**Fundamental Review of Business Rates - Part 1**

*Supplementary response on behalf of the Charity Tax Group, Charity Finance Group, National Council for Voluntary Organisations and Charity Retail Association – 26 October 2020*

**Overview**

We welcome the opportunity to submit supplementary evidence to this Review and for the willingness of HM Treasury and MHCLG officials to engage with the sector at the recent HMRC Charity Tax Forum meeting.

We would reiterate the key points made in our [primary submission](https://www.charitytaxgroup.org.uk/wp-content/uploads/Voluntary-Sector-Business-Rates-Consultation-Response.pdf), which takes int account the views of a wide number of charities, including representatives of village halls, churches, charity shops, and heritage organisations, many of whom also made direct representations to the Review.

Charities face increased demands on their services due to COVID-19, despite facing substantial reductions in income as a result of restrictions on public fundraising, events and retail. As a result, at the very least, we call for mandatory business rates relief of 80 per cent to be retained, to ensure charities can play the most effective role possible in the country’s recovery efforts. Charity business rates reliefs are long-standing (on the basis that rates should be relieved where a building is used for a charitable purpose) and are essential to the financial viability of many charities. As a result, it would be inappropriate and short-sighted for there to be any radical reform of charitable business rates relief without substantive consultation with charities.

While we are conscious that the Government may receive some representations querying the value and efficacy of charity reliefs, these concerns are largely unfounded (including in respect of capitalisation of reliefs and “competition” between charity and commercial retailers) – and our feedback below supports this.

There are valid concerns about manipulation of charity reliefs. We support action to protect the integrity of business rates reliefs and exemptions, but any measures taken need to be effective and proportionate. The misuse needs to be addressed but should not disadvantage the vast majority of law-abiding charities. In this supplementary submission, we have suggested extra steps that could safeguard the reliefs and would be happy to discuss them further.

**Importance of business rates relief for charity shops**

Charity shops realise the cash value of goods donated to charities by the public. This makes them distinct from other retail businesses. It is occasionally claimed that charity shop numbers are increasing and that charity shops compete with other shops by selling new goods. The number of charity shops in the UK has remained stable at around 11,200 since 2017 and, on average, charity shops generate less than 6% of their income from bought-in new goods.

Charity retailers raised £331 million for charitable causes in the year to 31 March 2019. They provide 26,000 jobs (FTE) and 233,000 volunteer opportunities whilst supporting the vibrancy of our high streets by generating customer footfall. The contribution of charity shops to the environment is substantial. Charity shops enable 339,000 tonnes of textiles a year to be reused or recycled. This is greater than the volume of textiles disposed of as waste. Charity shops make affordable second-hand goods available to those on lower incomes and reduce waste disposal costs for local authorities.

Business rates relief is essential for the financial viability of most charity shops.

**Capitalisation of reliefs**

We are aware that there is sometimes a misconception that mandatory rates relief for charities results in higher rents over time. Charities with significant property portfolios take active steps to ensure that this is not the case. Many charities engage third parties to manage their properties and strike rent deals that are comparable with market competitors. This is because charities have a fiduciary duty to ensure that they use charity funds wisely.

As a result, we do not consider that the value of reliefs available to charities has an undue impact on the setting of rents that charities pay. Given the adverse impact of COVID-19 on demand for commercial property units this seems even less likely going forward.

**Next in charitable use exemption**

While the "next in charitable use" exemption is not used by many charities, we are aware of examples where it is very valuable to many with a large portfolio of property (such as the National Trust). Examples include:

* Where a property has previously been let out by the charity to a third party, who vacates the premises. The building remains empty pending repair or refurbishment but the charity wishes to use the building for its own charitable purposes after the work is undertaken. Without the relief, the charity would be liable to pay full rates after only 3 months. It can take a long time to get project funding to repair a property which may have suffered neglect in the hands of a tenant.
* Where a property has been previously used by the charity for its own purposes, but the charity has now vacated the premises and is seeking a third party charity partner to run the operations in its place (e.g. education centre, conservation workshop, nature reserve with visitor facilities). Again, the premises may remain empty for some time whilst a suitable charity partner can be found. As many charities restructure their operations in response to the COVID-19 crisis, this may become more common.

We are aware that organisations, including the Local Government Association, have raised concerns that the "next in charitable use" exemption is being claimed in cases where the future use of a property is unclear. We recognise these concerns, although caution that cases of misuse are very rare. For that reason, we would suggest that the exemption is retained, but that additional safeguards could be introduced.

Section 45A of the Local Government Finance Act 1988, already states that the exemption applies where

* *the ratepayer is a charity or trustees for a charity, and*
* *it* ***appears*** *that when next in use the hereditament will be wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).*

If there is a desire to place the bar higher, the Government could replace the word ‘appears’ with ‘can be substantially demonstrated’ or a similar phrase.

This could include a written statement setting out the planned next use for the property which demonstrates that the use will fulfil the "wholly or mainly used for charitable purposes" test. To ensure greater consistency, a standard declaration could be issued by billing authorities for charities to sign. The billing authority would have additional information and could be given the right to claw back the relief if the intended charitable use did not materialise. If this approach is adopted the proposed reporting processes should be checked with charities before being implemented to ensure that they are practical. We would be happy to help with this.

We have received feedback from a ratings agency that in practice some billing authorities have refused to grant relief to charities during the period the property is unoccupied. Rates have been paid and subsequently been refunded. This is not the approach intended by the legislation and reflects concerns about correct application of the rules - a clearer system of charity declaration could help to address this situation and provide important cashflow relief for charities undertaking large development projects.

We caution against the removal of this exemption and believe that steps can be taken which will help ensure that this relief is not abused.

**Improving understanding about charitable business rates relief to reduce errors and fraud**

In our experience most errors in claims for rates relief result from a lack of understanding – honest mistakes rather than attempts of abuse. It is important that the “wholly or mainly” charitable purposes test is well understood. The Charity Commission and the charity sector have an important role in helping charities ensure that third parties cannot abuse this relief. Charity sector bodies are committed to increasing awareness of this and the Charity Commission could be asked to give more prominence to its guidance for trustees. This could include a recommendation to take professional advice where necessary.

There have been isolated incidents of fraud relating to charitable rates relief which have been addressed by the courts. These have been followed-up by the Charity Commission where the trustees have been at fault. The recent High Court case involving the company Preservation and Promotion of the Arts (PAPOA) is a clear example of incorrect application for charitable rates relief. PAPOA is not a registered charity and has not applied for charitable status. This raises questions about the due diligence undertaken by local authorities.

As we will make clear in our response to Part 2 of the Review, there would be significant benefits in standardising applications for mandatory and discretionary reliefs.

Commenting on this case, the Charity Commission [stated](https://www.thirdsector.co.uk/arts-organisation-claimed-least-500k-charitable-rate-relief-labelled-a-sham-judge/governance/article/1697683): *“To protect their charity from this type of misuse, trustees should guard their charity’s independence fiercely and be assured that any tenancy agreement they enter into is for the exclusive benefit of their charity and will further their charity’s purposes and is in its best interests.”* We agree and will explore ways to work with charities and local authorities so it is clear who should be eligible for charitable rates relief. The irresponsible actions of an entity masquerading as a charity does not reflect genuine charity practice.

We would welcome an update from the Charity Commission on its pilot programme[[1]](#footnote-1) of information sharing aimed at tackling instances of business rates avoidance. Its findings could provide an important evidence base for any future reforms and ensure that any proposals are effective and proportionate.

The Charity Commission would not be appropriate or best placed to act as the ‘regulator for charity business rates claims’ in England and Wales especially, given its limited resources. Its role is to examine the conduct of trustees of charities within its regulatory remit that have misused charity business rates relief (as for example in the recent Public Safety Charitable Trust inquiry).

Eligibility for charity business rates reliefs and exemptions is not limited to charities that are registered with the Charity Commission. Rates relief very important for excepted[[2]](#footnote-2) and exempt[[3]](#footnote-3) charities too.

More information and guidance for local authorities on what constitutes a charity and which organisations should be eligible for charity business rates relief would be helpful. Simply asking them to check the Charity Commission register is not likely to work.

**Conclusion**

The charity sector supports the Government’s review of business rates and we will be encouraging responses to part 2 of the consultation. If you require additional information in respect of the primary or supplementary submissions, please let us know and we will happily arrange a meeting with officials.

1. Agreements were signed with [Oxford City Council](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/618125/2017_04_26_MoU_Final_Oxford_CC_and_Charity_Commission.pdf), [Broxbourne Borough Council](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/617975/MoU_Charity_Commission_and_Broxbourne_Borough_Council.pdf) and the [Kent Intelligence Network](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/617968/2017_03_05_CC_and_Kent_Intelligence_Network_MoU.pdf), to enable the Commission to carry out coordinated operations with these bodies to look into people or organisations engaging in business rates avoidance. We are not aware that any findings have been made public. [↑](#footnote-ref-1)
2. Charities excepted from registration include churches, schools, Scout and Guide groups, and armed forces charities. They don’t have to register or submit annual returns to the Charity Commission. Apart from that, the commission regulates them just like registered charities. See more at <https://www.gov.uk/government/publications/excepted-charities> [↑](#footnote-ref-2)
3. An exempt charity has charitable status and is required to comply with charity law, but unlike other charities it: cannot register with the Charity Commission; is not directly regulated by the Commission and instead has (or will have) a principal regulator; may only be investigated by the Commission as part of a statutory inquiry at the request of its principal regulator. Exempt charities include many educational charities and national museums and galleries. See more at <https://www.gov.uk/government/publications/exempt-charities-cc23/exempt-charities> [↑](#footnote-ref-3)