



Report by the
Comptroller and
Auditor General

Monitoring and Control of Charities in England and Wales

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National Audit Office
13 May 1987

Contents

Monitoring and Control of Charities in England and Wales

	<i>Pages</i>
Summary and conclusions	1 – 5
Report	
Part 1 : The Charity Commission	6 – 9
Part 2 : Other Departments and Authorities	10 – 12
Appendices	
1. Examination of sample of charities from register	13
2. Duties, staffing and workload of Charity Commission divisions	14
3. Number of registered charities compared with Charity Commission staff numbers	15
4. Government, local government etc, support for charities 1984 – 85	16

Monitoring and Control of Charities in England and Wales

Summary and conclusions

1. Charities are big business. It is estimated that in England and Wales they collect and spend over £10 billion a year and hold assets of more than £2.5 billion. They enjoy tax and other privileges estimated to be worth some £2.5 billion a year. They vary from major organisations such as the National Trust and Oxfam to tiny parochial charities with an annual income of less than £5. They also hold a special place in the minds of the general public on whom they rely for finance and other assistance, and there is a high degree of public expectation that they should be properly controlled and managed.
2. This report by the National Audit Office (NAO) examines the monitoring and control of charities in England and Wales. It concentrates on the responsibilities of the Charity Commission under the Charities Act 1960 but also considers the related work of the Home Office, local authorities and the police, as well as the work of the Inland Revenue. The report also reviews the effect of the Charities Act 1985 in easing the amalgamation of small charities or adjustment of their aims.
3. The NAO investigation examined the role and responsibilities of the Charity Commission and analysed the activities of one of its divisions over a three-week period. A representative statistical sample of charities from the register of charities was used to test whether the information on the register was reliable and up-to-date. This sample was followed up by an examination of accounts submitted by the charities concerned and by seeking further information from those from whom no accounts had been received. Questionnaires were sent to a number of local authorities to obtain information about their activities in this field. NAO examined the role and work of the Home Office and Inland Revenue in relation to charities, and the police were also consulted as to the extent of known charity fraud and abuse.
4. NAO's main findings and conclusions were:

On registration

- (a) Although it is the official source of information about charities, and is intended to provide valuable information to the public, benefactors and beneficiaries, and others, the Charity Commission register of charities is unreliable and out of date (paragraphs 1.7 – 1.12).
- (b) The fault for this situation lies partly with the Commission, which has not given this task sufficient attention even within its constrained staff resources, partly with trustees who do not notify relevant changes in the information registered and partly with the inappropriate remedies for enforcement (paragraph 1.8). A system of regular confirmation of the validity of registered information appears long overdue, and computerisation should be considered.

Submission of accounts

(c) An up-to-date and reliable register would be essential for the effective monitoring and control of charities (see (j) and (k) below).

(d) However, even if present registered information were regularly maintained, registration under the present law provides no assurance that a charity is functioning properly and that income is efficiently and effectively used for the relevant charitable purpose. Registration means no more and no less than that at the time of registration the Commission has determined that the organisation's stated purposes are exclusively charitable at law. It is not designed to — nor does it in practice — provide any assurance that the bona fides of the charity and the worth of its objectives have been approved; that the trustees or those running the charity have been vetted or approved; that the Commission has had any contact with the charity since registration; that its activities remain exclusively charitable; that regular accounts are prepared, audited, submitted to the Commission and examined; that a reasonable proportion of donations or other income will be directed towards the stated charitable objectives, or that administrative, etc costs are not excessive.

(e) The present situation appears to the NAO to fall well short of public assumptions as to the assurances associated with registration; and there are particular dangers in the reliance placed on registration by local authorities and others dealing with charities (paragraph 2.7).

(f) The statutory and non statutory requirements for the submission of annual charity accounts are being widely ignored by large numbers of charities, and are not effectively enforced by the Commission (paragraph 1.14).

(g) Even when accounts are submitted there is no standard format, more than two thirds are not professionally audited, and only 4 per cent are examined by the Commission (paragraphs 1.13 – 1.14). The Commission employs only 13 staff on this and related work, none of whom is a qualified accountant (paragraph 1.24).

(h) The poor level of submission of charity accounts and limited scrutiny undermine effective monitoring and control (paragraph 1.15). Further, the absence of proper accounting records for some charities has been given as a major difficulty facing the police in carrying cases of suspected fraud and abuse through to successful prosecution (paragraph 2.10).

(i) There are wide differences in the proportion of income which charities devote to administrative expenses and other overheads. Although these may reflect differing types of operation, it should still be possible to identify excessive administrative costs in a particular case (paragraphs 1.16 and 1.17).

Monitoring and control

(j) The extent to which the Commissioners can monitor and control charities under their existing powers has been severely restricted by the effort necessarily devoted to demand-led tasks, by constrained staff resources and by increases in the level of charity activity going well beyond what was envisaged at the time of the Charities Act 1960 (see (o) below). This situation presents significant dangers.

(k) The Commission has established closer liaison with Inland Revenue to deal with cases where there is evidence of charities using funds for non-charitable purposes. It has also recently increased the number

	<p>of staff employed on examination of accounts and investigation of abuse. In the NAO's view, however, a new impetus is needed to the Commission's work on monitoring and control, to seek out and pursue abuse more actively and to provide more positive assurances on the efficiency and effectiveness of charity operations.</p>
Provision of information and advice	<p>(l) Providing information and advice to all charities, and assisting them in all possible ways both at establishment and subsequently, is regarded by the Commission as one of their essential functions imposed by statute. A significant proportion of their staff resources has been, and is, devoted to this aspect of their responsibilities (paragraphs 1.18 – 1.22).</p> <p>(m) Valuable though such advice clearly is, and however much welcomed by the charities benefiting from it, it is open to question whether the present balance of effort should be maintained for the foreseeable future, given the rising scale of the work and the risks and dangers on other aspects of the Commission's responsibilities.</p> <p>(n) A more selective approach may be appropriate, with greater encouragement to charities and solicitors to act on their own initiative. Other steps which might be taken to streamline the work falling on the Commission include the even wider distribution of model trusts and other guidance. Further consideration might also be given to the introduction of a scheme of charging for some of the Commission's work (paragraph 1.21).</p>
Staff resources	<p>(o) There is no doubt that the Commission has for many years suffered from significant staff constraints, with staff numbers steadily falling at the same time as numbers of charities and the level of activity have increased well beyond those envisaged at the time of the 1960 Act. The enforced split of its staff between London and Liverpool appears to have added to these difficulties (paragraph 1.25).</p> <p>(p) But where resources are limited and are insufficient fully to discharge statutory and other responsibilities, then effective information systems are all the more essential for good management. The Commission, however, has insufficient information and analyses on such matters as allocation of staff time and costs over different activities. Relevant data of this kind were produced for the first time, with the Commission's cooperation, as part of the NAO examination (paragraph 1.23).</p> <p>(q) The development and introduction of suitable resource management systems is therefore a high priority task for the effective management of the Commission, based on agreed aims and objectives and with the introduction of performance indicators and output measures. A start has recently been made on some of these matters (paragraph 1.26).</p>
Charities Act 1985	<p>(r) There has been little effective progress towards achieving the reductions in the number of small charities and the improvements in efficiency which it was the intention of the Act to secure. More positive action would be necessary, at both Commission and local level, to secure the important benefits which evidence shows are available in this area but this would require more resources (paragraphs 1.27 and 1.28).</p>
Home Office	<p>(s) The Home Secretary answers questions in Parliament about the Charity Commission and the Home Office have pursued a number of initiatives in the wider fields of charity law. However, in view of the</p>

quasi-judicial nature of the Commission's work and its independent status, it is deliberately insulated from political intervention and day-by-day control; and the Home Office are not responsible for supervising its efficiency (paragraphs 2.2 – 2.5).

Local authorities

(t) Local authorities have a wide involvement with charities under the Charities Act 1960 and other legislation, with substantial sums at stake in terms of rates relief and grants. A significant proportion of the local authorities questioned in the NAO examination appeared to rely heavily on charity registration for assurance on status and incorrectly for the bona fides of the charities concerned, with only limited additional checks on independent information from accounts and other sources as a basis for satisfying themselves that funds were being properly used on the intended charitable purposes (paragraph 2.7 (a) and (b) and 2.8).

(u) On the evidence supplied, there were weaknesses in control by local authorities on such matters as licences for fundraising activities and registration of war charities, etc (paragraph 2.7 (c) and (e)).

(v) There had been only limited general progress — but some striking individual successes — in local reviews of charities aimed at reducing numbers, eliminating overlap and improving administration (paragraph 2.7 (d)).

Police

(w) Though accurate figures are not available, there is disturbing evidence of a growth in the extent of criminal charity-related fraud and abuse. At the same time there are particular difficulties in successful prosecution of the charities or individuals concerned (paragraphs 2.9 and 2.10).

(x) Arrangements are now in hand for the Metropolitan Police to meet Home Office officials to liaise and express police views on law enforcement over a broad range of issues relating to charity supervision (paragraph 2.11).

Inland Revenue

(y) Inland Revenue are closely involved with charities in a number of aspects, with substantial sums of tax at stake. They devote significant efforts to preventing and detecting tax evasion and abuse by charities, with some important successes in an area where there appear to be serious risks of evasion; and following the Finance Act 1986 they are liaising more closely with the Charity Commission (paragraphs 2.12 – 2.14).

5. It appeared to the NAO to be beyond question that there should be vigorous and effective arrangements for monitoring and control of charities. The results of this NAO examination — exemplified by findings such as those summarised in 4(d) above — give grounds for serious concern over the monitoring and control at present exercised. Charities already operate on a massive scale and the size and range of their activities are growing all the time. This trend seems certain to continue as a result of measures being introduced to facilitate and extend charitable donations from a wider cross-section of the public.

6. The Charity Commission has emphasised throughout the examination that its statutory duties cannot be neglected — for example, by giving advice selectively or by neglecting some categories of charities — and that any function of “examining” accounts or “monitoring” charities is implicit

rather than explicit, and subject to the limits of its resources. Further, while it has quite extensive powers in certain circumstances (for example, if there is malpractice and the property of a charity needs to be protected) its powers in other respects (such as compelling the submission of accounts) are cumbersome to apply and its sanctions are difficult to use. The Commissioners themselves would welcome wider powers to deal with charities that are inactive, or in other ways defective, and if the Commission were to be charged with pursuing a wider role on monitoring it would require both legislation and additional resources.

7. In this situation there seems to the NAO to be a clear need to re-appraise the monitoring and control of charities, based on effective liaison between the Charity Commission and the other bodies concerned, both initially in deciding the true scale of the risks and problems involved, and subsequently in following through the implementation of necessary measures and procedures.

Monitoring and Control of Charities in England and Wales

Report

Part 1: The Charity Commission

1.1 The Charity Commission was set up under the Charitable Trusts Act 1853, and its constitution was restated by the Charities Act 1960. The Commissioners act in a quasi-judicial capacity for many of their functions and are answerable to the Courts and not to a Minister for their day-to-day decisions. The Home Secretary, however, answers in Parliament when questions about the Commission are raised.

Functions, duties and powers

1.2 The functions, duties and powers of the Commissioners are defined in the Charities Act 1960 and 1985. Their main functions are:

- to promote the effective use of charitable resources by encouraging the development of better methods of administration by giving charity trustees information or advice and by investigating and checking abuses
- to act in the case of any charity to promote and make effective its work; but the Commissioners have no power to act in the administration of a charity.

1.3 The Commissioners' main duties are:

- to make schemes and orders to modernise the purposes and administrative machinery of charities
- to give trustees formal advice, confer on them additional powers, and give consent to land transactions
- to maintain a register of charities
- to receive accounts and make them available for public inspection
- to provide the services of the Official Custodian for Charities to hold land and investments for charities
- to investigate abuse and take action to protect property of charities
- to sanction court proceedings affecting charities.

1.4 In discharging their duties to investigate and check abuse the Commissioners are empowered to inquire into the state of a charity, to summon witnesses and examine them on oath, and, in certain cases, to remove and appoint trustees and to freeze bank accounts.

Registration of charities

1.5 The Charities Act 1960 requires all charities in England and Wales to be registered, with certain exceptions. The purpose of the register is:

- (a) to provide a permanent central record of organisations holding property devoted to charity
- (b) to provide the public, including social workers and potential beneficiaries and benefactors, with information about charities
- (c) to provide a simple and authoritative means of showing whether an organisation is charitable in law, so that any organisation registered as charitable shall be treated as charitable for all purposes subject only to correction by the High Court.

1.6 The basic requirements for registration are that the organisation concerned is established for exclusively charitable purposes and that it is subject to the jurisdiction of the High Court with respect to charities. When the Commissioners are satisfied on these points the purposes of the organisation, together with details of the correspondent and an estimate of annual income are recorded in an index to the register, and the charity is notified of its official registration number. The public can inspect the register, which takes the form of a file for each individual charity containing a copy of its governing instrument (trust deed, rules, memorandum and articles of association) and any accounts submitted.

1.7 After registration it is the duty of a charity's trustees to inform the Commissioners of any change in its trust instrument and in any other particulars entered in the register. If a registered charity ceases to exist it is the duty of the trustees to notify the Commissioners so that it can be removed from the register. It is unlikely, other than by information from outside sources, that the Commission will know if a charity fails to register or claims to be registered when it is not. Similarly it is unlikely that the Commission will know of changes in particulars on the register unless told of them. In practice, there are many thousands of cases where relevant changes are not notified to the Commission and remain undetected.

1.8 The remedies available to the Commissioners for dealing with such matters are inappropriate and cumbersome, being limited to issuing orders for default with recourse to the High Court in the event of non-compliance.

Number of registered charities

1.9 The Charity Commissioners' Report for 1985 stated that 154,135 charities were registered at 31 December 1985. The Chief Charity Commissioner has informed me that this figure is undoubtedly an understatement because changes in its composition from 1 April 1974 have meant that subsidiary charities previously recorded under a single registered number have not been separately counted since that date. NAO examination of the register during August 1986 indicated that the numbers allocated since the register began in 1961 totalled 138,095, and it was on this total that the sample examination described below was conducted.

Sample examination by the NAO

1.10 The Commission itself has carried out no analysis of the register in recent years and accepts that certain particulars in the register have become increasingly out-of-date. To test the validity of the information on the register, NAO therefore examined a representative statistical sample of 300 from the 138,095 registered numbers, from which the results could be reasonably extrapolated over the whole field. It was found that 16 of the 300 samples were non-effective in that the application for registration to which a number had been given had not been proceeded with, or the charity had been removed from the register.

1.11 After examination of the files for the effective registrations, 110 charities included in the sample were found to have submitted accounts at least once in the last five years. NAO then sent a questionnaire to each of the 174 remaining charities within the sample which had not submitted accounts. The questionnaire asked whether the charity was still operating, what its main activities were, its approximate income and assets and whether these were permanent endowments. The results of the sample test, extrapolated over the whole field (Appendix 1), indicated that:

- although some 50,000 charities had submitted at least one account within the last five years, there were nearly 38,000 charities confirmed as still operating which had not submitted any accounts within that period
- 4,600 registered charities had in fact stopped operating
- 10,000 charities did not reply
- 22,000 charities could not be contacted by the Post Office at their registered address.

1.12 The sample was also analysed to give an indication of the income received by charities. This showed that 40 per cent of those charities where the income band was apparent had an annual income of less than £500 and only 14 per cent enjoyed an annual income of more than £10,000. This analysis was based on the latest available information, whether supplied in response to the NAO questionnaire or contained in accounts submitted to the Commission or, failing that, on the original registration details. Results using information from the register are not, however, necessarily reliable because a number of charities responding to the NAO revealed that their income had increased significantly since regist-

ration, eg from £35,000 to £260,000, from £188,000 to £1.9 million, from "not known" on registration to £4 million. Nevertheless, it is clear that large numbers of charities have very low incomes; and the information from the NAO review is consistent with the findings of a 1980-81 survey by the Charities Aid Foundation which estimated that there were around 60,000 charities with an annual income of less than £500.

Submission of accounts

1.13 Under the Charities Act 1960 all charities have to maintain accounts and all permanently endowed charities have to submit annual accounts to the Commission. In recent years, the Commission has at the time of registration also asked for annual submission of accounts on all non permanently endowed charities. Information to be provided in the accounts is set out in a statutory instrument but there is no requirement as to their form. Nor is there any general statutory or other requirement that accounts should be audited.

1.14 Of the 122 permanently endowed charities covered in NAO's sample examination (Appendix 1) only 23 (19 per cent) had submitted any accounts to the Commission within the last five years. And of the 162 non permanently endowed charities examined only 87 (54 per cent) had submitted any accounts within the last five years. Only 9 per cent of those charities not submitting accounts had been sent reminders by the Commission and none of those approached by the NAO sought to explain why no accounts had been submitted for so long. Of those accounts submitted to the Commission within the last five years, only 32 per cent had been professionally audited. Further, only 4 per cent of the accounts submitted had actually been examined by the Commission.

1.15 The poor level of submission of accounts would prevent any general attempt by the Commission to monitor or exercise oversight over such matters as whether accounts are properly prepared, the reasonableness of administrative costs or overheads and the identification of dormant funds. Poor accounting records also contribute to police difficulties in satisfactorily prosecuting cases of abuse once discovered (paragraph 2.10). The Chief Commissioner informed me that the Commissioners fully accept that they have an implicit responsibility to obtain and examine accounts so far as their resources permit. But lack of staff resources has meant that they can only examine in detail a limited number of accounts in any year.

1.16 Administrative expenses are particularly susceptible to abuse but at the same time there is a clear public expectation that such costs should be kept as low as possible so as to devote maximum resources to the cutting edge of the charity's operations. However, the differing nature of charities makes it very difficult to determine and apply appropriate standards or yardsticks. For example, some charities receive a great deal of support from voluntary workers or simply pass investment income or contributions to beneficiaries involving little or no administration; while for others (eg RSPCA and certain homes and schools) the costs of salaries of inspectors or other operational staff or of maintaining

buildings are an integral and inescapable part of carrying out the charity's basic purpose. Furthermore new charities will often have relatively high overheads when they are first launched. Nevertheless it should still be possible to identify excessive administration costs in particular cases.

1.17 NAO examination of the 110 cases for which some accounts have been received in the last five years revealed wide variations in the level of administration expenses. Twenty-two per cent of the charities examined had administrative expenses of 60 per cent or more, as against 59 per cent where such expenses were less than 20 per cent. A recent published survey of the top 21 charities showed administration and fund-raising expenses ranging from 0.5 per cent to 20 per cent with the proportion of 1984-85 income spent directly on the main charitable purpose ranging from 33 per cent to 95 per cent.

Provision of information and advice

1.18 The Charities Act 1960 requires the Commissioners to give information and advice on a wide range of subjects, including legal, administrative and financial matters, interpreting and explaining the provisions of trust deeds, identifying areas of benefit and classes of beneficiary, and suggesting better uses of funds and more effective administration of trusts. Sometimes such advice is given without request where the Commissioners consider that it is in the interests of the charity. The Commissioners are under a duty to exercise their powers to make schemes and orders where circumstances require, for example when trusts have become outdated and inappropriate. In some cases the trustees of a charity may wish to act in a particular way (for example, borrow money, sell property, take charity proceedings in Court, etc) which does not require a permanent alteration in the trust. In these circumstances the Commissioners are empowered to make an order authorising such action.

1.19 An important aspect of the advice given by the Commissioners is that it has legal standing. When the trustees of a charity or their solicitors apply in writing for advice from the Commissioners and act in accordance with that advice then, unless certain statutory exceptions apply, the trustees will have a defence against proceedings brought against them for breach of trust. This fact, as well as the absence of any charge for such advice, inevitably encourages trustees and solicitors to approach the Commissioners for advice. The Commission told me that when approached by trustees on matters which are appropriate to outside professional advisers it does recommend that they should seek such advice; but this may be beyond the resources of small charities.

1.20 The Commissioners' demand-led functions of registering charities, advising trustees, making schemes and orders, etc take such a significant part of their available resources that there is little left for other responsibilities. The Commission currently responds to every request for advice however minor and whatever the size of the charity. The Commissioners' 1985 annual report states that the number of proposed charities in respect of

which they were asked to advise on draft governing instruments rose by some 500 to more than 3,100, a 19 per cent increase over the previous year. The Commissioners' view is that, by assisting at the outset in the drafting of a charity's governing instrument, future problems possibly requiring their intervention are avoided.

1.21 Nevertheless, in the NAO's view alternative ways of ensuring a solid initial foundation for a charity's work — for example by encouraging charities and solicitors to act more on their own initiative or by providing potential trustees with model trusts — could be more actively pursued. The government has hitherto rejected in principle any question of introducing charges for the Commissioners' work and the Commissioners do not think that charging would be appropriate. In the NAO's view, however, it is relevant to note that the Companies Registration Office and the Register of Friendly Societies are both in some respects in a broadly analogous position to the Charity Commission, and both charge fees. And as the Charity Commission does not operate in Scotland charities there have to pay for securing the necessary legal advice in preparing schemes and orders.

1.22 In general terms, therefore, the Commission's approach in this main area of its work is that any charity, whatever its size, is entitled to receive every assistance in the making of a scheme or order and in calling on the Commission's advice. The Commission has emphasised that the Charities Acts do not give the Commissioners freedom to apply considerations of cost-effectiveness, but they nevertheless attempt to assist small charities as far as possible without the need for time-consuming and costly schemes. In the NAO's view the Commission's concentration upon this work within limited resources has had an adverse impact on its implicit responsibilities for monitoring and control; although the Commissioners have followed up all serious complaints or information received, insufficient attention appears to have been given to the need to initiate their own enquiries through examination of accounts and other means. The Commission reacts to complaints from outside or information in the media but does not have the resources for a system of inspection to seek out abuse. This situation seemed to the NAO to present the sorts of risk which the Expenditure Committee appeared to have in mind when stating in their Tenth Report, Session 1974-75 that:

"We feel that in living up to their self-imposed image of benevolent family solicitors the Commissioners have given perhaps too much to their legal duties as opposed to their responsibilities in other spheres".

1.23 If the Commission is to direct its resources across the full range of responsibilities then it will need information which it currently lacks on the use of its staff time and costs incurred in different aspects of its work. Although information of this kind was obtained as part of the special NAO exercise, with the full assistance and cooperation of the Commission, the necessary management information and control systems are at present lacking and are still being developed (paragraph 1.26).

Staff resources

1.24 The Commission has a staff of some 330, with two-thirds in London and one-third in Liverpool. The allocation of staff to the different aspects of the work is shown in Appendix 2, together with information on main tasks and the increasing levels of Commission activities. This indicates the high proportion of resources directed to those divisions responsible for the Commission's quasi-judicial and advisory functions and the limited resources deployed on monitoring and control. At the commencement of the NAO examination only eight staff were employed exclusively on the examination of accounts and the investigation of abuse. The Chief Commissioner has since informed me that thirteen staff will soon be specifically employed on these matters, of whom two are lawyers and one has relevant experience in Inland Revenue work, but there is no professional accountant. This increase is partly in recognition of the extra work which follows from the provisions of the Finance Act 1986 for greater exchange of information with the Inland Revenue (paragraph 2.13 (c)). The Commissioners are anxious to act quickly and effectively and where appropriate in cooperation with the Inland Revenue to deal with cases where there is evidence of charities using funds for non-charitable purposes.

1.25 Since the Charities Act 1960 the Commissioners have asked regularly for more resources, but with little success. Staff numbers have in fact fallen steadily if slowly whilst the number of charities has risen well beyond expectations at the time of passing of the 1960 Act and is currently increasing at the rate of more than 3,500 a year (Appendix 3). A variety of other indicators available all point to a major increase in the day-to-day business of the Commission. There has been growing concern, inside and outside the Commission, about the adequacy of resources, the undue delay in dealing with work, the incomplete and out-of-date information held in the central register of charities; the need for computerisation; and the insufficient supervision of charities. Staffing difficulties have also been exacerbated by the split of the staff between London and Liverpool and the duplication this involves.

1.26 As previously noted, there are serious deficiencies in the management information produced within the Commission. Figures are maintained about such

matters as the number of new charities registered, numbers of schemes and orders made, and the number of incoming and outgoing letters. The resulting statistics are incorporated in the Commissioners' annual report, but in staff management and resource management terms the information appears to serve little other purpose. However the Commission has recently agreed general aims and objectives for its various divisions. The intention is that these will eventually lead to the introduction of performance indicators and output measures which should enable management to control the use of resources in a more positive way. The Commission has also been reviewing the work of its legal and administrative staff with the aim of devolving as much work as possible to administrative staff to free legal staff to concentrate on giving advice and handling the more difficult legal problems arising from charities.

Charities Act 1985

1.27 To help amalgamate and streamline the large number of small charities where the original intentions of the donors had become thwarted, the Charities Act 1985 provided that on a unanimous resolution of the trustees a local charity for the relief of the poor could alter its objects, small charities could transfer property to another charity and very small charities could wind up. Following the Act the Commission distributed some 17,000 leaflets to local authorities and other interested parties outlining the provisions of the Act and providing guidance on how small charities might make use of them. Staff have also contributed to seminars and conferences throughout the country to promote the work of the Act.

1.28 However, response to date has been disappointing and up to the end of October 1986 only 182 resolutions of trustees had been received, of which 46 were found unacceptable by the Commission. Information from those involved in this work suggests the only hope of persuading small charities to merge or wind up is by personal visits to the trustees and explaining to them the benefits to be gained. This kind of initiative is not at present available from within the Commission to the extent that it would like nor is it likely to be developed under present manpower constraints. The potential benefits of such reviews are however significant, as indicated in paragraph 2.7 (d) below.

Part 2: Other Departments and Authorities

2.1 Charities receive an estimated £2.5 billion a year from public funds in the form of grants, fees and tax and rate concessions (Appendix 4). This report does not examine how the many government departments and other bodies paying grants to, or otherwise supporting, charities impose controls or checks to ensure that grants are properly spent. In this respect charities are treated no differently from other organisations receiving grants. But some government departments and local authorities have special responsibilities as regards charities and the paragraphs below summarise the results of NAO examination of how those responsibilities are discharged.

Home Office

2.2 The Home Secretary has the following duties under the Charities Act 1960:

- (a) to appoint the Charity Commissioners and to determine their salaries and allowances subject to Treasury approval
- (b) to make orders and statutory instruments affecting the responsibilities of the Commissioners
- (c) to lay before each House of Parliament a copy of the Charity Commissioners' annual report.

2.3 In addition to answering questions about the Commission in Parliament, the Home Secretary is responsible for changes to charity law, and for seeing that charity law is working properly and effectively and in the best interests of the public. The Chief Charity Commissioner is responsible to the Home Secretary, as the head of any other public department is responsible to his Minister, and the Home Secretary is in turn responsible to Parliament for the efficient conduct of the Commission's work. But he cannot give the Commissioners directions or influence their decision in an individual case.

2.4 Over the years the Home Office have pursued a number of changes in charity law and participated in various initiatives affecting charity operations. These have included the recommendations of the 10th Report from the Expenditure Committee, Session 1974–75; the work of the Goodman Committee in its reports on Charity Law and Voluntary Organisations in December 1976; and sponsoring the Small Charities Bill and the Charities Act 1985. The Home Office Voluntary Service Unit has also carried out an exercise on small charities and the Department have been involved in the setting up of an Efficiency Unit review of the Commission. (This review started in February 1987 and its terms of reference suggest that it may cover ground already examined in this NAO investigation.)

2.5 The Home Office have confirmed that it is not part of their responsibilities to supervise the Commission. This reflects the independent status of the Commission as well as its quasi-judicial work. The Commission is a separate government department with its own Vote; the Accounting Officer for the Vote is the Chief Charity

Commissioner, who is responsible directly to the Home Secretary for achieving value for money for the Commission's expenditure; and the Commission deals direct with the Treasury on the provision of resources in terms of manpower (which has been subject to Treasury staff inspection) and finance. Home Office officials provide any necessary support to the Home Secretary in discharging his responsibility for the law on charities, but the view of Ministers has in general been against major changes in legislation in this field. However, the recently established Efficiency Scrutiny, whose terms of reference include a review of departmental responsibilities, may propose changes requiring legislation.

Local authorities

2.6 Local authorities have a wide range of involvement with charities under the Charities Act 1960 and other legislation. Local authorities are not subject to NAO audit so, with the agreement of the Audit Commission and the various local authority associations, a sample comprising 46 District Councils, 28 County Councils, and 4 London Boroughs, was invited to respond to an NAO questionnaire asking for information on their monitoring and control of charities in their areas. 62 per cent of those approached responded and NAO are grateful for their assistance.

2.7 The information provided can be summarised as follows:

(a) Rate relief

During 1984–85 rate relief allowed to charities under the General Rate Act 1967 amounted to £100 million. To obtain relief a charity only needs to give notice to the local authority that a property is being used wholly or mainly for charitable purposes. Relief is normally 50 per cent, and can be increased up to 100 per cent at the local authority's discretion. 60 per cent of the District Councils which replied to the NAO questionnaire have no contact with the charity applying for rate relief and rely on the charity's registered number on the application form as sufficient evidence of charitable status. 76 per cent of the Councils did, however, use other details on application forms in subsequently deciding whether the building for which rate relief was requested was being used for the charitable purpose.

(b) Grants

In 1984–85 local authorities provided £249 million in grants to voluntary organisations, many of which are charities. Here again, 60 per cent of the District Councils which replied relied on the charity's registered number as confirmation of its charitable status. 67 per cent took no direct steps to ensure that the grants made were used for the intended charitable purpose. Authorities that do seek such further assurance usually rely on the charities' accounts — if available — with only a few carrying out any inspections.

(c) Licences for fundraising activities

The House-to-House Collections Act 1939 requires organisers of collections to submit accounts recording the results to the licensing authority, which is usually the local authority. Only 63 per cent of the local authorities which replied to the NAO questionnaire indicated that they examine accounts to satisfy themselves that the bodies to which licences are issued operate for charitable purposes and properly apply the proceeds of collection.

(d) Local reviews

The Charities Act 1960 provides for local authorities to carry out voluntary reviews of local charities with the same or similar purposes in the authority's area, with a view to making recommendations for change, eg the amalgamation of charities to eliminate overlap. In evidence to the Select Committee on the Parochial and Small Charities Bills preceding the Charities Act 1985, the Commission reported that as a result of constraints on local authorities finance and manpower over several years, reviews under the 1960 Act had only been completed in 85 of 272 areas in which reviews were initiated, with interim or final reports for only 30 of these having been received. Response to the NAO questionnaire sent to 78 authorities showed that only five County Councils, four District Councils and one London Borough were aware of reviews.

This limited progress was in sharp contrast to the major benefits to charity that could result from properly conducted reviews and vigorous follow-up action. One review undertaken between 1978 and 1981 dealt with 603 charities and resulted in 46 amalgamation schemes involving 178 charities. The review also discovered 20 inactive charities holding funds totalling £107,000, encouraged a general improvement in charity administration, and contributed to a greater public awareness of local charitable resources.

(e) War charities

Local authorities are required to register war charities and charities for the disabled where it is proposed to raise funds from the public. In many ways the local authorities have greater powers over these charities than the Commission has over its registered charities. However, only 37 per cent of County Councils that responded to the NAO questionnaire took any action to register war and disabled charities and only 21 per cent actually checked accounts or otherwise sought to monitor the bodies concerned.

(f) Local register of charities

The Charities Act 1960 empowers a local authority to maintain an index of local charities from information on registrations supplied by the Commission. The index is open to public inspection and the local authority may publish information from it. Although 78 per cent of District Councils, 63 per cent of County Councils and 50 per cent of

London Boroughs which replied to the NAO questionnaire confirmed that they maintained registers, virtually without exception they reported that these were rarely used by the public or even by the authority itself.

2.8 In commenting on the findings of the NAO investigation, the various local authority associations consulted confirmed many of the concerns expressed. There was considerable unease and uncertainty on such matters as the reliability of registration as a basis for some of their relationships with charities on rates relief and grants; the effectiveness of supervision, particularly of smaller charities where voluntary helpers could lack managerial and financial experience; the growing danger of fraud and abuse; and the tendency in some cases for the original charitable aspects of an organisation's work to be in time totally eclipsed by social and profitable activities. Some of the bodies consulted indicated that in practice they would expect tighter controls to be operated than were disclosed in response to the NAO questionnaire, including scrutiny of accounts; but there was some uncertainty as to sanctions available and on relationships with the Charity Commission. Others pointed to the lack of resources available to deal satisfactorily with these and other matters affecting the many charities involved.

Police

2.9 The police are involved with charities mainly through their investigation of allegations of criminal activity. The Charities Act 1960 makes no provision for specific offences involving charities, so police prosecutions must be brought under other legislation such as the Theft Act 1968. And as charity cases are not separately identified within the available statistics the police have no overall picture of the extent of crime involving charity operations or the trustees or officials of charities.

2.10 However, the Metropolitan Police have established a charity fraud unit within their Company Fraud Department in recognition of the increasing volume of fraud and abuse cases involving charities, particularly in relation to fundraising in the name of charity. This is a difficult area and the Fraud Department told NAO that in the last two years they had been successful in only one charity prosecution under the Theft Act although prosecution is being considered in three other cases. Three further major cases investigated did not result in prosecution and in each case the investigations failed because of the lack of accounting records kept by the charity. Although the Fraud Department maintains an intelligence index, including charity cases, it is not comprehensive and cannot be regarded as a source of reliable statistics even for the Metropolitan area.

2.11 Police pursuit of individual cases of charity fraud or abuse will normally involve contact with the Charity Commission. There are other ad hoc contacts but there has been no regular liaison or meetings to discuss wider problems related to the control of charities. However, the Metropolitan Police informed me that arrangements are now in hand to meet representatives of the Home Office to liaise and express police views on law enforce-

ment over a broad range of issues relating to charity supervision.

Inland Revenue

2.12 Charities are entitled to relief from income tax and capital gains tax on income and gains applied for charitable purposes (or from corporation tax if they are companies). This relief is not automatic and the Inland Revenue are concerned to ensure that income or gain is in fact applied to the charitable purpose before granting relief from tax. It is not possible however to quantify the total cost of the tax relief, because income from which tax is not deducted at source is simply not assessed to tax if it clearly qualifies for exemption.

2.13 Inland Revenue are involved with charities in three ways:

(a) On registration

Inland Revenue are notified of all charity registrations. Proposals to accept a charity for registration are referred by the Commission to Inland Revenue to prevent, as far as possible, disagreements on a body's status once it has been registered. It is a matter of law whether a body is a charity. Disagreements over what is charitable in law occasionally occur in borderline cases because the Commission tends gradually to extend the boundaries of what is considered charitable, whereas Inland Revenue have to consider whether tax relief is legally due to the body concerned. If Inland Revenue cannot finally agree with the Commission they are entitled to appeal to the Courts against the Commission's decision to register a body as a charity.

(b) Repayment

Each year Inland Revenue receive 100,000 claims

from up to 10,000–20,000 charities for recovery of tax deducted at source. They may call for further evidence and accounts in cases of doubt. £270 million was repaid to charities during 1985–86.

(c) Fraud and abuse

Inland Revenue also investigate cases of tax evasion and tax avoidance involving charities. These abuses take a variety of forms, some of which may involve fraud or the use of a charity's funds for non-charitable purposes. For example, tax evasion can take the form of false claims to relief on income which a charity has not actually received. Or the charity may be used in an avoidance scheme designed mainly to exploit its tax exemption for the benefit of third parties. In order to curb the latter type of abuse, the statutory conditions for the charity's tax exemption were tightened up in the Finance Act 1986; and under this Act information about non-charitable activities can now be passed to the Charity Commission. A significant minority of charities has been involved. During 1985–86 the tax yield from 26 settled Inland Revenue investigations involving charities was over £4 million. In addition about 170 cases are under enquiry, with nearly £50 million tax at risk.

2.14 The dispersed nature of Inland Revenue's organisation makes it difficult to establish the complete picture of their dealings with charities. For example, some charities do not need to submit claims for repayment because they do not receive income from which tax has been deducted. They are therefore dealt with by local tax offices after initial clearance by Inland Revenue headquarters. On any yardstick, however, the effort involved is substantial and Inland Revenue review 6,000–7,000 charity accounts a year to see whether more detailed examination is required.

Appendix 1
Examination of sample of charities from Register

	NAO sample of 300	Extrapolation over 138,095 population of registered numbers allocated
Effective registrations		
Charities which had submitted at least one account within last five years ^(a)	110	50,635
Charities with no accounts submitted within last five years to which NAO sent questionnaires (174) ^(b)		
— replies confirmed charity still operating (accounts or information about accounts supplied with 63 replies)	82	37,746
— replies confirmed charity no longer operating	10	4,603
— returned by PO/gone away/deceased	48	22,095
— unclassified replies	12	5,524
— no reply	22	10,127
	284	130,730
Non-Effective registrations		
(Charities removed from Register, applications not proceeded with)	16	7,365
	300	138,095

^(a) Includes 23 permanently endowed charities. The balance of 87 non-permanently endowed charities includes 30 charities for which accounts had been obtained by Inland Revenue but had not been submitted to the Charity Commission.

^(b) Includes 99 permanently endowed charities.

Appendix 2

Duties, staffing and workload of Charity Commission divisions

Registration division (staff complement: 59)

Located in both London and Liverpool with the work shared on a geographical basis. Major task is advising on draft instruments of charities prior to registration to ensure their acceptability for registration. 154,135 charities were stated to be on the register at 31 December 1985. Approximately 3,600 new registrations each year, equivalent to one every half hour of the working day.

Charity division (staff complement: 63)

Three branches in London and two in Liverpool, with the work divided geographically although national charities are handled wholly in London. The main functions are to encourage better methods of administration; to give trustees information or advice on any matter affecting the performance of their duties; to consider resolutions for changing the objects of a local charity for the relief of the poor or for transferring property to another charity under Sections 2 and 3 of the Charities Act 1985; and to make orders and schemes, eg to alter or enlarge trustees' powers, to modernise the charity's purposes or to reconstitute the trustee body.

Over the five years to 1985 the number of schemes and orders made by the Charity division has fallen; schemes by 27 per cent, from 943 to 692, and orders by 16 per cent, from 618 to 517. Incoming letters are down by 15 per cent, from 26,218 to 22,284, and outgoing letters by 11 per cent, from 18,523 to 16,452. The number of telephone calls has however risen by some 46 per cent over the last four years. The reduction in staff has been 8.7 per cent, from 69 to 63. Although the workload of Charity division appears to have reduced rather more than the staff level, the Charity Commission considered that more time was spent now on advisory functions due to a spate of new legislation but was unable to produce evidence to support this other than new work arising under the Charities Act 1985. The division has also undertaken more referrals from other sections of the Commission. An NAO exercise to determine the activities on which Charity division staff spend their time, showed that 38 per cent of staff time was spent on preparation of schemes and orders, and 29 per cent on advice.

Consents division (staff complement: 32)

Division located in London and Liverpool with the work split geographically. The division gives formal consent in the form of orders to a variety of land transactions including sales, leases, borrowings, easements, rent charge and mortgages. In 1985, Consents division dealt with 3,330 of the 3,854 orders issued by the Commission.

General division (staff complement: 15)

This division comprises two branches. Parliamentary and Policy branch ($3\frac{1}{2}$ staff) is based in London and scrutinises proposed private and public Bills affecting charities, advises sponsors of new legislation, considers policy matters arising from the Charity Acts, maintains a central policy precedent system, disseminates policy information, guidance notes, information leaflets within and outside the Commission, and deals with general enquiries from the public, MPs and other government departments.

Inquiries sections ($11\frac{1}{2}$ staff) in London and Liverpool are responsible for investigating complaints against charities. No record is kept of informal investigations but it was estimated that 1,000 complaints were received during 1985. The London section also acts as press office for the Charity Commissioners while the Liverpool section has a small monitoring team.

Over the five years to 1985 the number of letters received by the Inquiries sections more than doubled (from 1,086 to 2,586) and outgoing letters increased from 949 to 2,403. The staff complement increased by 60 per cent (5 to 8).

Official Custodian division (staff complement: 80)

The Official Custodian for Charities (OCC) is a corporation sole and holds investments registered in his name by charities. He receives gross dividends for shares vested in him and remits them to the charity trustees, who are thus saved the trouble of recovering tax separately. The OCC monitors redemption dates of investments and informs charities accordingly, carries out re-investment instructions, provides advice on investments and checks that investments do not contravene the trusts or legislation. All these services are provided free of charge. The face value of securities held by the Official Custodian is approximately £500 million and in 1985 gross dividends and interest remitted to charity trustees totalled about £80 million. (No further examination of the OCC's activities has been carried out as part of this study).

Legal Consultants division (staff complement: 8)

The functions of this division which is based in London are:

- to give legal advice on charitable status both within the Commission and to outside correspondents;
- to be responsible for charities associated with the Armed Forces and their reserves; and
- to provide specialist drafting services for complex schemes and orders.

The division keeps abreast of developments in charity law, including case law, keeps a record of precedents and maintains close contact with Registration division and the Inland Revenue because of the fiscal benefits which results from registration of a charity. The complement of this division has varied little over the last five years.

Establishments division (staff complement: 76)

The complement for Establishments division includes 53 support staff comprising secretarial staff, typists, messengers etc. The division has sections in London and Liverpool which are responsible for personnel management, the provision of manpower and staff related resources, eg accommodation, office equipment and supplies, their allocation and effective use. Over the last five years the number of staff has been reduced by 9 per cent from 84 to 76.

Appendix 3

Number of registered charities compared with Charity Commission staff numbers

	Number of registered charities (Annual Report)	Net Increase on year	Charity Commission staff establishment	Registered charities per establishment post
end of				
1976	122,715	2,737	360	341
1977	125,908	3,193	360	350
1978	129,212	3,304	349	370
1979	132,303	3,091	348	380
1980	136,048	3,745	350	389
1981	139,289	3,241	344	405
1982	143,150	3,861	336	426
1983	146,764	3,614	330	445
1984	150,511	3,747	335	449
1985	154,135	3,624	329	468

Appendix 4

Government, local government, etc, support of charities 1984-85

Expenditure in England and Wales

	£ million
1. Central Government, etc Grants	
(i) Government departments	193
(ii) Other bodies	1,357
2. Local Authorities	
(i) Grants	249
(ii) Fees	139
(iii) Rate relief — Mandatory	82
Discretionary	17
3. Health authorities	6
4. Tax concessions	500*
Total	2,543
	£2.5 billion

* This figure is a very broad estimate and contains a small element for Scotland and Northern Ireland.