



Targeted Regulation of Scottish Charities progressive, preventative and proportionate

Post consultation report on annual reporting, publishing accounts, the creation of a trustee database and serious incident reporting

March 2015

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Executive Summary

Introduction

The Act that brought OSCR into being is now 10 years old. We have been looking at ways of learning from that experience and refining our approach to charity regulation. We now intend to implement a programme of Targeted Regulation to help us focus our energy and resources on areas of work that have the greatest potential to undermine confidence in the charity sector. We recently consulted on this programme, concentrating on four key areas.

1. Changes to the annual reporting by charities to OSCR
2. Publishing of charity reports and accounts on the Scottish Charity Register
3. Creation of a database of charity trustees
4. Introduction of Serious Incident Reporting.

The consultation process

The Targeted Regulation consultation was launched on 5 August 2014. Written responses were invited and focus groups were held at a number of locations. The consultation closed on 24 October 2014.

OSCR would like to thank everyone that responded to the consultation and attended one of the focus groups. Some 373 written responses were received; the majority of these were from charities, while over 360 people participated in the focus group sessions.

Findings and next steps

In general, the move towards a more targeted approach was welcomed. However, the consultation showed that there were clear areas where we needed to reflect further and do additional work. The OSCR board has now agreed the way forward:

- We will publish information about the key issues that we want to focus on and generally, how those issues will impact on what we do.
- We will change the Annual Return so that it asks questions that better add to our knowledge about how charities are operating. The system developed for issuing and analysing the Return will be a flexible one, as areas of risk for the charity sector will change over time. We will develop clear and timely guidance on the changes and work with Third Sector Interfaces (TSIs) and other support organisations to help ensure that there is sufficient support in the initial implementation phase. We will work towards getting all charities to use our online services, making sure that the support needs of charity users are considered as a core part of our programme.



- We will move ahead with the project to publish charity annual reports and accounts, initially by encouraging more charities to get their reports and accounts online and actively sharing links to these on the Register.
- We will be issuing guidance for smaller charities on good practice in preparing and publishing Trustee Annual Reports, particularly aimed at small charities.
- Work will be done on the development of an internal trustee database. This will include clarifying the information that we will be requesting. We do not intend to publish trustee details on the Register as part of this initiative.
- We will develop a new approach to charity review that will be more holistic in nature. We will continue to move away from the routine annual check on all charity reports and accounts to develop a more integrated system using information from a variety of sources. This should allow us to concentrate on sub-sectors and charities that are posing a higher risk to public trust and confidence, and allow us to be more proactive as a regulator.
- We will be initiating a regime similar to the serious incident reporting process we consulted on. However, there will be further work done on clarifying the actual incidents we are interested in, and developing benchmarks and guidance about when an incident is serious and needs to be reported.
- We will increase our resources and visibility in terms of tackling charities that are in default by persistently not submitting their annual returns and annual reports and accounts.
- Digital service development and delivery will be an essential strand of all future work. We will be looking to make more and more services available online over time.
- Charities will begin to see changes during 2015-2016, with more substantial changes being implemented at the start of financial year 2016-2017, when redesigned IT systems should be in place.

01.

Background

It has been nearly 10 years since the Scottish Charity Regulator (OSCR) was established and implemented a framework for the registration and regulation of Scottish Charities based on the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act). The Regulator's vision is for 'charities you can trust and that provide public benefit'.

For ten years we have been working alongside charities to ensure the effective delivery of our regulatory role. However, in a changing context, it is important that we continually seek to reflect on and attempt to optimise our performance.

We have been working on a new programme developed with the aim of enabling OSCR to better focus on critical issues that might adversely impact on public trust and confidence in charities. After a period of programme design, we decided to consult on four key areas:

1. Changes to annual reporting by charities to OSCR
2. Publishing charity reports and accounts on the Scottish Charity Register
3. Creation of a database of charity trustees
4. Introduction of Serious Incident Reporting.

The consultation process

The Targeted Regulation consultation was launched on 5 August 2014. The consultation document formed the basis of the exercise and explained the background to the proposed programme of work, the development process, the proposals for change and our rationale for the changes. The document also included an example of the revised Annual Return form and 14 consultation questions.

Written responses were invited and focus groups were held at a number of locations. The consultation closed on 24 October 2014.

01.

OSCR would like to thank everyone that responded to the consultation and attended one of the focus groups. Targeted Regulation has received the highest number of consultation responses for an OSCR consultation; 373 written responses. The majority of these responses were from charities, an indicator itself of the positive engagement from the sector in this process. We also had over 360 people participating enthusiastically in our focus group events in a range of locations.

The report

This report summarises the feedback from both the written responses and the focus group events. In general, the move towards a more targeted approach was welcomed. However, there were clear areas where the consultation showed that further work and reflection is required.

Importantly, this report also gives a clear indication of what we are going to do next.

Charities will begin to see changes during 2015-2016, with many of the more significant changes being implemented at the start of financial year 2016-2017, when redesigned IT systems should be in place.

Targeted Regulation

Since taking up its full powers in 2006, the Scottish Charity Regulator has focused on carrying out its statutory functions as registrar and regulator, while also helping Scottish charities to understand their legal obligations under the 2005 Act. In terms of processes and policies adopted, relatively little has changed since the early days. However, the time is now right for developments that will allow OSCR's decisions and actions to be more targeted. This will help us support charities more effectively and further enhance the levels of trust and confidence that the public have in the charity sector.

As part of the overall programme of targeted regulation, the consultation considered proposals with respect to:

- **Changes to Annual Returns to the Regulator**

This included a revised Annual Return form and the removal of the current supplementary Monitoring Return. Income thresholds would be used to determine the level of information required and this was consulted on. We also sought ideas on how to encourage charities to use online services.

01.



- **Publishing annual reports and accounts on the Scottish Charity Register**
We proposed publishing accounts and annual reports for all charities – beginning with all charities with an income of £25,000 and more plus all SCIOs – and outlined proposals for better supporting smaller charities in the preparation of Trustee Annual Reports. We asked for comments on the benefits and risks of publishing reports and accounts.
- **The development of a database of charity trustees**
The proposal outlined our intention to develop an internal database of charity trustees which would involve collecting specified information. We also stated a possible future intention to publish charity trustee names on the Scottish Charity Register, and asked for views on this.
- **The introduction of Serious Incident Reporting**
Finally, we proposed the introduction of a Serious Incident Reporting regime. We listed nine incidents that we proposed charities would report to us on. We would also require charities to complete a declaration on the Annual Return confirming no serious incidents had occurred that had not been reported to us.

The aim of these proposals is to help us achieve our aims of:

- Increasing public confidence in charities
- Improving compliance with charity law
- Supporting a more efficient and effective use of resources.

The development of the proposals was achieved in consultation with an external reference group comprising charity representatives and advisors. A discussion session was also held with a small number of charities to inform the development of new Annual Return questions.

Our key aim is to minimise the amount of information charities are required to provide routinely to the Regulator.

02.

The Consultation Process

The consultation process ran from 5 August 2014 to 24 October 2014. All charities entered on the Scottish Charity Register as well as their advisors, independent examiners and auditors were invited to express their opinion and comments on the proposals. Copies of the detailed proposals were made accessible through the OSCR website.

As a result of the significant changes proposed to existing policies and approaches, OSCR was keen to engage with as many stakeholders as possible in the course of the consultation – particularly charities themselves as they will be directly affected. In addition to the Consultation Publication which detailed the proposals and posed 14 key questions, a summary paper was published to encourage discussion at charity trustee meetings.

There were two main ways of participating in the consultation:

- **Participating** in one of the focus groups to discuss the consultation (See **Table 1**).
- **Downloading** the consultation publication and completing a questionnaire from the OSCR website. The questionnaire included all the consultation questions and respondents had the opportunity to provide any additional comments. Completed questionnaires were emailed back to OSCR. Those unable to send their responses by email were given the option of sending a hard copy by post.

02.

2.1 Focus Groups

Over 360 participants attended the nine focus group discussions held around Scotland. A ‘world café’ approach was used to divide the participants into tables of up to eight to discuss different aspects of the proposals. Each table discussed one of the four proposals for change. Participants contributed to more than one of the thematic areas by rotating round different tables.

Table 1: Location of focus group discussions

Date	Location
1 Sept 2014	Stonehaven
12 Sept 2014	Edinburgh
17 Sept 2014	Edinburgh
23 Sept 2014	Stirling
23 Sept 2014	Perth
29 Sept 2014	Fort William
4 Oct 2014	Inverness
15 Oct 2014	Glasgow
15 Oct 2014	Hamilton

2.2 Targeted Regulation Questionnaire

A questionnaire¹ was developed to gather opinions and comments around the key proposals, including an opportunity for respondents to provide general comments on/input into the equality impact assessment. The key questions required the participants to provide a yes/no response followed by further details or reasoning to support their responses. A total of 373 responses were received. The respondents were sub-divided into nine sub-groups (See **Tables 2, 3 and 4**) according to their representation. The highest representation was from charities (67.8%).

¹ Please see the Appendix for a copy of the questionnaire.

02.

Table 2 below shows the detailed profile of the respondents to the questionnaire.

Table 2: Profile of respondents

Representative organisation	No	%
On behalf of charity	253	67.8%
Individual	56	15.0%
Other (unspecified)	23	6.2%
Other (specified)	11	2.9%
On behalf of an accountancy firm or practice	8	2.1%
Advisors or support to charities	7	1.9%
On behalf of multiple charities	4	1.1%
On behalf of a law firm or firm of solicitors	4	1.1%
Professional bodies	4	1.1%
Blanks	3	0.8%

2.3 Methods of analysis

Two methods were used to analyse the responses received from the questionnaire and focus group discussions. The closed questions were statistically analysed using Excel.

Content analysis was used to analyse the narrative responses from the questionnaire and focus groups. Key and common themes emerging from both the questionnaire and focus groups have been summarised under the main consultation headings.

03.

Summary of Results

3.1 Key Findings

3.1.1 Annual reporting by charities to the Scottish Charity Regulator

In this section, we outline the key themes coming out of the consultation.

The questions in the consultation looked at four different areas with respect to the proposed changes to annual reporting. These are the questions on the Annual Return, the guidance required, the threshold and online filing.

The Questions

In general, there was an acceptance that a move towards different kinds of question and a more flexible system could be a good thing. Indeed, a high proportion of respondents to the online survey reported that the questions were clear and understandable. However, when this was delved into in more detail in the group sessions, it became clear that while the questions were clear, there was no consensus that they were actually the 'right' set of questions.

The consultation supports the intention to move towards a set of questions that will allow us to be more targeted as a regulator. However, it has highlighted that more work is required to make sure that we have the right questions to allow us to do so.

Guidance

There was a high level of support for the production of clear and timely guidance with respect to the new Annual Return questions with a suggestion that this guidance should be appropriately tailored for different types and sizes of charities. There was also an expressed desire to ensure that additional support was available through the website and/or direct training through intermediaries such as the Third Sector Interfaces (TSIs)².

² Third Sector Interfaces are present in each local authority area (although they have many different names). They are the organisations that are charged with supporting local charities.

03.

3.1.2 Charity Annual Reports and Accounts

The threshold

A high number of respondents were happy with there being an income threshold above which more information is collected from charities via the Annual Return process. As the question specified the threshold as £25,000, they agreed with this figure. However, this answer was frequently qualified in the narrative answers to the question, and this was reflected in a high level of interesting debate in the consultation meetings.

For a number of correspondents the issue of threshold was linked to the idea of the concern of burden for charities, particularly smaller charities. The issue of burden was one which came up frequently in the consultation, and is something we will bear in mind as we make the changes in each of the different areas.

Online filing

In this area, the consultation focused on how to get more of our users online, as we move to 100% online filing. Respondents called for us to make the online system as easy to use as possible. There were requests to make sure that there was sufficient support for users through a variety of methods. In particular, there was a call to ensure additional support for users who have more difficulty with online systems, whether that be as a result of personal circumstances, or more technical issues.

In this section, the consultation concentrated on guidance for smaller charities around the production of Trustee Annual Reports and publishing annual reports and accounts.

Guidance for smaller charities

The idea of supporting the improvement in quality of Trustee Annual Reports was well received. A high proportion of those responding to the survey believed that specific guidance around Trustee Annual Reports would be helpful for smaller charities as they sought to improve the quality of their reports.

Publishing accounts

A high proportion of those responding to the consultation indicated that they felt that publishing annual reports and accounts was a positive move. This mostly related to the increasing level of transparency it would allow.

In the discussions around this area, people tended to touch on what might be the most efficient and effective way that we could do this.

03.

3.1.3 Development of a trustee database

In terms of the development of a trustee database, the responses were much more mixed. The discussions around whether or not OSCR should have a database were interesting, as respondents frequently assumed that OSCR already held the information with respect to trustees. However, this is not the case. We currently don't have up-to-date, complete and accessible information on charity trustees which would be a very positive tool in a system of Targeted Regulation.

There was an almost even split when it came to the question about whether the information we were collecting 'was appropriate for OSCR to collect and use for the purposes stated'. The more qualitative answers give a clear indication that the individuals who responded felt that the risks in collecting the information seemed to outweigh the benefits.

In probing further in the consultation events, much of the disquiet was actually around the publishing of personal data on the Register, with people being less exercised about OSCR collecting and keeping information on an internal database. The fears were around both issues of personal identity theft, as well as around the fact that such publication might lead to a reduction in the ability to recruit trustees. There did seem to be some confusion as to whether the information requested for the database would also be used to populate the Register, although the consultation document states that 'we may ultimately publish the names (but not addresses or other details) of each charity's trustees on the entry on the Scottish Charity Register'.

There is therefore more work to be done in ensuring that we are asking for the right information for the population of an internal database. Respondents clearly felt that we should not publish trustee information.

3.1.4 Serious Incident Reporting

The final area considered in the consultation was the introduction of Serious Incident Reporting.

A majority of individuals responding to the online consultation felt that Serious Incident Reporting should be introduced and this was also reflected in the qualitative replies.

However, both the written replies and the consultation events made it clear that people felt more work was needed with respect to the definition of the incidents themselves and in benchmarking what might constitute a 'serious' incident.

A number of very good ideas emerged regarding what should and should not be included as potential serious incidents and they will be reflected on in the next stage of the work.

04.



Detailed Results

4.1 Results from quantifiable questions

Table 3: Questionnaire responses from all respondents and on behalf of charitable organisations

Q.3		Q.5		Q.6		Q.8		Q.10		Q.11		Q.12		Q.13	
No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
ALL RESPONDENTS															
38%	62%	27%	73%	30%	70%	34%	66%	46%	54%	50%	50%	45%	55%	36%	64%
140	233	102	271	111	262	127	246	173	200	188	185	167	206	134	239
ON BEHALF OF CHARITABLE ORGANISATIONS															
On behalf of charities															
34%	66%	28%	72%	27%	73%	34%	66%	45%	55%	50%	50%	43%	57%	36%	64%
87	166	72	181	69	184	86	167	113	140	127	126	110	143	91	162
On behalf of a multiple charitable organisations															
43%	57%	29%	71%	43%	57%	29%	71%	71%	29%	57%	43%	57%	43%	57%	43%
3	4	2	5	3	4	2	5	5	2	4	3	4	3	4	3

04.



Table 4: Questionnaire responses from other charity stakeholders

Q.3		Q.5		Q.6		Q.8		Q.10		Q.11		Q.12		Q.13	
No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
OTHER CHARITY STAKEHOLDERS															
Advisors to charitable organisations															
53%	47%	40%	60%	47%	53%	60%	40%	80%	20%	67%	33%	40%	60%	53%	47%
8	7	6	9	7	8	9	6	12	3	10	5	6	9	8	7
On behalf of a law practice or firm of solicitors															
75%	25%	0%	100%	25%	75%	0%	100%	0%	100%	75%	25%	0%	100%	25%	75%
3	1	0	4	1	3	0	4	0	4	3	1	0	4	1	3
On behalf of an accountancy firm or practice															
63%	38%	25%	75%	63%	38%	25%	75%	63%	38%	25%	75%	88%	13%	63%	38%
5	3	2	6	5	3	2	6	5	3	2	6	7	1	5	3
Other – professional body															
0%	100%	25%	75%	25%	75%	0%	100%	0%	100%	75%	25%	0%	100%	0%	100%
0	4	1	3	1	3	0	4	0	4	3	1	0	4	0	4
Individuals															
43%	57%	23%	77%	27%	73%	30%	70%	50%	50%	45%	55%	52%	48%	29%	71%
24	32	13	43	15	41	17	39	28	28	25	31	29	27	16	40
Other – unspecified															
38%	62%	23%	77%	38%	62%	42%	58%	38%	62%	54%	46%	42%	58%	35%	65%
10	16	6	20	10	16	11	15	10	16	14	12	11	15	9	17

04.

4.2

Results by consultation question

Question 1: We welcome comments on the new questions being posed specifically:

- (a) Are they clear and understandable?
 - (b) Is more guidance needed to help understand what the questions mean?
 - (c) Will the new questions affect the ease of use of the Annual Return?
-

Out of all respondents, 48% stated without qualification that the questions were clear and understandable. A further 15% felt that they were fairly understandable, but that there were exceptions within the bank of questions. While only 2% unequivocally stated that the questions were not clear and understandable, a further 11% added qualifying comments to that response. The rest of the responses were either blank (18%) or 'other' (6%).

Commentary both through the questionnaire and in the group sessions indicated that while the majority felt that there was a level of clarity with respect to the questions, they may, nevertheless, not be the correct set of questions. Both in the questionnaire itself and in the group sessions, a number of reasons came out as to why that might be the case. These included the fact that using yes/no questions to try to analyse the complex area of governance might not identify the real issues facing charities and might lead to an incomplete and unhelpful picture being presented to the Regulator.

It was also claimed that it might either contribute to charities making changes in line with their perception of what might be deemed positive for OSCR, rather than what might make best sense for the organisation itself.

There were specific comments made with respect to some of the individual questions which we will use in our analysis as we go forward.

Quite a number of respondents and participants wanted OSCR to make sure it was only collecting information it would use, and that the rationale for collecting the information needed to be clearly communicated to the charity sector.

Also, while people generally accepted the need for having a flexible approach to the system in order to reflect changing context and risks, there was also a strong school of thought which indicated that if OSCR changed the questions too frequently this might lead to cost and time implications for charities.

04.



A notable number of responses stated that more guidance might be needed to help charity trustees understand the questions, and a high number of comments suggested that this should be developed and released in a timely fashion before any changes were made.

In terms of ease of use, 26% felt that the ease of completion of the Annual Return would remain at a relatively constant level; 9% thought it would be easier to complete; 17% thought it would be more difficult; 29% did not directly answer this part of the question but used the opportunity to raise interesting issues that we will consider as we go forward and 19% did not respond.

The interesting issues raised included a suggestion of ways in which we could improve coordination with other regulators; a desire to understand better the way in which OSCR will use the information; some serious concerns about data protection; overall concerns with issues of burden on charities; and a number of comments about the difficulty for charities of maintaining the trustee information which might be sought.

Question 2: As some of the questions are quite different from those previously asked, is there more that the Scottish Charity Regulator could do to support charities in terms of producing guidance or self help resources?

Some 263 responses were received for this question. Although there were a wide variety of responses, the majority pointed to the need for clear and timely guidance. The suggestions were varied, but with a common theme that we should be thinking about our audience and what might work best for them. Complicated guidance would not be welcomed, but short guidance through online resources, or short written documents could be helpful. It was suggested that practical examples of completed forms would be helpful.

A number of respondents pointed out that the guidance should be targeted according to type of charities and that there was a need to work in partnership with advisors (particularly the local Third Sector Interfaces (TSIs)). Some specific ideas were the development of a check list; working closely with partners such as TSIs, ensuring that the information on the website is clear and easily accessible and continuing to provide help through support on the phone.

04.

Question 3: Do you support the retention of a threshold of £25,000 for the requirement of more detailed information?

Some 62% of those who responded answered 'yes' to this question. However, for 10% of these, despite their response, they felt that the threshold was too low. Another group felt that there should be a threshold, but did not know exactly what level it should be set at.

In terms of the 38% who responded 'no' to this question, the majority (82% of those who added an additional comment) stated that the threshold was too low, with many adding that it should be adjusted for inflation. The other 18% had a variety of views, including a cluster that felt that income level should be decoupled from risk.

The issue of burden was often raised in response to this question, both in the written responses and in the focus groups. This was sometimes couched in terms of the cost to charities of supplying information to OSCR compared to the benefit that the regulator would get from the information received.

The issue of burden was not only raised in response to this question, but also in other parts of the consultation, as respondents considered how the changes overall would impact on charities.

Question 4: How can OSCR encourage and support all charities to use online services?

Respondents to this question provided a number of useful suggestions, some of which were general while others were more specific to charity organisational structure or size. Some of the common themes emerging were:

- 19% of respondents indicated that access to a user-friendly OSCR website with simple and short support and guidance would encourage charities to increase their use of online facilities. It was also important, it was claimed, that any system would be easy to use on PCs, phones and tablets.
- 9% were worried about the impact on charities both due to the lower level of computer literacy in a number of charities and a lack of access to good IT facilities. This might mean that they would be limited in their ability to use online facilities. It would be important, therefore, to take this into account in the planning process.

04.



- A further 9% felt that charities, should still have the option of having a hard copy of forms and documents and the ability to submit in that way.
- 7% indicated that the Regulator should continue to encourage charities to use online facilities by raising awareness of its benefits as well as reassuring users as to the safety of submitted data.

The two main ways that were considered necessary to support charities were the development of a 'package of support' such as videos, online courses and guidance notes for charities and by seeking intermediaries who might be able to support charities (e.g. local libraries).

Question 5: Would it be helpful for OSCR to provide specific guidance on Trustees' Annual Reports for smaller charities?

Some 73% of responses received indicated that it would be helpful for small charities to receive specific guidance on Trustees' Annual Reports from OSCR, particularly with respect to developing consistency and maintaining/increasing standards.

Responses on behalf of charities and multiple charities showed similar high proportions of 72% and 71% respectively in support of the proposal.

It was argued that while large and well resourced charities often have professional advisors, small charities with limited resources could benefit from specific guidance.

It was suggested that a good way of providing appropriate guidance would be through providing examples of what would be considered to be good Trustee Annual Reports.

Question 6: Do you agree with the proposal to publish accounts for all charities, beginning with SCIOs and charities with incomes of £25,000 or more?

A high proportion (70%) of responses from all agreed that accounts for all charities beginning with SCIOs and charities with an income of at least £25,000 should be published. Indeed 14% felt that OSCR should publish all charities' accounts.

04.

Sub-group analysis also showed high proportions of responses from legal advisors (73%), professional bodies (75%) and individuals (73%) supported the proposal.

The reasons given for supporting the proposal were generally around transparency, particularly due to the extent to which charities are funded by the public.

Reservations in this area generally centered on issues of duplication (in that accounts can be obtained directly from charities); and the issues around the difficulty of doing this easily because of barriers to publishing signatures.

Question 7: We have given examples of the benefits we expect to achieve from publishing accounts. Are there others you would highlight, or any risks that we should consider?

Only 15% of respondents felt that there were any additional risks we should consider. Of these respondents, 41% were concerned with privacy issues. Additional reasons were around the possibility of misinterpretation of accounts, the possibility of a decreasing quality of accounts due to less checking by OSCR, and the possibility of individuals with a particular agenda using the information in an unscrupulous fashion.

Some 10% of respondents indicated that there were additional benefits. Most of the comments referred to issues of transparency and benchmarking between charities.

Question 8: Would you view published accounts?

Responses from 66% of all respondents indicated their interest in viewing the published accounts.

Sub-group analysis showed that 66% of responses from charitable organisations and 71% from multiple charitable organizations indicated an interest in viewing the accounts. Higher proportions of interest were indicated by legal advisors (100%), and professional bodies (100%).

04.



Question 9: What benefits and risks would you highlight to OSCR when considering the development of a trustee database?

A high number of responses (312) were received for this question. The respondents clearly felt that the possible risks outweighed the benefits. Some 48% reported fears around the privacy of the data. A public database (and in the case of hacking, a private database) could lead to the targeting of the trustees by scammers; by those who wanted to cause them harm or, indeed, by those seeking to defraud them. A further 18% also reported a fear that it would lead to a decreased appetite on the part of the volunteers to take up positions as charity trustees, while 14% also reported disquiet about the ability to keep the database up to date.

Some 42% of respondents (most of whom also noted one of the risks outlined above) did see benefits in terms of the increasing transparency and the potential for the information gathered to be of regulatory use for the Regulator.

The cost/benefit of the work required and the actual benefit was touched on in different ways in many of the answers, with people questioning whether the regulatory benefit that might be gained was worth the input that would be required. Again, in a notable number of responses, the issue of burden on charities came up.

There was an important point raised by charities with large numbers of trustees about how that might be handled in terms of the trustee database.

The discussions in the group session were good for clarifying the doubts expressed in the written responses. The most serious reason was linked to the risks of holding personal data in the database and fears became most acute when participants discussed the idea of the database being external. The piece of information that seemed to be the most contentious was that of the date of birth. When talking about having an internal database, participants were much more comfortable. Indeed, many individuals believed that OSCR already managed that information. There were also questions about how we would really be able to make sure that there was a regulatory benefit to be had from collecting the information.

04.

Question 10: Do you think the information stated above is appropriate for OSCR to collect and use for the purposes stated?

Responses received from all respondents showed that 54% agreed that the information that OSCR was intending to collect and use for the trustee database was appropriate.

Sub-group analysis indicated that 66% of responses on behalf of charitable organisations and 71% from multiple charities were in agreement. Responses from legal advisors and professional bodies were favourable. 62% and 20% of unspecified respondents and advisors to charitable organizations respectively also indicated that the information was appropriate. There was an even split among individual respondents.

Some 63% of respondents gave a follow up answer to this question, which tended to reflect the answers given in question 9.

Question 11: Do you foresee any difficulties with collecting this information?

Responses from all respondents indicated an even split with respect to the potential difficulties in collecting this information.

The narrative answers to this question echoed the responses to questions 9 and 10.

Question 12: Do you agree that the Scottish Charity Regulator should publish charity trustee names on the Scottish Charity Register?

Responses received from all respondents showed that 54% were in favour of the publication of trustee names on the Scottish Charity Register. Sub-group analysis showed that 57% and 43% of responses from charities and multiple charitable organisations respectively, agreed with the publication of trustee names on the Register.

The narrative responses to this question reflected those to the previous questions.

04.

Question 13: Do you think the Scottish Charity Regulator should introduce Serious Incident Reporting?

Overall, there was a positive response to this question (64%) albeit with some suggestions for the Regulator to better articulate the terms ‘incident’ and ‘risk’.

There was a rich level of detail in the narrative responses and this was reflected in the interesting discussion around this area during the focus events.

- 25% of those who responded felt that a Serious Incident Reporting regime would allow the Regulator to better fulfil its regulatory function by, in part, ensuring that issues were dealt with in a timely manner. However, this was frequently qualified in terms of it needing to be accompanied by good guidance.
- 23% felt that much more work needed to be done on the definition of the incidents and the ‘benchmarks’ in terms of when an incident would become serious.
- 12% pointed out that it would be essential in the development of such a regime to work with other regulators to try to avoid a duplication of efforts.

Again, the issue of ‘burden’ ran through many of the answers.

Question 14: Are there any further serious incidents that should be included in the list outlined?

Some 187 responses were received for this question. Of that, 50% of them expressed satisfaction with the list, while the other half either had suggestions for additional areas to be included, or expressed the need to increase clarity with respect to the items on the list. The issue of ‘benchmarking’ with respect to what might constitute a ‘serious’ incident was raised in a number of places.

Both within the written responses and across the group sessions there were interesting thoughts expressed with respect to the types of incidents that should (or should not) be included. These will be analysed as part of the design process.

Targeted Regulation of Scottish Charities

Question 1: We welcome comments on the new questions being posed specifically:

- (a) Are the questions clear and understandable?
- (b) Is more guidance needed to help understand what the questions mean? – if so, please explain which questions need this.
- (c) Will the new questions affect the ease of use of the Annual Return?

Please write your answer here:

Question 2: As some of the questions are quite different from those previously asked, is there more that the Scottish Charity Regulator could do to support charities in terms of producing guidance or self-help resources?

Please write your answer here:

Question 3: Do you support the retention of a threshold of £25,000 for the requirement of more detailed information?

Yes

No

Please explain why

Please write your answer here:

Question 4: How can OSCR encourage and support all charities to use online services?

Please write your answer here:

Question 5: Would it be helpful for the Scottish Charity Regulator to provide specific guidance on Trustees' Annual Reports for smaller charities?

Yes

No

Please explain why

Please write your answer here:

Question 6: Do you agree with the proposal to publish accounts for all charities, beginning with SCIOs and charities with income of £25,000 or more?

Yes

No

Please explain why

Please write your answer here:

Question 7: We have given examples of the benefits we expect to achieve from publishing accounts. Are there any others you would highlight or any risks that we should consider?

Please write your answer here:

Question 8: Would you view published accounts?

Yes

No

If yes, for what purpose?

Please write your answer here:

Question 9: What benefits and risks would you highlight to OSCR when considering the development of a trustee database?

Please write your answer here:

Question 10: Do you think the information stated above is appropriate for OSCR to collect and use for the purposes stated?

Yes

No

Please explain why

Please write your answer here:

Question 11: Do you foresee any difficulties with collecting this information?

Yes

No

If so, please explain.

Please write your answer here:

Question 12: Do you agree that the Scottish Charity Regulator should publish charity trustee names on the Scottish Charity Register?

Yes

No

Please explain why

Please write your answer here:

Question 13: Do you think the Scottish Charity Regulator should introduce Serious Incident Reporting?

Yes

No

Please explain why

Please write your answer here:

Question 14: Are there any further serious incidents that should be included in the list outlined?

Please write your answer here:

General

Do you have any comments on any other aspect of the proposals set out in this consultation paper?

Please write your comments here:

**Equality Impact Assessment
(Separate document available on the OSCR website)**

Question: Comments are welcome on the impact assessment, particularly any areas of impact (positive or negative) not identified.

Please write your answer here:

**Thank you very much for taking the time to respond.
Please email or post your response to OSCR at the address below.**

OSCR

Scottish Charity Regulator

2nd Floor
Quadrant House
9 Riverside Drive
Dundee
DD1 4NY

P. 01382 220446
E. info@oscr.org.uk
W. www.oscr.org.uk