

Research conference workshop paper: What is a charity?

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Introduction: what is this workshop about?

The word ‘charity’ means different things to different people, both within the general public and among researchers. Since its inception, the NCVO UK Civil Society Almanac has provided facts and figures about ‘**general charities**’ which comprise 86%-87% of charities registered with the Charity Commission that meet certain criteria defined twenty years ago.

Given the changes in the composition and nature of the voluntary sector and wider civil society over the last two decades, and the likely further changes looking ahead, we conducted a review of the Almanac. In addition to revising our sampling methodology, we considered the theoretical and practical questions around four issues:

- A. Some organisations are **currently included** in the definition and might now be considered inappropriate for inclusion
- B. Some organisations are **currently excluded** and might now be appropriate to include
- C. Some organisations that are **not currently registered with the Commission** but would generally be thought of as charities and may need to be included if the sample can be obtained
- D. Some organisations are **included and registered with the Commission** but the quality and availability of the data is reduced

This workshop provides an opportunity to discuss some aspects of these four issues in an interactive session with experts of the sector and will include:

- A summary of the work carried out by NCVO last summer, which considered the current definition of ‘general charities’ used in the Almanac as part of a more general review of the sample and methods
- A discussion of examples that illustrate the tensions between a theory-driven definition and one that considers practical implications
- Breaking into groups to discuss what might be possible in practice with limited time and money for specific examples
- Prioritising the examples considered to provide a consensus on the trade-offs between conceptual and practical definitions

Before discussing those issues in more detail, we will provide some background to the definition and its origins and aims.

Where does the current definition come from?

The current definition is based on two sources: a definition used in the National Accounts and a definition proposed in a 1996 paper by Kendall and Knapp¹.

National Accounts definition

Before 1991, there was no information about the voluntary sector in the national accounts. In 1995, ONS and NCVO carried out a Survey of Charitable Organisations to fill that gap. General charities are defined in national accounting terms as ‘private, non-profit-making bodies serving persons’ (PNPMBs), based on four criteria:

- **independent governance** (e.g. excludes British Museum and British Council, educational establishments, financial institutions such as COIF);
- **non-profit distributing** (i.e. excludes cooperatives);
- objects have a **wider public benefit** (excludes those which exist for members only e.g. societies, housing associations, sports and social clubs, trade unions);
- sacramental religious bodies/**places of worship** are excluded.

The first two criteria are relatively uncontroversial, unlike the second two. The Charity Commission has a public benefit test such that in theory any organisation on the register should meet this criterion. There are, however, a number of organisations that seem to be predominantly benefiting their members (such as sports clubs). Regarding the fourth criterion, the exclusion of places of worship is sometimes justified on the grounds that they benefit only their members, although the doctrine and action of many religious bodies is focused on wider public benefit.

Kendall and Knapp’s definition

The four terms used to summarise the general charities definition come from the Kendall and Knapp source, rather than the original ONS/NCVO National Accounts source. They are:

Formal	The formality and governance criteria overlap, and are both satisfied by presence on the Charity Commission register. Being registered certainly makes an organisation a ‘formal’ one, and having governance documents allows the organisation to be registered with the Charity commission
Self-governing	
Non-profit distributing	
Voluntary	Including a ‘meaningful degree of voluntarism in terms of money or time through philanthropy or voluntary citizen involvement ‘e.g. individual donations; trustees board.

However, it excludes the following registered charities:

¹ Jeremy Kendall and Martin Knapp, *The Voluntary Sector in the United Kingdom*, Manchester University Press, Manchester, 1996

- Those identified as part of general government in national accounting terms (NDPBs and QUANGOs) and grant maintained schools;
- Financial institutions considered to be part of corporate sector (e.g. Charities Investment Fund, COIF);
- Charitable housing associations, universities and colleges, voluntary aided and other schools, and places of worship.

What is this definition used for?

The aim of the 'general charities' definition was originally to focus on organisations that the person in the street would recognise to be charities, both 'household name' charities and 'local' charities.

The aims of the Almanac are:

- To provide policy makers, researchers, practitioners and other commentators with a 'recognisable' economic map of the UK voluntary sector.
- To provide, on an annual basis, the most up-to-date and reliable statistics on the voluntary sector.

The following sections discuss whether to adapt the current definitions to ensure these aims are fulfilled.

Question A and B: Should we alter the general charities definition so the inclusions and exclusions of registered charities are more consistent and in line with the purpose of the Almanac?

In practical terms, the Charity Commission register is the most appropriate source of consistent and reliable information across different organisations. Nonetheless, not all charities are registered, making this source incomplete. In fact, there is no perfect definition that meets our conceptual and practical requirements.

Examples of some problems with the current definition

- We include some big charities, large funders or public service providers that are unlikely to meet our aim of being recognised as charities by the person in the street (e.g. Lloyds Register; Children’s Investment Fund Foundation; St Andrews Healthcare). **Grant making foundations** are a particular case: they are included under the general charities definition, but are often not household names to the general public and have different aims and structures to other charities.
- The exclusion of **places of worship** is particularly controversial. The majority of excluded charities are places of worship. If they were included, however, we would only have a partial population of places of worship because under current Charity Commission rules churches are ‘excepted’² from registering if their income is below £100,000. This exception will end in March 2021, so after this all churches should be included in the Charity Commission register.
- For small community groups, such as playgroups, PTAs, sports clubs, scout and guide groups, the majority are not included because they are ‘excepted’ under Charity Commission rules³). So, our finances for these organisations are necessarily underestimated and inaccurate.

² A charity is ‘excepted’ if its income is £100,000 or less and is in certain groups: churches and chapels belonging to some Christian denominations ([section 5](#) of Charity Commission guidance);charities that provide premises for some types of schools (see [section 9](#); Scout and Guide groups (see [section 10](#));charitable service funds of the armed forces (see [section 11](#)). In practice, some of these charities’ income is below £5,000, the normal threshold for registration, so they wouldn’t have to register anyway. See <https://www.gov.uk/government/publications/excepted-charities/excepted-charities--2#s10>
Note they are different from [exempt charities](#), which are exempt from registration and regulation by the commission

Review discussion and recommendations

The review concluded that as a minimum, the current definition of general charities must be clarified internally and externally. The link between the formal definition of general charities (formality, independence, non-profit distributing, voluntary) and the 'reasons for exclusion' is not clear.

The examples above suggest going further and making changes to the current definition because of conceptual inconsistency. Practically, however, the drawback is that revisions in the 'general charities' definition would break the Almanac time series, and the trend data is one of the most valuable and used parts of the Almanac. It would be possible to produce data based on both the 'old' and 'new' definitions, so the main trends could be maintained and the old definition gradually phased. But additional time and resource would be needed; is this a priority for scarce resources?

Questions for the workshop to address on question A and B

- Which of the illustrations above are the most important to correct conceptually?
- What are the practical implications of breaking the time series, or continuing with two definitions at increased cost/resource?

Question C: Whether to extend the Almanac definition to include certain types of organisations that are not currently included on the Charity Commission register but are on the boundary between charities and civil society?

The Almanac tends to talk about ‘charities’ and ‘voluntary organisations’ interchangeably, which perhaps causes confusion. Wider than either is ‘civil society’. In 2008, the ‘UK Voluntary Sector Almanac’ was retitled the ‘UK Civil Society Almanac’, providing some information on the ‘general charities’ as well as a range of organisations including:

- Universities,
- Employee owned businesses,
- Cooperatives, Housing Associations,
- Friendly Societies and Mutual Insurers,
- Independent Schools,
- Companies Limited by Guarantee,
- Sports Clubs, Building Societies,
- Religious bodies,
- Trade Associations and Professional Bodies,
- Community Interest Companies,
- Leisure Trusts, Trade Unions,
- Common Investment Funds,
- Benevolent Societies,
- Political parties,
- Credit Unions,
- Football/Rugby supporter trusts.

Details on these organisations can be found in Appendix 1 of this paper. Between 2014 and 2016, headline statistics on civil society were not included in the Almanac but from 2017 they will be updated every year.

Within civil society, there has been growth over the last decade or so in the types of organisations that provide benefit to society and that are not run by the state. This is due in part to legal changes that have moved the boundaries between non-profit and for-profit organisations which have a primary aim of helping society. It is also due to an increase in social-based organisations known as ‘social enterprises’.

In the Review, we considered three particular new legal forms that initially seemed possible candidates for inclusion in the Almanac. One is Community Interest Companies (CICs). The other two are Community Benefit Societies and Co-operative societies, collectively known as Registered Societies. NCVO have previously made a distinction between social companies and social enterprises but these legal forms cut across this divide. Social enterprises are another type of organisation on the charity/civil society boundary; they were not considered in detail in the review because they are not a legal form and there are competing definitions of social enterprises in existence.

As before, we considered both conceptual and practical issues for the three new legal forms. The practical issues weigh more heavily for organisations on the boundary between charities and civil society because, by definition, their organisational and financial information is not available from the Charity Commission Register. One key question is whether such information is available and accessible.

Community Interest Companies

Community Interest Companies (CICs) are ‘one of the fastest growing community oriented enterprise movements in the country⁴, allowing social entrepreneurs to both ‘control the company and receive a salary [from it]⁵. The primary focus of this type of company is to provide benefit to the community *and* to ensure profits are made for the company⁶.

Conceptual

CICs do not meet the current criteria of the general charities definition:

- they can distribute profit, albeit with limitations.
However, this pattern of trading to raise funds is also undertaken by a number of charities, and the Almanac shows that a significant proportion of charities’ income is earned through trading activities.
- they do not operate on a basis of voluntarism, for example do not raise funds through individual donations.

Nevertheless, they retain a major organisational ambition to benefit the community. CICs have an asset-lock in place to ensure social/community aims are given relevant resources.

Practical

- A CIC is company so CICs’ profit and loss accounts are available online in PDF format from Companies House, as is the case with organisations on the Charity Commission register, so their records, or a list of their names, could be extracted,
- It is estimated that there over 15,000 registered CICs in England and Wales
- A paper by NCVO on investment in the social sector in 2016⁷ showed the limitations of the Companies House dataset.
- CICs are regulated by the Office of the Regulator of Community Interest Companies

CIC Review discussion/recommendations

Conceptually, there is a strong argument for inclusion of CICs because their primary aim is to provide a benefit to society. Perhaps the key question is whether it makes sense to include

⁴ According to the CIC Association, see <http://www.cicassociation.org.uk/about/what-is-a-cic>

⁵ See <https://www.1stchoice-formations.co.uk/community-interest-companies-cics/>

⁶ Examples include: KO2 (dirt-biking in the community); *Social Enterprise Africa* (trains ethical change-makers); *Striding Out* (supports young social entrepreneurs); *Create Foundation* (works with marginalised communities); *The Healthy Hub* (creates jobs for people with mental health difficulties).

⁷ “Understanding the Capacity and Need to Take on Investment Within the Social Sector; Analysis of Financial Data on Charities and Social Companies”, David Kane Charlotte Ravenscroft, April 2016

some companies in the Almanac, which many still see as covering only charities/the voluntary sector.

Another option would be to compile and publish information about CICs initially as an additional publication, alongside the Almanac. Such a report might be viewed as an additional ‘building block’ in describing a broader range of organisations, and in the longer term some of those building blocks might be incorporated into a broader Almanac.

Community benefit societies

The Co-operative and Community Benefit Societies Act 2014 replaced what were previously known as industrial and provident societies, a long-standing legal form. These organisations can either be co-operatives or community benefit societies and they will each be discussed in the next two sections. We first focus on community benefit societies, which are generally the only ones that can become charities.

Conceptual

The picture for community benefit societies is mixed.

- They do not meet the non-profit distributing criterion of the general charities definition because they issue community shares and pay members interest on share capital.
- They can, however, be classed as charities as long as they have procedures in place to ‘lock assets’ that work towards achieving charitable (by law) aims, and that secure the distribution of any residual assets to similar charitable benefit societies upon dissolution.
- They can have the words ‘charitable’ or ‘charity’ in their name as long as the Charity Commission agrees that they are a charity.
- They are not, however, regulated by the Charity Commission and as such are considered charities only if they pass the public benefit test as measured by HMRC – this is what gives them the tax reliefs applied to charities. That subset of community benefit companies are classed as ‘exempt’ charities.

Practical

- Financial information is accessible for community benefit societies from Financial Conduct Authority (FCA). However, a fee of £12 is charged for each financial statement, so obtaining the information for even a sample would be costly.
- Community benefit societies are not identified separately in the FCA’s Public Mutuals Register data⁸.

Co-operative societies

Conceptual

Co-operative societies do not meet the current criteria of the general charities definition.

- They can distribute profit
- They are rarely incorporated as charities but can do so if the infrastructure is in place.

⁸ Whilst there is a legal distinction between Community Benefit Societies and Co-operative Societies, there is no ‘flag’ to identify them in the data. See discussion at: <https://data.gov.uk/data-request/fsa-mutuals-register>

- They (probably) do not provide public benefit since they exist primarily for their members. This indicates a significant distance from the charity/civil society boundary compared to the other two forms.

Practical

- As for community benefit societies, financial information is accessible from the FCA but costs £12 per organisation, and they are not identified separately.

Registered Societies review discussion/recommendations

Community Benefit Societies and perhaps some Co-operative Societies (a smaller proportion) could in principle fit an extended Almanac definition. But it would require in-depth research, updated every year, to understand which organisations might fit the definition of a charity and which would not, particularly because it is not possible currently to identify from the FCA which organisations on the Mutuals Public Register provide community benefits and which are true co-operatives

There is a stronger conceptual case for the inclusion of community benefit societies (using similar reasoning as for CICs), and this would have the advantage of no longer needing to distinguish between community benefit societies that are charities and those that are not. There are, however, significant practical barriers: the £12 per organisation access fee and the fact that they are not identified separately in the Companies House data.

Questions for the workshop to address re C

- Is there is a strong argument for inclusion of CICs on a conceptual basis?
- Taking account also of practical considerations, are they a priority to include in future Almanacs?
- If so, should the general charities definition be extended to cover them or should CICs information be presented separately, at least initially?
- Is the approach of describing a broader range of organisations via additional 'building blocks' a useful one for extending the Almanac?
- Are community benefit companies a priority for inclusion, taking account of conceptual and practical considerations?
- Are some or all co-operative societies a priority for inclusion, taking account of conceptual and practical considerations?

Question A, B and C: consequence of a definition that differs from the Commission

Any definition which excludes some of the organisations on the Charity Commission register means that there is a disparity between the Almanac estimates of the voluntary sector's income and the estimate from Charity Commission annual returns⁹. This is confusing; people are unclear as to why we define 'charities' so differently and unsure which estimate to use. It may be helpful to produce (as we have in the past)¹⁰ a brief summary of all charities on the Charity Commission register (number of organisations, income, spending) alongside the Almanac to make this clearer; a summary of the definition and some comparisons would need to be provided, to anticipate people's questions, it would probably need to link back to us defining *the voluntary sector* (rather than simply all charities).

⁹ In the 2017 Almanac, the estimate of the voluntary sector's income in England and Wales was £41bn compared with £73bn from Charity Commission annual returns. The disparity between numbers of organisations is less extreme (around 140,000 compared with 148,000). A relatively small number of large excluded organisations (universities, independent schools, housing associations) account for difference in income. An advantage of the Almanac estimates is that they are much less susceptible to changes in registration criteria – a lot of the growth in the Charity Commission number has come in recent years because organisations have been reclassified to register with the Charity Commission (e.g. universities).

¹⁰ <https://data.ncvo.org.uk/a/almanac14/why-are-our-estimates-lower-than-the-charity-commissions-figures-2/>
<http://blogs.ncvo.org.uk/2009/10/06/how-many-charities-are-there/>

Question D: Obtaining information for the smallest charities

There is less data available on smaller charities, as the requirements from the Charity Commission vary by income band. Only registered charities with an annual income over £25,000 must file annual accounts and the trustees' annual report. Those with annual income of £10,000 - £25,000 are required to provide only an annual return and those with an income of £10,000 or less are asked to complete the annual return for certain items only. The threshold will change in the future and the current requirement for charities with an income of less than £10,000 will apply to charities with annual income of £10,000 - £25,000.

In addition, the Almanac estimates are less precise for smaller charities as we sample a smaller number of them. For administration and regulation purposes, the Charity Commission randomly selects a small number of charities with income under £25,000 to check whether they are keeping accounts and the state of those accounts; we partnered with the Charity Commission to receive a file of the ones that are returned to them but the numbers have decreased¹¹. These accounts are in a wider range of formats than the accounts for larger organisations, and are generally more difficult to enter and interpret.

Improvements cannot be made by better analysis of the sample data. Options for improvement include feeding into the Charity Commission's sampling process, expanding the sample ourselves by manually taking data from annual reports of small charities published online, and taking the lead in a partnership project to run a survey of small charities designed specifically to look at their financials and other relevant information. Another option is to limit or cease our reporting of data from small charities

Conceptual

Small charities with income under £25,000 are numerous, but they account for only a small proportion of the income and expenditure of all charities. Thus, although the limitations of the sample data are a big issue for estimating the situation for small charities, from a statistical point of view they have a minimal impact on the wider data for charities of all sizes. If we ceased to use or report the data on small charities, we would still have accurate data for the whole sector and for other size-bands, and would avoid the implicit suggestion that the information presented about small charities is of the same quality as that for other charities. However small charities are of considerable interest to many users, and to lose the analysis for them would reduce the value and credibility of the Almanac.

We also need to consider whether the micro/small boundary should be redrawn at £25K, given the forthcoming changes in Charity Commission requirements.

Practical

A survey of small charities, is technically possible if the Charity Commission were willing to provide us with contact details or ask permission to pass on details so we take due account of ethical and data protection issues. It would have the advantage of collecting data in the

¹¹ This used to be around 400 small charities; we are not sure whether this has decreased recently. The number that we received varied considerably between 2009/10 and 2013/14, from 44 to 244.

format that we want it in, subject to respondent burden, and of asking questions that are more relevant to smaller charities and their beneficiaries. But it would be challenging and resource-intensive to achieve acceptable response rates and to obtain financial information in a standard format. Perhaps the greatest barrier is the cost/resource that would be involved.

The cost and resource could be reduced if a survey were undertaken every two or three years rather than annually. Another way of making the task manageable might be to concentrate initially on some of the known subgroups of small charities (such as PTAs, Scout Groups, Village Halls, Youth Clubs), which might be easier to reach.

Review discussion and recommendations

Taking account of all these factors, the review recommended that a development project be set up to investigate further the desirability and feasibility of collecting data from a sample of the smallest charities, including the possibility of focussing initially only on certain subgroups. The project should invite representation from other organisations with a particular interest (for example, the Small Charities Coalition, and the Charity Commission).

Questions for the workshop to address

- Is there is a strong argument for inclusion of small charities on a conceptual basis?
- Is there is a strong argument for inclusion of small charities on a statistical basis?
- Taking account also of practical /cost considerations, are they a priority to include in future Almanacs?

Appendix 1: Other types of civil society organisations

Type of organisation (in alphabetical order)	legal form	Registered at Charity Commission (CC)	Estimate of % on CC register	registered at Companies House	registered at Financial Conduct Authority (FCA)	complete list of them/ sampling frame
	yes/no	Yes/No/some	Estimation in %	yes/no/some	yes/no/some	yes/no/
Benevolent societies	x	Some		Some	Some	x
Building Societies	√	x		x	√	√
Clubs and societies	x	Some		Some	Some	x
Common Investment funds	x	√		x	x	√
Community Benefit Societies	√	Some	Exempt charities	x	√	√
Community Interest Companies (CICs)	√	x		√	x	√
Companies Limited by Guarantee (CLG)	√	Some		√	x	√
Companies Limited by Shares (CLS)	√	Some		√	x	√
Co-operative Societies	√	x		x	√	√
Co-operative trust schools	x	x		x	?	?
Co-operatives	x	Few		Some	Most	?
Credit Unions	√	x		x	√	√
Employee Owned Business	x	x		Most	Some?	x
Excepted charities	x	?		?	?	?
Faith Groups	x	Some		Few	x	x
Football/Rugby supporter trusts	x	x		Some	Most	?
Housing Associations	x	Some		Some	Some	√
Independent Schools	x	Some	80% (England)	Most	x	?
Leisure Trusts	x	Most	90%	Most	Some	√

Mutual insurers and friendly societies	x	x
Political parties	√	x
Social enterprises	x	Some
Sport Clubs	x	Some
Trade associations and professional bodies	x	Some
Trade union	√	x
Unincorporated associations	√	?
University	x	Most

67% (Scotland)

5-10%

	Some	Most	x
	x	x	√
	Some	Some	x
	Some	x	x
	Some	Some	x
	x	x	√
	x	x	x
	Few	x	√