

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

United Kingdom 2017

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1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>1. Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, 30 January 2014, available at: www.legislation.gov.uk/ukpga/2014/4/4/introduction/enacted.</p>	<p>E – Transparency in the legislative process (inter alia, lobbying and campaigning in relation to elections)</p>	<p>The act made changes to the legal requirements for organisations, or people, who campaign in relation to elections. The act does not apply to candidates standing for election or registered political parties.</p> <p>The act introduced new national spending limits for campaigns aimed at achieving the electoral success of a political party. The caps introduced by the act saw a dramatic reduction in the total amount of money that can spent on an election campaign, roughly 60 % in England and 70 % in Scotland, Wales and Northern Ireland. The limits introduced by the act are as follows:</p> <ul style="list-style-type: none"> • GBP 319,800 in England (from GBP 793,500) • GBP 55,400 in Scotland (from GBP 108,000) • GBP 44,000 in Wales (from GBP 60,000) • GBP 30,800 in Northern Ireland (from GBP 27,000). <p>The act also introduced a spending limit of GBP 9,750 for</p>

		<p>campaigns that effect a particular constituency.</p> <p>A number of stakeholders responded to the act by expressing concerns about the 'chilling effect'¹ it would have on civil society. An inquiry² by the Commission on Civil Society and Democratic Engagement (the Commission)³ found that 63 % of survey respondents had indicated that compliance with the act would "make some or all of their organisational or charitable objectives harder to achieve".⁴</p> <p>The UN Special Rapporteur on the rights to freedom of peaceful assembly and association also noted concerns over the chilling effect of the act during his country visit in April 2016.⁵</p>
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¹ UK, Commission on Civil Society and Democratic Engagement (2015), *Non-Party Campaigning Ahead of Elections: Consultation and recommendations relating to Part 2 of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Bill*, 4 September 2017, available at: <http://civilsocietycommission.info/wp-content/uploads/2013/09/FINAL-Civil-Society-Commission-Report-no4-Sept-2015.pdf>.

² UK, Commission on Civil Society and Democratic Engagement (2014), *Impact of the Lobbying Act on civil society and democratic engagement*, available at: <http://civilsocietycommission.info/wp-content/uploads/2015/07/civil-society-commission-report-no3.pdf>.

³ UK, Commission on Civil Society and Democratic Engagement (2013), 'About', available at: <http://civilsocietycommission.info/terms-of-reference/>.

⁴ UK, Commission on Civil Society and Democratic Engagement (2014), *Impact of the Lobbying Act on civil society and democratic engagement*, p. 6, available at: <http://civilsocietycommission.info/wp-content/uploads/2015/07/civil-society-commission-report-no3.pdf>.

⁵ UK, United Nations (2016), 'Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to

		<p>The Commission further found that groups were struggling to know what was considered as regulated activity under the Act which resulted in many awareness raising activities ahead of the 2015 elections not taking place. Furthermore a reluctance for coalition work was observed by the Commission.⁶</p>
<p>2. Terrorist Asset-Freezing etc. Act 2010, 16 December 2010, available at: www.legislation.gov.uk/ukpga/2010/38/introduction.</p>	<p>D – addressing the financing of organised crime or terrorism; taxation; charitable status</p>	<p>Civil society groups that operate in territories under the de facto control of proscribed groups raised concerns regarding the effect of the Terrorist Asset-Freezing etc. Act 2010.</p> <p>In February 2014, the Charity Commission issued a regulatory alert regarding aid convoys to Syria.⁷ The alert stated:</p> <p>“There is a risk that charitable aid convoys to Syria may be abused for non-charitable purposes and facilitating travel for British foreign fighters. This is of serious regulatory concern to the Commission and impacts on public trust and confidence in those charities responding to</p>

the United Kingdom’, 21 April 2016, available at: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19854&LangID=E.

⁶ UK, Commission on Civil Society and Democratic Engagement (2015), *Non-Party Campaigning Ahead of Elections: Consultation and recommendations relating to Part 2 of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Bill*, 4 September 2017, available at: <http://civilsocietycommission.info/wp-content/uploads/2013/09/FINAL-Civil-Society-Commission-Report-no4-Sept-2015.pdf>.

⁷ UK, The Charity Commission (2014), Syria and aid convoys – regulatory alert, 21 February 2014, available at: www.gov.uk/government/news/syria-and-aid-convoys.

		<p>the Crisis and the charitable sector more generally.</p> <p>...</p> <p>The Commission is warning charities organising and participating in convoys that they may face regulatory oversight and scrutiny by the Commission, including a compliance visit. The Commission expects those charities involved in convoys it engages with to be able to demonstrate that the trustees have complied with their duties and responsibilities under charity law and that charitable funds and property have been properly applied.”</p> <p>In their Seventeenth Report of Session 2013–14 on Counter-terrorism, the House of Commons Home Affairs Committee highlighted concerns that the alert was impacting charities trying to move funds into areas of conflict.⁸ The Committee also noted concerns from the sector with regard to funding as banks were becoming “overly risk-averse”.</p> <p>The government have however since published Guidance⁹ for non-governmental organisations (NGOs) on how to operate within the counter-terrorism</p>
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⁸ UK, House of Commons Home Affairs Committee (2014), Counter-terrorism: Seventeenth Report of Session 2013–14, HC 231, 9 May 2014, p. 52, para 133, available at: www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/231/231.pdf.

⁹ UK, HM Government (2016) *Guidance - For information note: operating within counter-terrorism legislation*, 27 June 2016, available at: www.gov.uk/government/publications/operating-within-counter-terrorism-legislation/for-information-note-operating-within-counter-terrorism-legislation.

		<p>legislative framework both for work within and outside the UK. The Guidance provides information across the following areas:</p> <ul style="list-style-type: none">• Prosecutions under relevant counter-terrorism legislation.• Asset freezing and proscription – including information on where to access up-to-date lists of persons and entities subject to an asset freeze and proscribed organisations and the related offences to interacting with such persons/entities.• The paying of ransoms to terrorist organisations when an individual has been kidnapped.• Export licences for exports of, and overseas trade in, military goods, sensitive 'dual-use' items and for goods and services subject to trade sanctions.• Financial services for NGOs. <p>In 2012. the Charity Commission issued a compliance toolkit on how charities can protect themselves from harm. Chapter 1 of the guidance focuses on charities and terrorism, including</p>
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		compliance with counter-terrorism legislation. ¹⁰
3. The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England, December 2010, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/61169/The_20Compact.pdf .	E – transparency in the legislative process	<p>In December 2010, the government renewed <i>the Compact</i>, the policy instrument that lays out the relationship between government and civil society organisations.</p> <p>The 2010 version is, however, a far smaller document than the original, published in 1998. It is half the size and no longer has separate Codes of Practice. Additionally, its scope was extended to cover civil society as a whole rather than solely covering the voluntary and community sector.¹¹</p> <p>Furthermore, the status of the instrument was downgraded from command paper to ordinary publication and its content focused more on public service delivery than the relationship between government and the third sector.¹²</p> <p>In 2011, an independent panel¹³ was established to monitor the independence of the voluntary sector. In their most recent</p>

¹⁰ UK, The Charity Commission (2012), "Charities and terrorism", 1 December 2012, available at: www.gov.uk/government/publications/charities-and-terrorism.

¹¹ Zimmeck, M. et al (2011) *Use it or lose it: A summative evaluation of the Compact*, March 2011, p. 3, available at: <http://baringfoundation.org.uk/wp-content/uploads/2011/12/CompactUIOLI.pdf>.

¹² Zimmeck, M. et al (2011) *Use it or lose it: A summative evaluation of the Compact*, March 2011, p. 3, available at: <http://baringfoundation.org.uk/wp-content/uploads/2011/12/CompactUIOLI.pdf>.

¹³ UK, Panel on the Independence of the Voluntary Sector, 'About the panel', available at: www.independencepanel.org.uk/about-the-panel.

		<p>2015 report,¹⁴ the panel present the Compact as an instrument that could be used to enhance independence in the voluntary sector but criticise it as being weak alongside government failings to “Compact proof” new policies and ensure that the Charity Commission is equipped to carry out a strategic role”.¹⁵ The report calls for a redrafting of the Compact for one which has “more teeth”.¹⁶</p>
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2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

Austerity measures have had a significant impact on the amount of government funding for the third sector in the UK. Government funding for civil society organisations can be broadly categorised by two main types: voluntary income (grants) and earned income (contracts/fees).¹⁷ Figures

¹⁴ UK, Panel on the Independence of the Voluntary Sector (2015), *An Independent Mission: The Voluntary Sector in 2015: The Panel’s fourth and final annual assessment*, 11 February 2015, available at: www.independencepanel.org.uk/wp-content/uploads/2015/02/Independence-Panel-Report_An-Independent-Mission-PR.pdf.

¹⁵ UK, Panel on the Independence of the Voluntary Sector (2015), *An Independent Mission: The Voluntary Sector in 2015: The Panel’s fourth and final annual assessment*, 11 February 2015, p. 13, available at: www.independencepanel.org.uk/wp-content/uploads/2015/02/Independence-Panel-Report_An-Independent-Mission-PR.pdf.

¹⁶ UK, Panel on the Independence of the Voluntary Sector (2015), *An Independent Mission: The Voluntary Sector in 2015: The Panel’s fourth and final annual assessment*, 11 February 2015, p. 56, available at: www.independencepanel.org.uk/wp-content/uploads/2015/02/Independence-Panel-Report_An-Independent-Mission-PR.pdf.

¹⁷ UK, NCVO (2015), ‘UK Civil Society Almanac 2015: Income from Government’, available at: <https://data.ncvo.org.uk/a/almanac15/government/>.

from 2013/14 (most recent) show that civil society organisations received GBP 14.2 billion in state funding, 81 % of which was earned income.¹⁸

The total amount of government funding for civil society has seen a steady decrease from 2009, with a particular dip between 2010/11 and 2011/12. Figures from 2013/14 show an increase of GBP 0.5 billion from the previous financial year, however this is still GBP 600 million below the amount spent in 2009/10. Furthermore, the increase in funding mostly occurred for larger organisations with an income of over GBP 100 million.¹⁹

Much of the sector's funding is awarded by local government authorities who, in England, have received a 40 % reduction in funding over the last five years.²⁰ In a 2015 report,²¹ the Local Government Association estimated that, based on the same trajectory, the funding gap for local government would rise to GBP 10.8 billion by 2019/20. Local councils have a number of statutory duties; the allocation of their budget has to be directed to certain areas accordingly, which in turn impacts the amount of funding available for the voluntary sector.

2.2 Distribution of government funding

In recent years, reports of NGOs, in particular Islamic NGOs, having their bank accounts closed as part of 'de-risking' measures within the banking sector have emerged.²² In such cases, banks have expressed concerns that aid money could be used to fund terrorist activities abroad.²³ In response, the Financial Conduct Authority (FCA) issued a statement²⁴ about managing money laundering risks which set out their expectations for 'de-

¹⁸ UK, NCVO (2016), 'UK Civil Society Almanac 2016: Income from government', 11 April 2016, available at: <https://data.ncvo.org.uk/a/almanac16/income-from-government/>.

¹⁹ UK, NCVO (2016), 'UK Civil Society Almanac 2016: Income from government', 11 April 2016, available at: <https://data.ncvo.org.uk/a/almanac16/income-from-government/>.

²⁰ UK, Local Government Association, 'Future Funding', available at: www.local.gov.uk/futurefunding.

²¹ UK, Local Government Association, *Future funding outlook for councils 2019/20 – interim 2015 report*, June 2015, available at: www.local.gov.uk/sites/default/files/documents/future-funding-outlook-co-18b.pdf.

²² UK, Civil Society News (2016), "HSBC decision to withdraw services from Islamic Relief blocked Nepal aid relief", 4 January 2016, available at: www.civilsociety.co.uk/news/hsbc-decision-to-withdraw-services-from-islamic-relief-blocked-nepal-aid-relief.html.

²³ UK, Civil Society News (2016), "HSBC decision to withdraw services from Islamic Relief blocked Nepal aid relief", 4 January 2016, available at: www.civilsociety.co.uk/news/hsbc-decision-to-withdraw-services-from-islamic-relief-blocked-nepal-aid-relief.html.

²⁴ UK, Financial Conduct Authority (2016) "De-risking: managing money-laundering risk", 24 February 2016, available at: www.fca.org.uk/firms/money-laundering/derisking-managing-risk.

risking' and that "money-laundering risk management need not result in wholesale de-risking." Concerns were also echoed by the government. In a response to a written question on the matter, Lord O'Neill reiterated concerns of the effect of 'de-risking' on NGOs".²⁵ In his response, Lord O'Neill stated that the government had urged affected organisations to submit complaints through the banks formal complaint system and to consider referring their case to the Financial Ombudsman Service. He concluded his response by stating that the government intended to establish a government NGO working group to continue dialogue with the sector on the matter. The working group does not seem to have been established at the point of writing.

In June 2015, the finances of the high profile children's charity, Keeping Kids Company (formerly Kids Company), came under public scrutiny following allegations of financial mismanagement. On 5 August 2015, the organisation announced its closure.²⁶ In the aftermath, the government's Public Accounts Committee conducted a review of the government's funding of Kids Company. The Committee's report²⁷ concluded that the funding of the charity was a "failed and expensive experiment"²⁸ and recommended the government undertake a fundamental review of how it makes direct and non-competitive grants to the voluntary sector. The government accepted the recommendation and announced that the Cabinet Office had launched a detailed review of how such grants are awarded.²⁹

On 6 February 2016, the government announced that a new anti-lobbying clause would be inserted into grant agreements prohibiting the money awarded being used to fund lobbying.³⁰ The Public Policy Director for NVCO

²⁵ UK, "Bank Services: Muslims: Written question - HL1195", Hansard, 25 July 2016, available at: www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2016-07-13/HL1195/.

²⁶ UK, BBC (2016), 'Kids Company closure: What went wrong?', 1 February 2016, available at: www.bbc.co.uk/news/uk-33788415.

²⁷ UK, House of Commons Committee of Public Accounts (2015), *The Government's funding of Kids Company*, 9 November 2015, available at: www.publications.parliament.uk/pa/cm201516/cmselect/cmpubacc/504/504.pdf.

²⁸ UK, House of Commons Public Accounts Committee (2015), *The Government's funding of Kids Company*, 9 November 2015, p. 3, available at: www.publications.parliament.uk/pa/cm201516/cmselect/cmpubacc/504/504.pdf.

²⁹ UK, House of Commons Public Administration and Constitutional Affairs Committee (2016), *The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall: Government Response to the Committee's Fourth Report of Session 2015-16*, 19 April 2016, p. 3, Appendix: Government Response, available at: www.publications.parliament.uk/pa/cm201516/cmselect/cmpubadm/963/963.pdf.

³⁰ UK, HM Government (2016), 'Government announces new clause to be inserted into grant agreements', 6 February 2016, available at:

asserted that charities were being punished due to Kids Company's failings. It was proposed that the clause would be phrased as follows:

"The following costs are not Eligible Expenditure: Payments that support activity intended to influence or attempt to influence Parliament, government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action."³¹

The announcement received wide criticism from the voluntary sector.³² In April 2016, the government reacted by putting the proposals on hold³³ and eventually scrapped the scheme in December 2016.³⁴ In place of the anti-lobbying clause the government published new standards³⁵ for grant agreements and an accompanying set of guidelines.³⁶ The guidance clearly stated the types of activities that civil society organisations can undertake that would not constitute a breach of the standards. This clarity was welcomed by civil society groups as a measure to address the confusion that had been created by the anti-lobbying clause. The standards also create a New Grants Advice Panel for new grants over GBP 100,000 that are "high risk, novel and contentious."³⁷ The new standards were broadly welcomed by civil society groups with many commending their detail and

www.gov.uk/government/news/government-announces-new-clause-to-be-inserted-into-grant-agreements.

³¹ UK, HM Government (2016), 'Government announces new clause to be inserted into grant agreements', 6 February 2016, available at: www.gov.uk/government/news/government-announces-new-clause-to-be-inserted-into-grant-agreements.

³² For example see, UK, NCVO (2016), 'NCVO Statement on Government Announcement of Anti-Advocacy Clauses', 6 February 2016, available at: www.ncvo.org.uk/about-us/media-centre/press-releases/1247-ncvo-statement-on-government-announcement-of-anti-advocacy-clauses.

³³ UK, HM Government (2016), 'Update on a new clause to be inserted into grant agreements', 27 April 2016, available at: www.gov.uk/government/news/update-on-a-new-clause-to-be-inserted-into-grant-agreements.

³⁴ UK, HM Government (2016), 'Grant Standards', 2 December 2016, available at: www.gov.uk/government/news/new-standards-in-government-grants.

³⁵ UK, HM Government (2016), 'New standards in government grants', 2 December 2016, available at: www.gov.uk/government/publications/grants-standards/grant-standards.

³⁶ UK, HM Government (2016), *Government Grants Minimum Standards*, 21 November 2016, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/573795/minimum_grant_standard_6_grant_agreements_16_11_2016.pdf.

³⁷ UK, HM Government (2016), 'Government Grants Minimum Standard – Standard 3: New Grants Advice Panel', 21 November 2016, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/573791/minimum_grants_standard_3_ngap_16_11_2016.pdf.

comprehensive nature.³⁸ However concerns were also raised about whether the new grants standards are compatible with the first standard of the aforementioned Compact (see section 1 above), which states that the government is committed to respecting and upholding “the independence of CSOs to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist”.³⁹

2.3 Restrictions (or other changes) on NGO funding from other sources

As in other areas, uncertainty in the wake of the 2016 Brexit referendum result created concerns for civil society regarding their eligibility for EU funding.⁴⁰ At present, UK charities receive approximately GBP 200 million in EU funds each year.⁴¹

In a speech made on 17 January 2017, Theresa May outlined the UK’s negotiating objectives for exiting the EU. In her speech, Mrs May stated the government’s intention to withdraw from the single market which would result in the UK no longer being “required to contribute huge sums to the EU budget”, which goes some way in confirming the aforementioned concerns regarding eligibility.⁴²

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
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³⁸ UK, Charities Aid Foundation (2017), *2017 update: Do As I Say, Not As I Do; UK policy and the global closing space for civil society*, 25 January 2017, p. 19, available at: www.cafonline.org/docs/default-source/about-us-policy-and-campaigns/updated-do-as-i-say-not-as-i-do-january-2017.

³⁹ UK, HM Government (2010), *The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England*, December 2010, p. 8, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/61169/The_20Compact.pdf.

⁴⁰ UK, Charity Finance Group (2016), *Policy Briefing: Potential impact of Brexit on UK charities*, May 2016, p. 7, available at: www.cfg.org.uk/resources/Publications/~media/Files/Resources/Briefings/EU_brief.pdf.

⁴¹ UK, Directory of Social Change (2016), *Keep calm and carry on helping people: What Brexit means for charities and what they can do*, July 2016, p. 7, available at: www.dsc.org.uk/wp-content/uploads/2016/07/DSC-Brexit-briefing-070716.pdf.

⁴² UK, HM Government (2017), ‘Speech: The government’s negotiating objectives for exiting the EU: PM speech’, 17 January 2017, available at: www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech.

<p>Creation of an External Relations Unit within the Prime Ministers Office at Number 10. Within the unit, there is a designated Voluntary Sector Adviser.</p>	<p>No official Government reference is available.</p> <p>UK, Civil Society (2016), 'Number Ten launches new policy unit to improve relations with voluntary sector', 3 October 2016, available at: www.civilsociety.co.uk/news/number-ten-launches-new-policy-unit-to-improve-relations-with-voluntary-sector.html.</p> <p>UK, Third Sector (2016), 'New Downing Street special adviser once worked for Gina Miller', 4 October 2016, available at: www.thirdsector.co.uk/new-downing-street-special-adviser-once-worked-gina-miller/policy-and-politics/article/1411044.</p> <p>UK, Telephone conversation with NCVO Staff Member, source to remain anonymous.</p>	<p>In October 2016, a Special Adviser was appointed to lead the development of the government's relationship with the voluntary sector.</p> <p>There is no information from the government on the unit or the role of the Voluntary Sector Adviser in the public domain. However, in a telephone conversation, a staff member of the National Council for Voluntary Organisations (NCVO), informed that this has been a positive development and that the Adviser had attended a number of events with them and was proving to be a useful link with government.</p>
<p>Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014</p>	<p>UK, Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, 30 January 2014, available at:</p>	<p>See section 1 for further details.</p>

	www.legislation.gov.uk/ukpga/2014/4/introduction/enacted .	
UK Open Government National Action Plan 2016-18	UK, HM Government (2016), UK Open Government National Action Plan 2016-18, 12 May 2016, available at: www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18 .	<p>On 12 May 2016, the government published the third National Action Plan (NAP) 2016-18.</p> <p>Accompanying the plan are 13 commitments that are aligned with the Open Government Partnership's values. The 13 commitments are made across the following areas:</p> <ol style="list-style-type: none"> 1. Beneficial ownership 2. Natural resource transparency 3. Anti-Corruption Strategy 4. Anti-Corruption Innovation Hub 5. Open contracting 6. Grants data 7. Elections data 8. Enhanced transparency requirements and revised Freedom of Information Act Code of Practice

		<p>9. Identifying and publishing core data assets</p> <p>10. Involving data users in shaping the future of open data</p> <p>11. Better use of data assets</p> <p>12. The government website - more participative, open and accountable to users</p> <p>13. Ongoing collaborative approach to open government reform</p> <p>Each commitment is listed with a designated lead implementing organisation. Other organisations that should be involved in each commitment's implementation are also identified.</p> <p>The NAP was designed in partnership with civil society organisations. The government are treating it as a living instrument that will be regularly reported on and new commitments will be identified</p>
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		throughout its two-year period.
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4 Further information

As referred to above, the EU Referendum marked one of the most significant constitutional changes in recent British history, one which will likely have a heavy impact on civil society organisations. Accordingly, in the run up to the referendum and owing to restrictions on lobbying, many civil society groups sought the advice of the Charity Commission⁴³ in order to ascertain whether, as an organisation, they could take a stance on the referendum. In response the Charity Commission issued regulatory guidance for charities on the EU referendum.⁴⁴ Once published the guidance received wide criticism from within the third sector and was branded as having a “negative and prescriptive approach”.⁴⁵ Furthermore,

⁴³ UK, The Charity Commission, ‘About us’, available at: www.gov.uk/government/organisations/charity-commission/about.

⁴⁴ UK, The Charity Commission (2016), ‘Charity regulator issues guidance on EU referendum’, 7 March 2016, available at: www.gov.uk/government/news/charity-regulator-issues-guidance-on-eu-referendum.

⁴⁵ UK, NCVO (02016), ‘The Charity Commission’s Guidance on the EU Referendum sets the wrong tone’, 7 March 2016, available at: <http://blogs.ncvo.org.uk/2016/03/07/the-charity-commissions-guidance-on-the-eu-referendum-sets-the-wrong-tone/>.

legal analysis⁴⁶ of the guidance published by law firm Bates Wells Braithwaite laid out concerns that parts of the guidance misrepresented the law and that the terminology used was inconsistent with other Charity Commission guidance. In response the Charity Commission issued updated guidance⁴⁷ which took a softer approach to some of the issues raised by critics. However a number of stakeholders remained concerned that it was still considerably stricter than the main guidance on campaigning issued by the Charity Commission. Furthermore, when compared to the guidance issued by the Charity Commission's Scottish counterparts in relation to the referendum on Scottish independence, the EU referendum guidance was thought to be stricter and more proscriptive.⁴⁸ It was expressed by some people within the sector that a number of organisations refrained from conducting activities around the referendum as a result of confusion caused by the Charity Commission Guidance.⁴⁹

⁴⁶ UK, Bates Wells Braithwaite (2016) IBWB Briefing on Charity Commission Guidance', 14 March 2016, available at: www.bwbllp.com/file/bwb-briefing-on-eu-referendum-guidance-final-18-march-pdf.

⁴⁷ UK, The Charity Commission (2016), 'Commission provides further clarity to EU referendum guidance', 23 March 2016, available at: www.gov.uk/government/news/commission-provides-further-clarity-to-eu-referendum-guidance.

⁴⁸ UK, Civil Society (2016), 'Charity Commission in climb down on EU referendum guidance', 23 March 2016, available at: www.civilsociety.co.uk/news/charity-commission-in-climbdown-on-eu-referendum-guidance.html.

⁴⁹ UK, NCVO, Information obtained from a telephone conversation.