Accounts of a larger charity can be highly technical and detailed documents. While they form a vital element of trustee reporting, and are invaluable to statutory and other funders and to those entering into commercial relationships with charities, they are not frequently read by the general public. The introduction of the SIR is intended to fill a gap by providing information suitable for general public consumption and, crucially, making it readily accessible by the general public. The availability of such information underpins public knowledge about, and confidence in, the work of charities.

The Commission's present view is that integrating the SIR with the Annual Report and Accounts, with their low public readership, would not improve the

accessibility of information. The Government, in responding to the Strategy Unit's recommendation for the creation of a SIR, shared that view. It proposed that SIR information be collected as part of the Annual Return.

The Commission's discussions with charities themselves during the development of the SIR also found little support for integrating the SIR with the Annual Report and Accounts. There was a view that the preparation of a charity's Annual Report and Accounts was largely driven by its financial staff, accountants and auditors and produced a narrowly-focused result. Keeping the SIR separate from the Annual Report and Accounts would allow information to be compiled and presented in a way that better reflected the charity's performance and activities as a whole.

There is a separate alphabetically-arranged SIR area on the Commission's website. This provides ready access to the SIRs for all larger charities. It also provides links to a charity's own website and to the more detailed Annual Reports and Accounts information for the minority who want to read the full documents.

The availability of information from filed SIRs has already allowed the Commission to reduce or eliminate some questions previously asked by the Annual Return.

For these reasons the Commission believes that the current approach of keeping the Annual Report and Accounts separate from the SIR should continue to be pursued. However this is subject to the review that the Commission will carry out by the end of 2007 to assess charities' experiences of the SIR process.

### **Recommendation 3**

**The BRC recommends that the Department for Constitutional Affairs work with the Home Office to consider reforming the Trustee Act 2000 to remove the obligation on endowed charitable trusts to diversify any gifted (as opposed to purchased) assets against the wishes of the settler while alive. If this requires primary legislation and no suitable legislative opportunity is on the horizon, it should consider including any necessary amendments in the Deregulation Bill expected in the next session of this Parliament.**

The concept of asset diversification within an investment portfolio, as a device for reducing risk, is not new. The Trustee Act 2000 in effect continues the duty on trustees to consider the need for diversification that previously was contained in the Trustee Investments Act 1961.

The Government has considered the BRC's recommendation carefully. It agrees that there should not be any absolute requirement on trustees to diversify trust assets, whether gifted or purchased.

However, as the BRC acknowledges, the 2000 Act does not contain an absolute requirement for diversification. The 2000 Act requires, as the 1961 Act required, the trustees of a trust to have regard to the need for diversification of investments of the trust, in so far as is appropriate to the circumstances of the trust. This important qualification allows trustees to take into account factors which in the circumstances of some trusts might weigh against diversification. Alongside factors to do with the past and potential future performance of particular investment assets, a further factor which the Charity Commission accepts can legitimately be taken into account is the need to maintain, for the long term, a good relationship with the settlor of the trust.

The current legal requirement ensures that the issue of diversification is always at least considered by the trustees, even if a diversification policy is not then pursued. If trustees had no duty to, and did not, consider diversification they

could be susceptible to accusations that they were acting in the best interests of the settlor rather than those of the trust. If the settlor so required, trustees could quite properly continue to sit on an investment that they knew full well was losing value and was unsuitable for the circumstances of their trust.

It is an abuse of a charity to settle funds on a charitable trust primarily for private tax advantage or to maintain indirect control of a company whose shares have been given the trust. Such cases are very few indeed but they have the potential for great harm to the reputation of grant-making trusts. The existence of the duty to consider diversification is a safeguard against such abuse.

Taking these issues into account the Government continues to believe that the 2000 Act duty of consideration should remain. It does, however, agree with the BRC that any perception on the part of settlors and grant-making trusts that the law would be applied as if it contained an absolute duty of diversification might be act as a deterrent to people thinking of settling substantial funds on a charitable trust. The Office of the Third Sector will explore with the Association of Charitable Foundations, other grant-making trusts, and the Charity Commission what can be done to combat that perception and to explain the requirements of the law more clearly.

### **Area for Further Work 1**

***The BRC recommends that the Charity Commission produces a guide for those considering endowing trusts, setting out what regulatory constraints they will face and what freedoms endowed trusts will enjoy.***

The Commission accepts that guidance designed specifically for endowed charities is required, and believes that it would be enhanced in its credibility if it bore the stamp of the Association of Charitable Foundations (ACF). The Commission will work with ACF to produce the guidance.

#### **Recommendation 4**

**The BRC recommends that HM Treasury and the Home Office should work with HM Revenue & Customs and the Charity Commission to reform or clarify the regulations surrounding charitable trading so that charities need not set up separate trading arms to receive corporate contributions where limited advertising is provided in return for a donation.**

HM Treasury, the Office of the Third Sector, HMRC and the Charity Commission are keen to ensure that guidance is clearly understandable and fit for purpose. They will ensure that guidance is kept under review and, where there is a lack of clarity, amended.

An acknowledgement of a donor's generosity in a charity's literature (for example, a theatre programme) or on a plaque does not affect the tax treatment of a donation, provided it does not amount to an advertisement for the donor's business. Where the wording is confined to thanks for the support the donor has given, together with the donor's name and/or its logo, that would be unlikely to amount to advertising. Where an advertisement for a donor's business is provided in return for a donation, HMRC advise that the payment be split between the commercial purchase of the advertising and the donation, to avoid any uncertainty.

### **Area for Further Work 2**

***The BRC recommends that HM Treasury and the Home Office review the work that the Charity Commission and HM Revenue and Customs are doing to produce clear guidance on when a charitable trading arm is required. If the underlying case law is so complex that any guidance would be difficult to follow, they should consider using primary legislation to simplify it. The extent to which trading arms are required purely for tax reasons should be minimised.***

HM Treasury, the Office of the Third Sector, HMRC and the Charity Commission are committed to keeping guidance under review and, where there is a lack of clarity will amend it. The Chancellor announced at Budget 2005 that HMRC would look at ways of removing tax barriers that prevent charities setting up joint ventures to share the costs of trading subsidiaries. The Charity Commission is currently rewriting its publication: "Charities and Trading" (CC35) in collaboration with HMRC and in consultation with charities. The publication will set out clearly the circumstances in which a charity that wishes to trade is required to set up a non-charitable subsidiary to carry out the trade.

### **Recommendation 5**

**The BRC recommends that HM Revenue & Customs provides guidance on what structures might assist charities to manage VAT liabilities which would otherwise arise as a result of outsourcing non core activities.**

HMRC acknowledges that this is a concern to charities and agrees to discuss with the sector how its guidance on this subject can be improved.

Under the fundamental principles of the VAT system, VAT on expenses is only recoverable to the extent that it is used to make taxable business supplies. Because charities engage in making non-business supplies which are outside the scope of VAT (broadly speaking this is the case where they do not make a charge for goods or services supplied) or business supplies which are exempt

under the terms of the EU's Sixth VAT Directive (e.g. welfare or education) they are unable to recover the VAT incurred on those activities. This position is not unique to charities but applies to any organisation which makes supplies that do not entitle them to recover the VAT incurred, such as businesses in the finance sector.

Where charities, or other VAT-registered businesses, obtain services such as information technology or facilities management in-house, VAT is an issue to the extent that it is incurred on the purchase of taxable goods or services used to provide those functions. Where an organisation outsources activities, either to a subsidiary or to an independent third party, then unless those supplies are themselves relieved from VAT (or the outsourcer is in the same VAT group as the provider), VAT will be chargeable.

Organisations which cannot recover all of the VAT they incur will therefore have to balance the efficiency savings arising from outsourcing against the amount of irrecoverable VAT that will arise.

Because of the requirement to maintain taxpayer confidentiality HMRC cannot comment specifically on the case of CharITyshare, referred to in the Report, but can confirm that it has been the subject of extended discussions between the department and the charities involved. HMRC aims to provide clear guidance to taxpayers on the operation of the taxes for which it is responsible and any reliefs which are available. But it must operate within the constraints of the VAT system which is based on long-standing formal agreements with our European partners.

### **Recommendation 6**

**The BRC recommends that the Office of the Deputy Prime Minister (ODPM) abolishes paragraph 2, Part 1 of Schedule 1 of the Housing Act 1996 and replace it with a code of practice. ODPM should consider using the Deregulation Bill expected in the next session of this Parliament or a Regulatory Reform Order (RRO) as a vehicle for delivering this reform if no other suitable legislative opportunity is on the horizon.**

The Government recognises that the requirements of paragraph 2, Part 1 of Schedule 1 of the Housing Act 1996 are perceived by many housing associations to be unduly burdensome.

The Housing Corporation commissioned in 2005 an independent review (the Elton review) of regulatory and compliance requirements for Registered Social Landlords (RSLs). The Elton review reported to the Corporation in April 2006.

One of the Elton review's recommendations echoed the BRC's recommendation for the repeal of this statutory provision and its replacement by a code of conduct. The Elton review also recommended that the National Housing Federation should develop a draft code of conduct in consultation with the Corporation, the Charity Commission and DCLG. Both of these recommendations were accepted in the joint DCLG/Housing Corporation Action Plan, published in September 2006.<sup>2</sup>

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<sup>2</sup> "The Elton Review of Regulatory and Compliance Requirements for Registered Social Landlords: Joint DCLG/Housing Corporation Action Plan" available at <http://www.communities.gov.uk/index.asp?id=1503131>

### **Recommendation 7**

The BRC recommends that the Home Office work with the Department for Education and Skills (DfES) and the CRB and Bichard Implementation Group to ensure that the principles of Good Regulation are fully reflected in a simplified and co-ordinated system of checks on suitability and that the system integrates well with the CRB and other mechanisms. Specifically they should:

- a) Produce a guide setting out when checks should be considered for different sorts of workers and whether these are mandatory.
- b) Review the proportionality of the CRB checking process by the end of 2007. In the light of experience, review which categories of individual are least likely to pose a risk to the vulnerable and seek to modify the law to make a risk based approach to CRB checks possible.
- c) Ensure that fee changes take place once a year, and are advertised at least six months in advance, to allow VCS and other organisations sufficient time to include the impact of changes within their budgets for the next financial year.
- d) Establish a system which would allow small VCOs to request checks easily.
- e) Issue guidance to employers on what previous criminal convictions should debar an individual from being allowed to work with vulnerable adults or children, what convictions should not debar an individual and what convictions necessitate judgement on the part of the employer.

a) Eligibility for persons to apply for a Disclosure is determined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order. CRB checks are not mandatory unless required by other legislation. CRB are not responsible for determining either eligibility for checks, nor whether checks are mandatory. The Office of the Third Sector will work with the CRB and others to improve the

information available to the voluntary and community sector on CRB checks that apply to the VCS.

b) Continuous monitoring of the percentage of disclosures that contain criminal information and a survey of effect on recruitment decisions are already in place. The law is intended to ensure that all persons seeking to work with children or vulnerable adults are afforded an appropriate level of checks, and this will be reinforced in the new vetting and barring scheme. It is not possible to assess risks presented by individuals without such checks. Obtaining a Disclosure is only part of an employer's recruitment process.

c) CRB will endeavour to ensure that fee changes take place once a year. As any fee change is subject to a Regulatory Impact Assessment and Ministerial consideration CRB cannot commit to advertising the new fees 6 months in advance: However, through both the formal consultation process undertaken as part of the Regulatory Impact Assessment and earlier informal soundings to Stakeholder Groups of its fee setting intentions CRB will strive to ensure that the VCS and other organisations have sufficient time to impact any changes within their budgets.

d) CRB have met with representative voluntary groups and there was no desire for a central Umbrella Body for voluntary organisations. There was also no support from the volunteer sector for a central Umbrella Body. Feedback from consultative groups has indicated that smaller organisations, which include volunteer organisations, have not had difficulty identifying organisations through which to submit applications. Local umbrella bodies can normally be identified and may in many cases include local authorities, for example.

e) The Office of the Third Sector will work with CRB and others to improve the information available to the VCS on the how CRB checks apply to the VCS.

### **Recommendation 8**

**The BRC recommends that the Department for Constitutional Affairs review whether the regulations covering the representation of individuals in court need to be modified so that VCS and other organisations may represent individuals when they are best placed to do so.**

The BRC report says that it may well make sense for employees of the charity who have most contact with the individual and know their circumstances to play a role in a hearing. The report adds that the BRC has heard of cases where this has not been possible.

The Government does not, however, believe that any amendment is needed to legislation or regulations on who may represent individuals at court. Judges already have discretion to allow members of voluntary organisations to appear before them on behalf of individuals. In deciding whether or not to allow representation a judge considers the interests of the client and the value that any other representative may bring to the case.

This is distinct from rights of audience before the courts. Rights of audience are reserved to certain categories of professional under the provisions set out in the Courts and Legal Services Act 1990. Only organisations whose qualifications, regulations and rules of conduct have been approved by the Secretary of State for Constitutional Affairs have the power to grant a right of audience before a court in relation to certain proceedings.

### **Area for Further Work 3**

***The BRC recommends that the Home Office work with Volunteering England to make its employment law guidance to charities more widely available or work with other departments to produce guidance in this area.***

The recommendation has already been implemented. In 2005/6 the Home Office funded Volunteering England to:

- publish “Volunteers and the Law” in hard copy and online. Home Office funds paid for more than 20,000 copies of the book to be purchased and distributed to smaller volunteer-involving organisations;
- design and print a summary leaflet; and
- hold nine “Volunteers and the Law” workshops throughout England between January and May 2006.

### **Recommendation 9**

**The BRC recommends that the Department of Health and Office of the Deputy Prime Minister work with the Commission for Social Care Inspection, the Healthcare Commission, the Housing Corporation and other public service regulators on further developing their risk-based approach to regulation. As some of these bodies are reconfigured, we recommend that a risk-based approach be confirmed in legislation.**

The Government accepts this recommendation.

The BRC noted that the Department of Health (DH) had begun a consultation on changing the regulatory framework for adult social care services. The consultation set out proposals aimed at enabling the Commission for Social Care Inspection (CSCI) to target more of its resources on helping poorer providers to

improve. The regulations in force at the time obliged CSCI to treat all providers alike, regardless of the quality of their services.

The outcome of DH's consultation, which closed in January 2006, was reported in March 2006. New regulations on the frequency of inspections came into force on 1 April 2006.

The Government wants CSCI to be able to decide how often it inspects particular providers, using a robust system of risk assessment. The requirement for inspections every year has therefore been removed. The new regulations require, instead, that each provider be inspected at least once every three years. This will mean less physical inspection for providers that are good. Some providers will receive more inspection. And CSCI will still be able to carry out random inspections without warning.

Similarly, regulations which also came into force on 1 April 2006 extend the maximum inspection period for private and voluntary healthcare establishments. Before that date, regulations required each establishment to be inspected at least once a year. The new regulations require the Healthcare Commission to inspect each establishment at least once every five years. As with the new inspection periods for CSCI, this will allow the adoption of an approach based to a greater degree on the risk presented by individual healthcare establishments.

In addition to the review undertaken by the Department of Health to consider changes to the regulatory framework for adult social care services, the Department for Education and Skills (DfES) has begun a review and is currently consulting on proposed changes to the regulatory framework for children's social services.

The current approach for inspection is based on universal coverage where all providers, regardless of their quality, are inspected routinely on the basis of set frequencies. To allow a better focus on the experience of users and to improve

outcomes across all inspected settings and services, DfES recognises a need to move away from this.

The review aims to put in place, following consultation, a regulatory system that enables the newly created inspectorate, which will incorporate the function of CSCI into Ofsted and come into effect on 1 April 2007, to target and improve its activity so that it has maximum impact in protecting and safeguarding children and young people using these services. DfES plans to achieve this by putting in place an inspection process that is proportionate to risk, targets inspection where improvement is needed or concerns have been raised and avoids unnecessary burdens on service providers who provide good quality services.

To allow the Inspectorate successfully to determine the quality of service and thus the frequency of inspection necessary to ensure that those who use regulated services are properly protected, a risk assessment of each provider of children's social services will be undertaken by the Inspectorate every year. This assessment will take into account all the current information available on a service and determine the nature and intensity of inspection activity it will need in the coming year. This will not be fieldwork inspection as such, but will take into account any fieldwork undertaken over the previous twelve months.

The risk assessment will be based on:

- The Inspectorate's cumulative assessment, knowledge and experience of a provider, available from the Inspectorate's previous work and activity with each service and other sources to assess the quality of experience of those who use the service;
- Analysis of the provider's annual assessment;
- A service user assessment of the performance of the provider;
- Information from inspection work or other intervention over the previous year;
- Analysis of data on concerns or complaints, serious incidents and other quantitative and qualitative information on performance;

- Significant changes to the service, such as the appointment of a new manager;

The outcome of the DfES consultation, which is due to close on 10 November 2006, will be made public with any new regulations on the frequency of inspections expected to come into force on 1 April 2007.

The Housing Corporation has responded to the Elton review (see recommendation 6 above) by accepting each of the 84 recommendations made to it, anticipating that that would remove at least 10% from the cost of regulation for more than 1500 housing associations in England over the following 12 months. Going beyond the Elton review, DCLG is also currently looking at the possibility of further reform of the regulatory system for social housing.

### **Recommendation 10**

**The BRC recommends that the Home Office work with the Department for Education and Skills, the Departments for Constitutional Affairs and of Health and the Office of the Deputy Prime Minister to:**

- a) Review the balance between regulation (which is inflexible) and rules and guidance (which are more flexible) so that public service regulators can more quickly recognise and respond to changes in an organisation's circumstances. This could usefully apply to the Charity Commission, the Commission for Social Care Inspection, the Healthcare Commission, the Housing Corporation, the Legal Services Commission and Ofsted.**
- b) Give public service regulators authority to consider waiving specific rules and guidance in individual cases for particular organisations, using a formal waiver process such as that developed by the Financial Services Authority.**

Government Departments are currently engaged in the Administrative Burdens Reduction Project. The project requires Departments to:

- identify all regulations that impose administrative burdens; and
- measure the cost of those administrative burdens,

so that a baseline can be set, and targets for reducing the cost can be introduced. Each Department is preparing a Simplification Plan which will include its proposals for reducing the administrative burdens resulting from existing regulation and for minimising the burdens imposed in future by new regulation.

Reviews of the balance between (inflexible) regulations and (flexible) rules and guidance ought to be conducted in the light of the proposals in Departments'

Simplification Plans. Indeed the work done by Departments to prepare Simplification Plans is likely to provide much of the raw material for the reviews recommended by the BRC, since Simplification Plans will cover burdens arising both from compliance with statutory provisions and from compliance with administrative requirements imposed by regulators.

Regulators typically have:

- the function of enforcing compliance with statutory requirements enacted by Parliament (or made by Ministers under powers delegated to them by Parliament); and
- the power to introduce regulation of their own devising. Some regulators have the power to make rules which have the force of law; some have the power to give advice and guidance which does not have the force of law; some can do both.

Unless they have expressly been given the discretion by Parliament to do so, regulators do not have the power to grant waivers from statutory requirements. By contrast, a regulator will almost always have the power to introduce a system of waivers from rules, advice and guidance of its own devising. The Government does not believe that regulators need any further authority to be able to do that.

#### **Area for Further Work 4**

***The BRC would like the Home Office to encourage all government departments and regulators to give positive consideration to proposals from the VCS and other organisations for self regulation, particularly:***

- ***The possibility of granting collective waivers from some regulations for bodies that hold “kitemarks” or other appropriate self-regulated status that provides a similar level of protection or reassurance to current statutory regulation; and***
- ***The possibility of incorporating “kitemarks” or other self-regulatory systems into risk assessments such that they could then influence the level of reporting and inspection required.***

The Office of the Third Sector agrees to take this work forward as the BRC proposes.

#### **Area for Further Work 5**

***The BRC recommends that the BRE and Government departments work together to ensure that Voluntary and Community Organisations know how to make simplification proposals and are encouraged to submit suggestions of regulatory burdens for simplification or elimination.***

The Office of the Third Sector agrees to take this work forward as the BRC recommends.

The Charity Commission’s summer 2006 newsletter, which is sent to all 190,000 registered charities, invited readers to make simplification proposals to it or to the Better Regulation Executive.

### **Recommendation 11**

**The BRC recommends that, in line with the Government's drive to reduce administrative burdens, the Office of the Deputy Prime Minister, the Department for Education and Skills, the Department for Work and Pensions and the Department of Health respectively ensure that upper tier local authorities and the Housing Corporation, the Learning and Skills Council, Jobcentre Plus and Primary Care Trusts work to measure and reduce the administrative burdens arising from contracts with the VCS, drawing on the expertise of the Cabinet Office's Better Regulation Executive and the existing administrative burden measurement process. These public bodies should:**

- undertake a systematic measurement of the administrative burdens associated with VCS contracts by April 2007; and**
- develop simplification plans or input into an existing simplification plan to reduce the administrative burdens on VCS service providers by November 2007.**

**Each department should ensure that appropriate targets are set and that the public bodies concerned have incentives to meet the administrative burden reduction targets.**

The Government accepts this recommendation. In autumn 2006 the Office of the Third Sector will be issuing a Public Service Delivery Action Plan containing practical, effective and durable measures designed to improve the quality of the relationship between the public and third sectors. The plan includes proposals to develop standard contracts in some key service areas and on devising commissioning frameworks which are fair to the sector with the intention of ensuring that best practice is mainstreamed at the local level.

The Government is clear that systems and procedures set up to fulfil funding organisations' accountability for the use of public funds should avoid unnecessary burdens. On 15 May 2006, HM Treasury issued *Improving financial relationships with the third sector: Guidance for Funders and Procurers*. This makes clear that all funding bodies should ensure they have procedures that are clear and, wherever possible, as simple as they can be. The guidance also sets out the expectation that funding bodies should set up monitoring and inspection requirements proportionate to the level of funding and risk. The Treasury will be working with key stakeholders to ensure this guidance is fully embedded within public authorities' funding practices where appropriate. In addition, there have been three regional pilots into lead funding (whereby one organisation streamlines application processes and coordinates monitoring and inspection arrangements on behalf of other funding bodies, or different parts of the same funding body). These were set up in January 2005 and are currently being evaluated. Once the evaluation is complete, the Office of the Third Sector and HM Treasury will consider how the lessons learnt from the pilot studies can be successfully implemented by funding organisations.

The Department for Work and Pensions (DWP) is committed to reducing the administrative burden on charities and the voluntary sector. Jobcentre Plus have recently developed and implemented a range of initiatives that will reduce the burden on its provider base, including:

- generic bidding documents which have been developed to standardise tendering arrangements and to simplify processes for all bidders.
- developing a standard operating model that all Jobcentre Plus contracting staff will now adhere to.
- Jobcentre Plus is moving towards fewer, larger contracts using a lead/prime delivery contractor. It does not expect that Prime Contractors

will usually be able to cover the entire range of provision without the help of specialist organisations that have particular skills to offer. The larger providers will be required to enter into direct contracts with such organisations on a normal commercial basis, but with certain safeguards such as an obligation to pay them within 30 days of receipt of a valid invoice. Furthermore, this approach will alleviate the burden and risk for smaller providers by removing the requirement for them to submit bids and manage provision in their own right.

- outsourcing the accreditation checks that are undertaken on providers prior to contract award, so that all providers will be subject to the same processes and considerations and will need to be checked once only each year regardless of the number of contracts.
- successfully piloting an e – based client referral system in Dorset, which has been very well received by providers. Jobcentre Plus is now seeking to roll this out nationally by April 2006, alongside a linked provider payment calculation engine. This will considerably simplify the processes for notifications between Jobcentre Plus and Providers, and streamline and improve provider payment arrangements.

To reduce burdens further and in particular on the voluntary sector, DWP and Jobcentre Plus will take steps to implement the recommendation.

The Department of Health will want to ensure that any changes to the administrative burdens on VCS organisations balance the need to avoid placing unnecessary burdens on primary Care Trusts. DH will reflect on the lessons from the Administrative Burdens Reduction Project before deciding how to extend it into other areas.