

A SHARED SOCIETY?

The independence of the voluntary sector in 2017

**CIVIL
EXCHANGE**
Strengthening Society's Connection to Government

Caroline Slocock
Civil Exchange

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Executive Summary

A Shared Society?

Could 2017 be a turning point for the relationship of the state and the voluntary sector? Brexit, despite the social divisions it has revealed and even reinforced, potentially creates an opportunity.

On the one hand, Theresa May's has spoken of wanting to create a 'Shared Society', in which 'burning injustices' are addressed, communities are no longer left behind, and Britain works for everyone.¹ On the other, charity leaders have called on the sector to take a leadership role in rebuilding trust and healing social divisions, signalling a potential renewal of confidence and purpose after a referendum campaign in which the sector was largely silent.² This context may suggest signs of a shared agenda between the state and the voluntary sector, especially around giving disenfranchised communities and individuals more agency and control.

Recent history, however, is far from promising. David Cameron's Big Society, which bears a strong resemblance to May's Shared Society, petered out, with the relationship between the state and voluntary sector soured and the financial sustainability of parts of the sector weakened. That relationship has also been progressively undermined by growing threats to the sector's independence, many of which derive from Government, as Civil Exchange has documented in its five earlier annual reviews of the independence of the voluntary sector; the first four of which were in support of the Panel on the Independence of the Voluntary Sector.³

Despite the potential for improvement, this report asserts that the independence of the voluntary sector, which must lie at the heart of a truly Shared Society, continues to be under serious and growing threat, even in spite of some positive developments over the last 12 months.

The voluntary sector - acting for the disenfranchised?

Any Shared Society needs a strong independent voluntary sector at its heart. That independence is what, ultimately, enables it to speak up for and act on behalf of those who 'have been left behind'.

'Taking back control' – the dominant slogan of the EU referendum – is partly being interpreted as giving more power to disempowered individuals and communities, a shift in which charities should have a significant role. But what do the people 'left behind' actually want? Recent RSA research suggests: being listened to, being given more power, being treated equally and given equal opportunity, and it is clear that in doing so it will be important to rebuild trust in politicians, the media and institutions.⁴

An independent voluntary sector must be part of the solution, enriching public debate and helping to shape public policy and services, as well as deliver them. Over many years, trust in politicians and key institutions has been eroded but public trust in the voluntary sector remains relatively high, despite some recent knocks. It is that trust, together with its independence, which places the voluntary sector in such a strong position to help create a Shared Society.

But is the voluntary sector working well for those groups who in the past have lacked a voice? There are fewer voluntary organisations in the least affluent communities, with most in the best off areas,⁵ and austerity has hit them hard. In March 2017, Sir Stuart Etherington, Chief Executive of the National Council of Voluntary Organisations, suggested that the EU referendum result had shown that the sector had not been sufficiently in touch with the views of the disenfranchised and of those who are most vulnerable in society.⁶ Carrying out this role will require the voluntary sector to ask not just government but also itself some tough questions.

Is the Shared Society the Big Society all over again?

Theresa May's Shared Society closely resembles David Cameron's failed Big Society in many respects. In both cases, the incoming Prime Ministers heralded a new kind of government, a move away from individualism toward strengthening social bonds and society, and promised to address inequalities.

Like the Shared Society, the Big Society made ambitious promises, but largely failed to deliver on them, as documented by Civil Exchange in 2015.⁷ The agenda of austerity, a directive, top-down style of delivery at odds with community empowerment and Big Society rhetoric, and a public management model that focused on competition, not on the collaboration required to address deep-seated social issues, were major factors. The voluntary sector was often sidestepped and even directly attacked. There is no sign yet that any of these issues have disappeared, as this report documents.

A democratic deficit?

Part of the problem may be an imbalance of influence over government by corporate and civil society voices, what some have called 'a democratic deficit'. Perhaps because governments tend to see economic interests as paramount. In 2010, David Cameron had promised to stop behind the scenes lobbying by those corporate interests, speaking of 'money buying power, power fishing for money and a cosy club at the top making decisions in their own interest' which was eroding confidence in politics.⁸ However, the so-called Lobbying Act that was intended to do this only resulted in more constraints in practice on civil society than on corporate lobbying.

Theresa May's Government so far has demonstrated a bias toward the interests of business in some key decisions that are an early test of her Shared Society commitments. For example, on the steps of No 10, she committed to tackling the 'burning injustice' of health inequalities, and repeated this in her Shared Society speech. But one of her first acts was to abandon recommendations to tackle childhood obesity; an act which Dr Sarah Wollaston MP, the Conservative Chair of the Health Select Committee, said had put the 'interests of advertising marketers ahead of the interests of children'.⁹ Overturning a rejection of fracking by the local council in Lancashire, the Communities Secretary said: 'We will take the big decisions that matter to the future of our country as we build an economy that works for everyone, not just the privileged few',¹⁰ echoing a similar Shared Society commitment by the Prime Minister, without irony.

A market-based approach to commissioning public services adopted by successive governments has also led to the domination of unaccountable, often multi-national corporate businesses with a poor track record of delivery in key areas.¹¹ 'Gagging clauses' and control over data have further reduced the ability of voluntary sector bodies to represent the interests of those they serve.

The 'sock puppet' narrative

Indeed, the voluntary sector has in recent years been increasingly characterised as having too much influence on policy and services through what is sometimes called the 'sock puppet' narrative, a term derived from an influential Institute of Economic report¹² which argued that taxpayers' money should not be used to pay interest groups to argue for changes in Government policy. More widely, a view has taken hold amongst some Ministers including, for example, Chris Grayling, now Transport Secretary, that charities should be seen but not heard.

Wider threats to civic space in the UK

There are signs of a closing down of 'civic space' for the expression of dissent and influence over the political process by civil society in the UK. Pointing, amongst other things, to the impact of vaguely defined anti-terrorism policies on associational life, and aggressive policing of some demonstrations, Maina Kiai, the UN Special Rapporteur, said in a report about the UK: 'I am concerned about a series of separate measures by the Government – some implemented and others proposed – which, put together, suggest that the Government has a negative view of civil society'.¹³ Under Theresa May's Government, even the ratification by Parliament of the decision to leave the EU had to be forced by judicial review and when *The Daily Mail* dubbed the judges, 'Enemies of the People', the Lord Chancellor initially failed to defend them.

Devolution in England – an opportunity?

Devolution creates opportunities to redress the balance. However, the evidence so far suggests that the voluntary sector is not gaining a seat at the table. Our guest contributor, Sally Young, sees at first hand in Newcastle the problems of 'communities left behind' and thinks that devolution might in theory be an opportunity to 'take back control' but reports minimal engagement with the voluntary sector so far. As she says, 'We are told that government is interested only in the business perspective. Well, what about the people perspective?'

Continuing challenges to independence

Against this backdrop, it is all the more worrying that the independence of the voluntary sector has continued to be threatened over the last 12 months, with growing threats in a number of key areas.

Independence of voice being frozen out

The *independent voice* of the voluntary sector is critical to its ability, not just to be a voice for the disenfranchised, but also to use its expertise to shape policy and services – and in a Shared Society this voice must be welcomed and supported by Government. Indeed, the agreement between the Government and the sector renewed by David Cameron, the Compact, includes commitments to 'respect and uphold the independence of civil society organisations to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist' and to work with them 'from the earliest possible stage to design policies, programmes and services'.

However, the cumulative impact of a number of measures in recent years – including the Lobbying Act, gagging clauses in contracts, the announcement in 2016 of a 'no advocacy clause' for grant agreements, and restrictive Charity Commission guidance on the EU referendum – has not just created a negative climate and concrete barriers to the expression of that voice but also led to a profound muddiness about what constitutes legitimate campaigning amongst all concerned.

The result is a growing and deeply concerning self-censorship, the most worrying sign of which was that the voice of the sector was almost entirely absent in the EU referendum debate. In a survey of 100 charity professionals, one in five respondents said their organisations were already campaigning less and 90 per cent felt that campaigning by the voluntary sector is under threat.¹⁴

In some respects, this chilling – indeed in the case of the EU freezing – impact can only be made worse by the watered down ‘no advocacy’ clause in the new grant standards announced at the end of 2016. Although the concessions won by the voluntary sector are welcome, significant problems remain. And it is not a happy or clear situation when key leaders of the sector could announce a ‘victory for common sense and for free speech’, while the Cabinet Office press release simultaneously said that the new standards ‘would put an end to grant money being wasted on activities not specified in the grant agreement, such as ‘political lobbying’’, and other charity leaders pointed out in a letter to the Minister that the standards were not Compact compliant.

The power of NGOs to use judicial review has also been further threatened in the last 12 months, most recently in the environmental field, where caps on costs are being removed by this Government. The Chief Executive of ClientEarth, the organisation that has twice taken the Government successfully to court over lack of effective plans on poor air quality – which is causing 40,000 premature deaths every year – has said: ‘With unlimited legal costs, it will be virtually impossible to bring a public interest case and hold the Government to account’.

At the same time, Part 2 of the Lobbying Act remains in place, anti-advocacy terms and ‘gagging clauses’ in contracts still exist, for example in the Tampon Tax Fund, and consultation remains weak, in many areas bearing no resemblance to the commitment to co-production currently included in the Compact.

As Anne Fox writes in her guest contribution, a Shared Society heralds potentially vital reforms, but these cannot be achieved while the voluntary sector ‘continues to be sidelined’.

Poor commissioning and new grant standards threatening independent action

The voluntary sector’s independence of action helps ensure that communities, particularly those which are least affluent, feel and are in control of services that matter to them – and in a Shared Society the state would ensure that its financial support was given in a way that encouraged this activity.

Many voluntary organisations provide services either as part of the welfare state or in addition to it, and often rely on government funding to do so. However, over many years, a switch from grants to poorly designed competitive contracts for specific services has often restricted freedom of action to the detriment of services. Our guest contributor, the departing Chief Executive of the Foyer Federation, Jane Slowey, writes about how the organisation started to move away from its original focus because of this and said: ‘We came to realise just how far the Foyer approach was being corrupted through its funding relationship with the state and became convinced that our role was to try and reclaim it’.

Not all organisations have alternative sources of funding to turn to, and loss of state resources for community-based and specialist services is reducing capacity in key areas, made worse by the rise in demand for their support due to public service cuts. Competitive tendering has also squeezed out social collaboration and innovation and led to an increasingly instrumentalist view of the sector as an arm of the state.

Over the last 12 months, the situation overall has become worse, despite some positive developments. Increasing pressure on public funds is exacerbating the weaknesses in the current funding regime and some voluntary organisations are even cross-subsidising the public sector with their own income as the amount of money provided for services has reduced.

Perhaps most worryingly, the Cabinet Office's new grant standards will make grants, which have been an important and more flexible alternative to contracts, especially for smaller organisations, more like contracts. Grants will in future be normally awarded through competition, reviewed annually, and linked to outcomes and outputs as far as possible, with payments expected to be mostly in arrears – potentially reducing the freedom of action of recipients further. Whilst the move to reduce the risks uncovered by the case of Kids Company has to be welcomed, this looks like overkill.

The Government has announced more support for small charities to win contracts and also, in the next few years, a significant new Dormant Asset Fund. But fundamental problems remain and progress is likely to be slow. Infrastructure bodies, which have largely lost their strategic partnership funding from the state, have been increasingly cut back at a time when the voice of the sector is especially crucial - and some have closed.

'Independent' regulation is not independent

Over a number of years, there have been concerns about the political independence of the Charity Commission and its failure to stand up for the independent role of the sector. One of the most damaging developments over the last 12 months was the issuing of guidance by the Charity Commission that discouraged charities from speaking up during the EU referendum which, although later modified, contributed to the major chilling effect referred to earlier. At the same time, one of its Trustees wrote an anti-EU essay, breaking the Commission's Code of Conduct rules, but was nonetheless re-appointed, only to step down quietly at the beginning of 2017. Amongst other concerns, complaints continue to be made about its treatment of Muslim charities.

The Compact has been especially ineffective over the last year and the future funding by the Government of Compact Voice, which monitors and promotes it, was under discussion during the very period in which the 'no advocacy' clause was being discussed and the new grant standards – which are not Compact compliant – were issued.

A sharper focus on causes and people served must be maintained

Ultimately it is a focus on their independent mission – or independent purpose -that ensures that voluntary organisations put the people and causes they serve first, not money, organisational survival or a good relationship with government at any price. It is that focus which makes them an effective voice for and actor on behalf of wider society. A truly Shared Society cannot be achieved if that sense of purpose is under threat.

Last year we reported that some charities appeared to have been chasing money in ways that were not consistent with their fundamental mission. Evidence emerged in the media of poor fundraising practices, excessively high salaries in some cases and some commercial practices that seemed incompatible with mission. During this last 12 months, the direction of travel has been more positive, though evidence of some poor practice has continued to emerge and high profile criticism of specific organisations in the media has continued, though some of the allegations have been successfully overturned. Changes have been made to the regulatory regime which, although not without potential negative side effects for 'better behaved' charities, appear to have at least helped to restore public confidence. Significantly, public trust in charities appeared, at least for a time, to have suffered but now seems to have bounced back.

Nonetheless, the fact that serious social inequalities remain in society, and so many people are dissatisfied with politics and the system of government, particularly those in lower economic groups – as explored in Chapter 1 – suggests there is still work for the sector to do to better connect with and represent those it serves in order to help create a truly Shared Society.

Conclusion – toward a Shared Society

Change is needed in both the voluntary sector and the Government to tackle the threats to independence uncovered by this report and to realise the potential of a Shared Society. The Panel on the Independence of the Voluntary Sector called for a 'new settlement' between the Government and the voluntary sector, based on a shared understanding of its distinctive, independent contribution. A new two-year Inquiry into the Future of Civil Society is about to be launched by a consortium of charitable foundations led by the Baring Foundation, which will help to create a stronger shared vision and the conditions needed to get there.

This report includes a number of suggestions to contribute to this debate, some of which are made by guest contributors. Ivan Cooper from the Republic of Ireland says that it is important to recognise that the public and voluntary sectors do share a commitment to working for the public good, and can coalesce around a common purpose. Jacky Bourke-White in her guest contribution shows this is starting to happen in Southwark due to strong leadership on both sides.

Paul Streets calls for a 'bottom up' model of social change which reconnects with people's needs and capabilities locally, rather than focusing on the requirements of commissioners. Kathy Evans argues for a much more collaborative and less competitive model for how the state funds the voluntary sector. This report argues for a new funding model which, amongst other things, can ensure that the social sector's 'deprivation gap' – the lack of funding for those who need more support in a Shared Society – is addressed. As Tom Burke argues, the sector needs to develop a counter to the 'sock puppet' narrative and points out that good government and a strong democracy need a strong civil society, as politicians have become more disconnected from their grass roots, citizens have become more educated and a shrinking public sector is increasingly denuded of expertise. Sue Tibballs calls on the sector to assert its independent purpose and find a more confident voice, taking a more open, collaborative approach to campaigning.

So, we conclude that the sector can help create a new environment, but that Theresa May must also:

- Make a clear statement about the legitimate role of campaigning and the importance of the voice of the sector in helping to shape policies and services, including when funded directly by the state, and carry this through into changes to the Lobbying Act (implementing the recommendations of the Hodgson review), contracts and grant standards.
- Ensure proper, affordable access to the courts for NGOs, reversing recent changes.
- Provide a genuine seat at the table of policy-making and service design for the social sector, nationally and locally, and fund this where necessary.
- Provide effective funding, addressing the problems highlighted by this report, including revising the grant standards to ensure that grants continue to provide a genuine alternative to contract funding; and provide specific funding to strengthen social organisations and communities in the most deprived areas and helping vulnerable people.
- Sign up to an effective, externally and independently policed and properly funded Compact.

Overall, there is an enormous distance to travel to achieve a truly Shared Society, but so much to be gained by starting the journey.

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