



Annual Return 2018 consultation

Purpose and scope of the consultation

Annual Return for 2018 ('AR18') – information collected from charities

This is a consultation about changes we propose to make to AR18, the next version of the Annual Return which will apply to charities' financial years starting on or after 1 January 2018.

Sections 1 to 8 explain the purpose and format of the Annual Return, summarise the focus of the consultation and how to respond.

The proposed new questions on which we are consulting, together with our explanation of why we are proposing to include these questions are at section 9. The consultation closes at 5pm on Friday 24 November 2017.

1. Introduction

a. Purpose of annual return

All registered charities in England and Wales over the income threshold¹ must complete an Annual Return, which enables the Charity Commission to:

- maintain an accurate register of charities
- understand the sector and regulate it more effectively

b. Format and content of annual return

Following the consultation for the launch of the current Annual Return (AR17), we are changing the format of the Annual Return to minimise the amount of information that many charities have to send to us each year, targeting questions instead at larger or more complex charities.

In future we will use the Annual Return to gather regulatory and financial information, and provide a new Update Charity Detail ('UCD') service for charities to inform us only when there are changes to their registered details, key activities and policies.

¹ All registered charities must supply income and expenditure details. All registered charities with annual incomes over £10k, and all charitable incorporated organisations (CIOs) must complete an Annual Return.

The Annual Return will consist of:

- Part A – a set of regulatory questions (from now on, tailored to each charity) and confirmation that the data we hold about them on the register is accurate. Where the data is not accurate, the charity will need to correct it using the new UCD which is explained below.
- Part B – questions on key financial aspects for charities with incomes over £500k
- Part C - declaration of the submission of accurate data and options to upload accounts.

This will be supported by a separate service – ‘Update Charity Details’ (‘UCD’) which will allow charities to update their entry on the register (for example, the charity’s contact details and trustees) throughout the year as changes happen so that the register remains accurate. It also enables them to report to us simply on other fundamental information about key activities and policies.

The UCD service will enable charities to:

- complete an Annual Return and, where the charity’s details have been kept up-to-date, it will be necessary simply to confirm their accuracy
- answer questions in the Annual Return that are tailored to their circumstances, based on the fundamental information provided in the UCD
- receive updates and alerts from the Commission tailored to their needs

Moving information from the Annual Return to the UCD should mean that for all but the largest and most complex charities, completing the Annual Return each year should be much simpler and quicker.

2. What are we consulting about?

a. Annual Return: additional regulatory questions

We propose to introduce a number of further questions to the Annual Return, although charities will only need to answer those that are relevant to them.

The complete list of questions that we propose to use, including those new ones that are the subject of this consultation, is attached at Annex A to this consultation. We have also attached at Annex B the set of questions that we used in AR17 and AR16, as set out in *The Charities (Annual Return) Regulations 2015* which is at Annex A to this consultation.

b. Update Charity Details (UCD): changes to other fundamental information about activities and policies

The UCD will include a set of ‘yes / no’ questions on activities and policies: these questions were previously included in the Annual Return. The answers given to these questions will enable us to tailor the questions each charity receives in Part A of the AR18. The UCD will contain ‘trigger’ questions that will relate to some of the new questions in the Annual Return and we have included these trigger questions in

the consultation. Annex C lists the ‘trigger’ questions that we have moved from the Annual Return.

c. Purpose of consultation

We think the changes we are proposing are the most significant since 2013. The changes we propose are intended to reduce the amount of information that smaller charities have to supply every year and target more detailed questions only where relevant to each charity. Although we are proposing a number of new questions, the targeting of questions using registered particulars should mean that most charities will be able to complete the Annual Return more quickly and easily, with only the largest and most complex charities having more questions to answer. We are therefore undertaking a full consultation before deciding on the final set of additional questions for AR18. We are using this consultation to set out our proposals and seek views from charities (who both provide and use the information) and the public (who use the information).

The proposed new questions follow a review of the current content of the Annual Return. We noted in our consultation on AR17 that we would be conducting this review, to ensure that the questions:

- a. reflect our risk priorities which are:
 - fraud and financial abuse
 - public trust and confidence
 - safeguarding
 - terrorism and extremism
- b. help us to tackle new regulatory risks as they emerge
- c. strengthen the sector’s accountability.

For each of the proposed new questions we have:

- considered how the information will help further our statutory objectives, functions and duties
- been mindful of balancing the need for any new information we ask for with the need not to create an undue additional burden on charities that are required to complete the annual return
- sought to ensure that any new questions will only be asked of those charities for which they are relevant. It is our intention that smaller and less complex charities will have fewer questions to answer, whilst the larger and more complex ones will have more
- considered for each question whether the charity’s individual response should be published on the Register
- considered whether the data can be obtained more easily from other sources.

3. Other changes

There are other administrative changes that we are making as a result of the new format of the Annual Return and the creation of the new UCD service. We summarise what these include below to provide a full picture of the changes we are making:

- the introduction of the Update Charity Details system to enable charities to update their entry on the Register when changes happen and to provide other fundamental information about activities and policies. This will reduce the amount of information that the smallest charities will need to provide through the Annual Return and is something on which we consulted before releasing AR17. the Registered Particulars will be included in the Update Charity Details . These will remain largely unchanged, although we will be requiring an email address for every trustee. We will not make these email addresses public.
- changes that do not affect the meaning of an existing question
- a request for information about the role which the person completing the Annual Return holds within the charity

4. Who do we want to hear from?

We particularly want to hear from registered charities that are required to complete the Annual Return. We would especially welcome responses from those charities who will be affected if we introduce the proposed new questions to the Annual Return. We also welcome views from anyone who uses the register data or who has an interest in the information we collect and publish about charities.

5. How to respond to this consultation

You can respond to this consultation by [completing the online survey](#).

It includes all the questions asked in the consultation and also gives you the opportunity to make any additional comments.

There will be other opportunities and methods for giving us your feedback. We will publish details of these through the consultation period but they will include:

- discussions with umbrella bodies and other stakeholders, either through roundtables or workshops
- user testing of the proposed new questions so that we understand how charities will interpret and address them and what guidance they will need.

If you need to supplement your responses with further detail or material, please send it by email to RegistrarandAssurance@charitycommission.gsi.gov.uk

6. Deadline for responses

We would welcome written responses throughout the consultation period so that we can identify the key themes to address in good time before we finalise and release AR18. We also expect to identify these through our other consultation engagements mentioned above. The final deadline for responses is 5pm on Friday 24 November 2017.

7. What will happen at the end of the consultation period?

We will take into account the comments we have received by the end of the consultation period and these will help inform the decisions we make about the information we collect from charities through the Annual Return for 2018.

We will make the Annual Return Regulations and publish an analysis of the feedback within three months of the end of the consultation.

We aim to release AR18 by the end of March 2018.

8. Use of your data

All information contained in the consultation responses (including personal information) may be published or disclosed in accordance with the access to information regime. This is primarily set out in the Freedom of Information Act 2000 (FOIA), Data Protection Act 1998 and Environmental Information Regulations 2004.

The Commission can only treat information in your consultation response as confidential if that's consistent with the law. There is a statutory Code of Practice under FOIA which public authorities must comply with. This sets out how confidential information must be dealt with. The Commission cannot give assurances that all information will be kept confidential, but it will take into account any representations that you make in this regard.

If you object to any information in your consultation response (including your personal details) being published, please say so. Please explain why you think the information should be confidential. This will help the Commission to decide whether there is sufficient justification for not publishing it.

9. Proposed new questions for the Annual Return 2018

The regulatory questions in Part A of AR17 cover four areas

- income
- expenditure
- managing charity assets
- safeguarding

We are proposing to introduce new questions to each of these areas, around which we have structured this consultation document. For each new question we have explained why we are proposing to include it and are inviting views on our proposed approach.

Please use the online survey link to respond to these questions.

A. Questions about the income which a charity receives

Charities receive income from a number of sources. We already ask for information about the income which charities receive from fundraising, whether they receive income from central or local government through grants or contracts, and whether they are registered for Gift Aid. This information enables us to monitor sector and individual charity resilience and risk and to identify regulatory concerns. It is also information that is helpful to users of the register. We are proposing that these questions should be altered so that they are

- clearer for charities to understand when completing the Annual Return
- extended to provide further information where relevant.

A i. Fundraising

We already ask charities whether they raise funds from the public. We also ask for information about whether they work with, and have an agreement with, a commercial participator.

Examples of when agreements are needed between a charity and a commercial participator include:

- a retailer agreeing to donate a percentage from the sale of certain items to a charity
- a credit card provider donating a percentage of each transaction to a charity

Such agreements can often permit the charity's name and logo to be displayed on a product.

We are proposing to add similar questions about arrangements with professional fundraisers. Professional fundraisers raise money on behalf of charities by undertaking activities such as:

- providing street fundraisers
- door-to-door collections
- telephone marketing services
- tailored direct mail campaigns

Although professional fundraisers are different from commercial participators, the contractual arrangements and the difficulties which charities may have in entering into and managing the relationship can be similar. We propose to extend the range of fundraising related questions to include professional fundraisers.

Where a charity uses a professional fundraiser to raise funds on its behalf, or enters into an arrangement with a commercial participator, specific rules apply. They require, amongst other things:

- written agreements between charities and professional fundraisers/commercial participators which comply with specific requirements
- professional fundraisers, commercial participators, and charity staff paid to fundraise in public places to make a solicitation statement satisfying certain requirements
- some larger charities to include statements about their approach to professional fundraising/commercial participation in their annual report

From our regulatory work we know that charities can sometimes find themselves in difficulties when they work with professional fundraisers and commercial participators. This can be due to a number of reasons, for example, sometimes they have either no written agreement or a poorly written agreement in place. Whilst issues relating to fundraising methods and practice are matters for the Fundraising Regulator, the Commission has found that in the cases in which it has been involved, trustee decision making and management of the charity tend to arise as issues of regulatory concern. As the Commission has the powers to protect charity assets when trustees have entered into agreements which are not in the best interests of the charity or where they have done so recklessly or negligently, it is necessary for both the Commission and, where that data is capable of being shared, the public, to have this further detail. In addressing this issue the Commission is also concerned with protecting public trust and confidence, but it is also mindful of the need to ensure its regulation is proportionate and targeted.

The Commission proposes to use the information from these new questions in both its reactive casework, for example when concerns are raised about the actions of a particular charity, and in proactive work generally when looking at trends within the sector and where risks may lie.

We propose to publish the information provided by charities within the scope of these questions. We consider that this will both improve transparency and accountability

on a matter which we know affects public trust and confidence, and assist charities by clarifying the different fundraising relationships and providing them with a clearer understanding of what they should take into account when engaging in commercial partnerships or with professional fundraisers.

To increase the accuracy of the data collected we will provide guidance to accompany the Annual Return which explains what is meant by the terms “commercial participator” and “professional fundraiser”. These are terms which are defined in the 1992 Charities Act and we are aware that some charities completing an Annual Return may not understand these legal terms.

We propose to change the Annual Return so that those charities which tell us that they raise funds from the public will have to explain whether they work with professional fundraisers and/or commercial participators and about the contracts which they have with them.

Proposed Annual Return Questions

Yes/No

If the answer to Question A - Does the charity raise funds from the public? – is ‘Yes’ the charity will be asked two sets of further questions: questions A.2 and A.2.1 are new and are the subject of this consultation. We have included questions A.1 and A.1.2 to provide the full picture but we are not consulting on them:

Question A.1 Does the charity work with a commercial participator? – Yes/No	Question A.2 Does the charity work with a professional fundraiser? – Yes/No
<p>If the answer to Question A.1 is ‘Yes’ the charity will be asked:</p> <p>Question A.1.2 Does the charity have a signed contract with the commercial participator? – Yes/No</p>	<p>If the answer to Question A.2 is ‘Yes’ the charity will be asked:</p> <p>Question A.2.1 Does the charity have a signed contract with the professional fundraiser? – Yes/No</p>

The consultation questions

Q1 Do you agree with the proposal to introduce this series of questions about the arrangements which charities have when they work with professional fundraisers?

Yes /No / Don't know

Q2 If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q3 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No / Don't know

Please give the reasons for your view.

Q4 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q5 If your charity would have to provide this further information about professional fundraisers, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

A ii. Income from central or local government

We already ask charities how much income they receive from:

1. Contracts from central or local government to deliver services
2. Grants from central or local government

We will continue to ask for this information and we propose that a 'yes' answer would trigger further questions about the number and value of contracts entered into or grants received.

We know from our regulatory experience (from low level to high profile cases) that over-reliance on a single source of funding, such as from local or central government, can be a risk to a charity's financial viability and it is something that we highlight in our guidance to trustees as an area to keep under review in order to comply with decision making principles. We consider that adding these further questions, and publishing the information provided by charities within their scope, will assist the Commission in:

- understanding in more detail the size and types of funding in the sector
- establish more information about the charity's funding model
- proactively engage with those charities where we identify concerns about their financial resilience
- provide improved transparency and accountability for charities.

We also consider that it will be beneficial to funders in understanding where funding has either been provided or may be needed.

Charities that must prepare accruals accounts in compliance with the charities' SORP must already identify this information. We recognise that the provision of this information could add a further regulatory burden for other charities that have to answer these questions. In this consultation we wish to gain an understanding of the scale of this.

Proposed Annual Return Questions

If the answer to question B - During the financial period for this Annual Return, did the charity receive income from contracts from central or local government? is Yes the charity will be asked two further questions. Question B.2 is not new and we are not consulting on it but it is included for completeness.

Question B.1 How many contracts did the charity receive from central or local government?

Question B.2 What was the total value of the contracts received from central or local government?

Similarly, if the answer to question C - During the financial period for this Annual Return, did the charity receive income from grants from central or local government? -is Yes the charity will be asked two further questions. Question C.2 is not new and we are not consulting on it but it is included for completeness.

Question C.1 How many grants did the charity receive from central and local government?

Question C.2 What was the total value of the grants received from central and local government?

The consultation questions

Q1 Do you agree with the proposal to revise the questions which we ask about the income which charities receive from central and local government as shown above?

Yes/No / Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No / Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to provide this further information about grant and contract income from central and local government, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

A iii Gift Aid

We already ask if the charity is registered for Gift Aid with HMRC. We will ask charities to confirm this in the UCD, and propose to ask those that answer 'yes' for additional information in the AR18 about the amount of Gift Aid which the charity claimed in the reporting year.

Information about Gift Aid claims is needed for three purposes. Firstly, it will enable us to carry out proactive, informed risk assessments of individual charities where we will ensure that trustees are compliant with their duties in the administration of charities. Secondly, it will enable us to deal more efficiently with cases where there is evidence of poor administrative practice indicating a failure by the trustees to comply with their trustee duties or where there could be abuse or mismanagement. Thirdly, we will use this information to identify where there are trends in Gift Aid claims either across all registered charities which file returns, or in certain groups of registered charities. This will assist in ensuring that charitable funds are applied properly and trust and confidence in the sector is retained.

Whilst some of this information is also collected by HMRC, it is not done so on the annual cycle required by the Commission, nor is it usable by the Commission. If the Commission holds this information within its database it will be able to use it more effectively together with the other information which it holds to regulate individual charities and to better understand and measure risk across groups of charities.

Proposed Annual Return Question

Charities will only be asked this question if they answered Yes to the question about whether they are registered for Gift Aid with HMRC

Question D During the financial period for this Annual Return how much Gift Aid did the charity claim?

The consultation questions

Q1 Do you agree with the proposal to introduce this question about Gift Aid?

Yes /No / Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No / Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to provide this further information about Gift Aid, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

A iv Income received from outside the United Kingdom

We already ask charities to identify the countries they operate in outside of England and Wales and to record their total expenditure in those countries.

We are proposing to insert a 'yes / no' question to ask if the charity receives income from outside the UK: where the answer is 'yes', we will include additional questions relating to that income, in order to:

- provide a fuller picture of charity funding
- support our regulatory activity by enabling us to assess the operating risks to charities. For example, there may be concerns about the source of the funds and, particularly, any restrictive conditions which may be attached to it.
- assist the Commission to make better judgements about the risk posed and to prioritise its work in proactively identifying charities which should be targeted with specific regulatory advice and guidance or which might be at greater risk of abuse
- aggregate the data to improve our information about the source and volume of charity income which is received from outside the UK
- enable the Commission to assess the vulnerability of the sector to political, economic or environmental changes in particular parts of the world.

Obtaining information about income from overseas (in addition to expenditure) is consistent with our functions as a regulator and we note that it is information collected in some other jurisdictions. We are aware that this may place some regulatory burden on those charities that will need to complete these questions and we are keen to understand the scale of this. Although this information is not required in this format in a charity's accounts, S.130 of the Charities Act 2011 (and the equivalent Companies Act sections for charitable companies) requires charities to keep accurate accounting records: charities that comply with this requirement should be well placed to provide the requested information. In our view, the nature of the risks to the sector (and in particular to transparency, accountability, public trust and confidence) justifies the need to collect and use this information.

We recognise that the question is based on the United Kingdom, which is wider than the Commission's jurisdiction (England and Wales). We are proposing this approach because, for the charity regulators in Scotland and Northern Ireland, we have a formal relationship governed by memoranda of understanding and do not consider that it is necessary separately to capture details of income from their jurisdictions.

We are proposing to ask all charities with incomes over £10k to answer these questions because of the degree of financial risk involved and because this would be consistent with the threshold for reporting on expenditure overseas, but would value views on the advantages and disadvantages of this.

The questions will ask charities to say from which countries they have received income. They will also require the amount of income received from different types of donor. This information aims to increase our ability to identify and profile risks and vulnerabilities and supports our better understanding of the sector.

We recognise this data is potentially sensitive and do not propose to publish individual charities' data. We may publish our analysis of sector wide trends and data but would take care to avoid doing so in a way that avoided identifying individual charities.

Proposed Annual Return Questions

Question E During the financial period for this annual return, did the charity receive income from outside of the UK? - Yes/No

If the answer is yes the following two questions will be asked

Question E.1 Select countries the charity received income from during the financial period for this annual return or select 'unknown/don't know – a drop down list will be shown

Question E.2 What is the value of income by country? For each country specify the source and amount of income from the options:

- a) Overseas Governments or quasi government bodies;**
- b) Overseas Charities, NGOs or NPOs**
- c) Other overseas institutions**
- d) Individual donors resident overseas**
- e) Unknown/don't know**

The consultation questions

Q1 Do you agree with the proposal to introduce this series of questions about the income which a charity receives from countries outside the UK?

Yes / No/ Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We do not intend to publish information resulting from this question on the charity's public register page. Do you agree that data provided by individual charities in response to this question should not be published?

Yes / No/ Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 Do you agree that all charities with an income in excess of £10,000 should be asked these questions about income from overseas?

Yes / No / Don't know

If you disagree it would be helpful if you could say what the threshold should be and give the reasons why

Q5 If your charity would have to answer these questions about income from overseas, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

Q6 We propose to ask for the value of the income from each question to be given in Pounds Sterling. Do you agree that this is appropriate?

Yes / No / Don't know

If you disagree it would be helpful if you could give the reasons why

Q7 Some charities may find it easier to report the income received in US Dollars. Do you think that there should be an option to report in either Pounds Sterling or US Dollars?

Yes /No / Don't know

If you disagree with this proposed option, it would be helpful if you could give the reasons why

B. Questions about charity expenditure

How charities use their resources is fundamental to whether they are operating in a way which will achieve their charitable purposes for the public benefit and whether they are carrying out activities which the public expects. The Commission aims to obtain information about this to discharge its regulatory role because it is one of the key drivers of public trust and confidence in charities. The information will also provide the public with a more detailed explanation about sector expenditure, and help improve the transparency and accountability of charities in how their funds are applied.

B i Employees' salaries

We propose to introduce a new question asking charities to confirm if any of their staff receive a salary above £60k and, where they do, to ask two further questions to identify the number of staff being paid within salary bands above this figure, and about the pay of chief executives (CEOs).

The Commission has considered this matter carefully in light of recent Parliamentary interest and media coverage against the aim of ensuring that charities operate efficiently and without undue scrutiny, but also transparently, and that public trust is maintained within the sector. It is also a matter that concerns accountability in charities. In April 2014 the National Council for Voluntary Organisations (NCVO) published its *Report of the Inquiry into Senior Executive Pay*, following concerns about the matter. At the same time it published *Guidance for Trustees on setting remuneration* and we expect trustees to be able to justify their decisions within these guidelines.

Our research in to public trust and confidence in charities has continued to show this is a driver of public trust and confidence and that it has the potential to be damaged by concerns about excessive executive pay. Whilst self-regulation on this matter is crucial for the proper expenditure of charitable funds, the Commission is unclear to what extent concerns in the sector about salary levels are justified, and this will be a clear way of both helping the Commission's understanding of the matter as well enabling targeted guidance and intervention if there are individual charity issues.

This therefore continues to be an issue, not just across the charity sector but more widely. It is clear to us that greater transparency about salaries, and the decisions about them is needed: donors, funders and trustees can then make informed decisions, and there is better data to support and inform analysis of the issue across the sector. The Commission is unclear to what extent concerns in the sector about salary levels are justified, and securing this information will be a clear way of both helping the Commission's understanding of the matter as well enabling targeted guidance and intervention if there are individual charity issues.

The Commission wishes to make clear that it does not have the intention of intervening in a charity simply because a salary is within a certain band. It will continue to operate in accordance with its risk framework and look at all the circumstances of a charity before considering whether or not any other steps should be taken.

There is already some degree of transparency required on the matter by the Statement of Recommended Practice (SORP) for charities that have to prepare and file accounts on accruals basis. We propose to widen and extend transparency by adding new questions to the Annual Return.

In framing the questions, we want to encourage a more relevant level of transparency around the issue of higher salaries to staff. This means that we want charities to disclose information about pay, regardless of whether the payee is directly employed or provides services through a separate business, or through some other model. We are also aware that the term 'CEO' is not universally used, but want to encourage charities to disclose the salary of their most senior staff member. We are therefore particularly keen to invite ideas on how to word the questions and guidance to encourage fuller transparency by the charities we are intending to bring into the scope of these questions.

Proposed Annual Return Questions

Question F During the financial period for this Annual Return, did any of your charity's staff receive a salary of £60,000 or more? Yes/No

If the answer to Question F is Yes the charity will be asked for further information in the two questions below

Question F.1 Enter the number of staff for each of the following salary bands:

£60,000 to £70,000

£70,001 to £80,000

£80,001 to £90,000

£90,001 to £100,000

£100,001 to £110,000

£110,001 to £120,000

£120,001 to £130,000

£130,001 to £140,000

£140,001 to £150,000

Over £150,001

a drop down list will be shown

Question F.2 How much is the CEO paid?

The consultation questions

Q1 Do you agree that charities should be asked for this information about staff pay?

Yes / No / Don't know

If you disagree it would be helpful if you could give the reasons why.

Q2 Do you have suggestions for the framing of the questions and guidance to help charities recognise that they are within the intended scope of these questions?

Yes / No / Don't know

If you do, please provide suggested wording and reasoning.

Q3 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No / Don't know

Please give the reasons for your view.

Q4 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q5 If your charity would have to answer these questions about staff salaries, is there a cost in putting this together?

Yes / No / Don't know

Please explain the reasons for your answer.

B ii Payments to trustees

We already ask charities to confirm whether they pay one or more of their trustees for carrying out trustee duties, not including payment for services provided to the charity or the payment of reasonable out of pocket expenses to trustees.

For AR18 we propose to ask for more detailed information about trustee payments, for both carrying out trustee duties and providing services to the charity, as well as any other material benefits that trustees may have received from the charity. We do not intend to capture reasonable out of pocket expenses because they can be paid without separate authorisation from the Commission or court. We also want to extend the questions to cover payments to employees who have been trustees, because of the potential for these to be made in breach of trust where prior authorisation has not been obtained in situations where trustees have recently become employees.

From our regulatory work we know that charities make unauthorised payments to trustees. This represents a serious breach of trustee duties and it is important for us to be able to identify cases where this may be happening. Obtaining this information may also enable the Commission to intervene to recover funds paid in breach of trust and to ensure the proper application of those funds. We also want to develop a fuller picture of the extent and nature of trustee payments, given its potential impact on public trust and confidence. We consider greater transparency is required, building on the current level of transparency provided through the SORP accounting framework. Collecting and publishing this information will assist donors, funders and trustees in their decision making and improve the data to support and inform analysis of the issue across the sector.

Proposed Annual Return Questions

Question G During the financial period for this annual return, were any of the trustees paid:

- a) for being a trustee**
- b) for providing professional advice eg accountancy or legal advice**
- c) in receipt of other benefits eg renting property from the charity below market value?**

Question G1 During the financial period for this annual return, were any employees formerly trustees of the charity?

The consultation questions

Q1 Do you agree that charities should be asked for this further information about trustee payments?

Yes/No/ Don't know

If you disagree it would be helpful if you could say whether you disagree with all or just some of the proposed further questions and the reasons for your views.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No / Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to answer these questions about trustee payments, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

B iii Expenditure in countries outside England and Wales

We already ask charities if they operate in countries outside England and Wales and, where applicable, to specify each country in which they operate as well as the amount spent in that country. We propose to ask for further information from charities which record that they have operated outside England and Wales. The further information that the Commission seeks to obtain would be about the arrangements in place to transfer money and how the charity is managing any risks which may arise. In the series of questions below, QH, QH.12 and QH.2 are the questions which we currently ask. These will continue to be part of the Annual Return and are not part of this consultation.

We make clear to charities in our published guidance they should use the regulated banking system and that not to do so is high risk. We expect all charities to have a bank account in order to operate effectively and transparently. The use of alternative/informal financial systems to hold or move charity money, whilst not illegal, raises the risks for charities which need to be addressed through other measures. Moreover, as a regulator we need to be able to identify such risks in furtherance of our compliance objective and our statutory function to identify and investigate mismanagement and misconduct in the administration of charities.

We consider that these additional questions will help to give us a fuller picture that will enable us to identify and address the risks. We have been unable to identify any alternative means of acquiring this information, and appreciate that asking for it from the small percentage of charities that would be required to answer these questions may place an additional regulatory burden on them, so we are keen to understand the scale of this.

Proposed Annual Return Questions

If the answer to question H - Did your charity operate outside England and Wales during the financial period covered by this annual return - is Yes the charity will be asked the following questions. We already ask questions H1 and H2 and we are not consulting on them but have included them for completeness.

Question H.1 Select countries the charity operated in during the financial period covered by this annual return – a drop down list will be shown

Question H.2 Record the total expenditure by country

Question H.3 When spending money outside England and Wales, did your charity transfer money outside of the regulated banking system? Yes/No

If the answer to Question H.4 is Yes the charity will be asked

Question H.4 What methods to transfer money did the charity use and what was the value? – a drop down list will be shown

a) Cash courier

b) Other charities or NGOs/NPOs

- c) Money Service Business (MSB)
- d) Informal Money Transfer Systems
- e) Online payment methods eg PayPal
- f) Other

Question H.1 Does the charity have monitoring controls in place to monitor overseas expenditure? Yes/No

Question H.5 Are the trustees satisfied that the charity's risk management policy and procedures adequately address the risks to the charity arising from its activities and/or where it operates? Yes/No

The consultation questions

Q1 Do you agree with the proposal to introduce this series of questions about a charity's use of alternative/informal financial systems to hold or move charity money in countries outside England and Wales and the ways in which it manages risk?

Yes/No / Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We do not intend to publish information resulting from this question on the charity's public register page. Do you agree that data provided by individual charities in response to this question should not be published?

Yes / No / Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to provide this further information about its use of alternative/informal financial systems to hold or move charity money in countries outside England and Wales and the ways in which it manages risk , is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

Q5 Some charities may find it easier to report the income received in US Dollars. Do you think that there should be an option to report in either Pounds Sterling or Dollars?

Yes/No / Don't know

If you disagree that there should be this option, it would be helpful if you could give the reasons why

C. Managing charity assets

C i Land and buildings

We already ask charities if they have land and/or buildings that are used for charitable purposes. We will in future ask this question in the UCD instead of the Annual Return.

It is important for us to have information about land and buildings so that we are easily able to identify where valuable assets are held particularly in the case of charities which have a low annual income and prepare simplified accounts. Although a charity may appear to have become dormant any assets which it holds must still be managed within the charity legal framework. Evidence of assets such as these will provide us with better information to help us judge when us to intervene.

We propose to ask a further question about rate relief. Charities which have told us that they own or lease land and/or buildings will be asked if they receive rate relief on the premises. Our regulatory work has demonstrated that cases of rate relief being claimed inappropriately have led to significant loss of charitable funds, and have been an area of direct and ongoing regulatory concern for the Commission. Abuse of this privilege may also potentially damage public trust and confidence in charity as well as damage charity relationships with relevant local authorities. It is also likely to lead to the misapplication of charitable funds and therefore the Commission may need to use its protective or permanent powers in such cases.

Proposed Annual Return Question

Question I Does the charity get rate relief on the premises?

The consultation questions

Q1 Do you agree with the proposal to ask charities which own or lease land and/or buildings if they receive rate relief?

Yes/No / Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 We do not intend to publish information resulting from this question on the charity's public register page. Do you agree that data provided by individual charities in response to this question should not be published?

Yes / No / Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to provide this further information about rate relief, is there a cost in putting this together?

Yes / No / Don't know - comments

Please explain the reasons for your answer.

C ii Trading subsidiaries

We already ask charities if they have any trading subsidiaries. This information helps us to identify areas where we may want to proactively contact a charity to provide guidance or when we are undertaking thematic research to help us to understand the risks which arise in such cases. It also helps us to better understand the structures that some charities use to help them to trade effectively and maximise profits for charity.

We propose to ask charities which say that they have a trading company a further question about the relationship between the trustees managing the charity and the persons managing the subsidiary. Our regulatory work has shown that charities can sometimes get into difficulties when the arrangements between the charity and any

subsidiary trading company is not properly managed. This can lead to loss of charitable assets.

Although the proposed new question is limited to a charity's trading subsidiary, we recognise that issues about conflicts of interest and decision making for the charity's trustees can arise in any case where there is a close link between the charity and other types of non-charitable entity that are not trading subsidiaries and whose purpose is not to generate an income for the charity – for example, companies that create charities as part of their social responsibility programme, or companies that charities set up to provide essential services. We would like to use this consultation to help us form a view on whether to extend this question beyond simply charities with trading subsidiaries.

Proposed Annual Return Question

Charities will only be asked this question if they have identified that they have a trading subsidiary.

Question J How many trustees are also Directors of the subsidiary?

The consultation questions

Q1 Do you agree with the proposal to ask charities about whether trustees are also directors of the subsidiary company?

Yes/No / Don't know

If you disagree it would be helpful if you could give the reasons why.

If you have any amended wording, please provide this with your explanation in support of this.

Q2 Do you consider that this question should be widened in scope to cover other types of non-charitable organisation that have a close link to the charity?

Yes/No / Don't know

It would be helpful if you could give your reasons in support of or against this proposal.

Q3 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No/ Don't know

Please give the reasons for your view.

Q4 Are you aware of any other sources from which the Commission can obtain the information being sought in this new question?

Yes / No / Don't know

If 'yes', please provide details.

Q5 If your charity would have to answer this question about trading subsidiaries, is there a cost in putting this together?

Yes / no / Don't know

Please explain the reasons for your answer.

D. Safeguarding

We already ask charities if they have a policy on safeguarding vulnerable beneficiaries. This question will in future be included in the UCD rather than the Annual Return.

We propose to ask two further questions to establish a more accurate picture of which charities have personnel who are eligible for DBS checks and whether those checks have been obtained appropriately. We will, however, only ask this question where the information is not already required by another regulator.

Charities hold the trust of society and this is particularly true where its activities impact on safeguarding issues. The Commission has prioritised safeguarding as a regulatory risk: although it is not responsible for safeguarding matters or for dealing with incidents of abuse, it has a regulatory role in ensuring that charity trustees comply with the law on safeguarding and that they protect vulnerable beneficiaries from harm as well as adequately protecting the reputation of the charity. As part of its regulatory role the Commission wants to ensure that both the trustees and those working within a charity are clear on their responsibilities in this area, as well as that adequate steps are taken to ensure that the risk of harm is minimised. To that end, it needs to understand to what extent particular activities within the subsector pose particular risks to certain types of beneficiaries.

In our [safeguarding strategy](#) we set out our four strand approach which includes awareness and prevention, and oversight and supervision. We wish to collect the information from these two new questions in order to strengthen our ability to reduce the risk of harm to charities' vulnerable beneficiaries. These questions will also help us to understand where the greatest risks within the subsector is likely to be, or where we may need to offer further advice and guidance accordingly.

Proposed Annual Return Question

Question K Do any trustees, staff or volunteers work directly with vulnerable beneficiaries? Yes/No

If the answer to Question K is Yes the charity will be asked

Question K.1 Have DBS checks been carried out on these individuals?

Yes/No

The consultation questions

Q1 Do you agree with the proposal to ask charities further questions about safeguarding?

Yes/No/ Don't know

If you disagree it would be helpful if you could give the reasons why

Q2 We intend to publish the information resulting from this question on the charity's public register page. Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes / No/ Don't know

Please give the reasons for your view.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes / No / Don't know

If 'yes', please provide details.

Q4 If your charity would have to answer these questions about safeguarding checks, is there a cost in putting this together?

Yes / No /Don't know

Please explain the reasons for your answer