

ANNEX – NCVO Briefing on the OCS-BIS Task Force on ‘Cutting Red Tape’ and how to contribute

Introduction

In September 2010 the Government launched a cross-departmental Task Force on 'Cutting Red Tape', run jointly by the Office for Civil Society and the Department for Business, Innovation and Skills.

The Task Force is part of Government's plans to make it easier to set up and run charities, voluntary groups and social enterprises. As part of its remit, it will examine the range of administrative and regulatory burdens that affect the day to day work of small charities and community organisations. The aim is to build on previous research into burdens on small business and make practical recommendations about how red tape should be reduced.

The Task Force has identified some key areas of concern where it will focus its analysis. These are:

- CRB and Vetting and Barring;
- Commissioning and Contracting;
- Funding and Grants;
- Gift Aid;
- VAT.

However, the Task Force is still willing to look beyond these issues and is prepared to formulate other recommendations, especially where it might be a case of simply changing attitudes.

Background

Charity Law and Regulation is a key area of NCVO's work, ensuring that the sector has a legal and regulatory framework that meets the needs of charities in the 21st Century, and maintains public trust and confidence. This paper details NCVO's position on the regulatory regime in which charities operate, and on particular issues where we believe improvements are needed.

Generally, most voluntary and community organisations recognise that appropriate regulation is both necessary and beneficial: not only does it provide a level of protection to their organisation and their users and beneficiaries, it also promotes public confidence in the sector. But this support is overshadowed by frustration with the way regulatory processes work in practice. This is caused mainly by the cumulative effect of multiple regulation, as well as the inconsistency between different requirements and variation in the way schemes are implemented. Uncertainty is further increased by the constant change in legislation and regulation.

Key issues

Significant improvements are needed in the existing regulatory regime. The following issues are usually identified as the most burdensome for voluntary and community organisations, both in terms of financial and administrative costs.

1. Monitoring and Reporting

Voluntary organisations may be subject to a number of different, but overlapping regulatory regimes, including both generic regulators for the sector (such as the Charity Commission) and specialist regulators whose role is to oversee particular services. Funders and local authorities will also include their own monitoring and reporting requirements as a condition of funding or partnership working. Whilst each one may not be unduly burdensome, their overlap can be a cause of considerable frustration. Voluntary organisations report both duplication of effort in meeting these requirements and inconsistent treatment by different inspectors reviewing the same service.

2. CRB checks and 'Vetting and Barring' scheme

The procedure to obtain clearance from the Criminal Records Bureau is burdensome and imposes enormous costs, with figures quoted as reaching up to £350 million. The frustration is made worse by the lack of portability, so each organisation carries out its own arrangement, often resulting in multiple checks on the same individual. NCVO has received many complaints from its members that the scheme provides no tangible benefits, while deterring valuable volunteers.

Furthermore, there is considerable confusion within volunteer-involving organisations over who needs to be registered with the ISA, causing consequent blanket checks over individuals even when inappropriate.

3. Health and Safety

Health and safety legislation is not burdensome in itself, however the requirements are very extensive and there is a great deal of uncertainty surrounding their application. This further exacerbates an already existing culture of risk aversion and over-compliance, and means that on the ground small charities and other voluntary sector organisations experience a great burden when following health and safety regulations.

4. Gift Aid

Gift Aid is an important source of income to the VCS. However, it currently places undue burdens on charities due to the complexity of the system and the lack of proportionality in reporting requirements. Radical simplification is necessary, and adopting a centralised database to retain donor information would be of initial considerable benefit.

5. Licensing requirements

Charities and other voluntary organisations have to obtain a number of licences for any public event they organise, even small scale events run entirely by volunteers. The new music licensing rules have made the burden of licensing requirements particularly evident: once implemented, legislation will make it obligatory for any small charity or community group to obtain a further licence for playing recorded music in public. This is an additional administrative and financial burden that hinders the work and effectiveness of charities throughout the country.

6. Employment law

While it is important to protect employment conditions and maintain high standards of good practice, employment law is becoming much more complex with ever increasing regulation. This can be especially burdensome for charities, both because of the cumulative effect and the intricacy of single measures. It is especially restrictive for organisations at the lower level, including small businesses, which are prevented from taking on more staff.

In particular, TUPE arrangements need to be improved so that the transfer of staff across statutory and non statutory agencies is made easier. The rules around pension plans and repayment schemes also need to be urgently reviewed and made more flexible.

7. VAT

There are significant concerns in our sector around VAT. This is due mainly to the discrepancies around VAT treatment in the case of shared services between the voluntary and community sector and the private and public sectors. While in both the private and public sectors, it is possible to recover VAT levied on the sharing of services, this is not possible in the VCS and will result in potential competitive disadvantage in the provision of services. The current VAT regulations also mean that collaborative working, through sharing back office functions, is disincentivised at a time of significant financial challenges in the sector. These concerns will be exacerbated as the rate increases to 20% in 2011.

Next steps and how to participate

It is important that our final submission is informed by the ideas, views and perspectives of those who are affected by regulation on a day to day basis and have an interest in improving the existing regulatory regime. We would like to invite you to participate in the Government's review and very much look forward to hearing your views.

There are many ways in which you can do this:

- email Elizabeth Chamberlain (Elizabeth.Chamberlain@ncvo-vol.org.uk);

- join our online discussion on how to cut red tape at <http://www.ncvo-vol.org.uk/networking-discussions/blogs/136/10/07/27/how-can-we-cut-red-tape>;
- send your contributions directly to the Task Force, by emailing red.tape.taskforce@cabinet-office.x.gsi.gov.uk.