

HPG Working Paper

UK humanitarian aid in the age of counter- terrorism: perceptions and reality

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1 Introduction

For many years, British non-governmental organisations working in international development and humanitarian aid have raised concerns that UK counter-terrorism legislation and policies are negatively impacting their work. British Muslim international NGOs (INGOs) have asserted that they are disproportionately affected, even actively discriminated against, by UK counter-terrorism measures. The issue of counter-terrorism measures and their impact on the work of humanitarian organisations has been debated for some years at global, regional and national level – at least since 9/11 and the beginnings of the Global War on Terror. However, in the UK specifically a number of recent developments have brought the concerns of different stakeholders into starker focus.

First, since 2011 British INGOs have rapidly scaled up or launched large-scale emergency relief operations in response to a series of crises, including the famine in Somalia in 2011–12, the ongoing conflict in Syria, the latest round of conflict in the Gaza Strip and Israel in 2014 and the renewed conflict and displacement crisis currently engulfing Iraq. The scale and speed of these crises has placed many of the UK's largest INGOs under huge pressure, with some operating at record levels across multiple major emergencies. These crises have also rapidly become some of the most high-risk in recent history, presenting huge challenges relating to the security of staff and affected communities, physical access and logistics. These aid operations are being undertaken against a backdrop of intense geopolitical activity: the crises mentioned above are widely considered the 'frontline' of the fight against terrorism, and armed groups proscribed by the UN, the European Union (EU) and individual governments including the UK are in control of territory where civilians most in need are located. Due to the rise of social and other online media, aid operations in these contexts are subject to an exceptional level of public scrutiny.

The conflict in Syria is a source of particular concern. For British INGOs, the sheer scale of civilian suffering, coupled with the high levels of violence and insecurity and related lack of access for aid workers, is an overwhelming challenge; for the UK government, the risk that British citizens who have travelled to

Syria to fight will return to pose a 'jihadist' threat to the UK is considered severe (Home Office, 2014; Wintour, 2014).¹ Of particular concern to British INGOs, the government and the Charity Commission – the regulator for the charity sector in England and Wales – has been the rapid proliferation of ad hoc aid convoys² set up mainly by Syrian diaspora and Muslim communities in the UK to transport aid to Syria. Those organisations involved often have low safety and security standards and lack awareness of the threats that lie ahead. Delivering aid in this way is also not very cost-effective, as aid items could be bought more cheaply and transported at lower cost closer to the point of delivery. Convoys may also be used by potential fighters wishing to travel to Syria under cover as aid workers, or exploited by armed groups on the ground, which may divert the food, cash or other items for their own use. For these reasons, such convoys present an increased risk to the functioning of the wider international aid effort.³

The second factor stimulating interest in the impact of counter-terrorism measures concerns the effects they are having on INGOs' access to financial services. In the last three years, a number of international banks, including HSBC, UBS and NatWest, have closed accounts or blocked or delayed funds to or transfers from accounts held by UK-registered charities and INGOs. In most cases no detailed explanation was provided, but there is a widespread assumption that these actions stem from banks' concerns about risks relating to the financing of

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- 1 The UK security service MI5 has asserted that 'The nature of the conflict in Syria and the emergence of the Al Nusrah Front ... is leading to the country becoming an increasingly significant potential source of future threats to the UK and UK interests overseas' (<https://www.mi5.gov.uk/home/the-threats/terrorism/international-terrorism/international-terrorism-and-the-uk/foreign-fighters.html>).
 - 2 It is difficult to find an accurate estimate of the number of aid convoys travelling from the UK to Syria but these activities appear to still be ongoing: see www.aidconvoy.org.uk.
 - 3 William Shawcross, Chair of the Charity Commission, estimated that approximately 200 British charities working in Syria have been registered since the beginning of the conflict and that 'some of them are inexperienced and obviously more vulnerable to exploitation than bigger more established charities' (Ross et al., 2014).

terrorism. Such action by international banks is not new, but it has become more frequent and is affecting a larger number of organisations.

Third, the UK government is proposing expanded powers and increased resources for the Charity Commission. In June 2014, the government formally issued for consultation a draft ‘Charities Protection Bill’ that includes new powers for the Charity Commission. The draft bill follows a 2007 ‘Review of Safeguards to Protect the Charitable Sector (England and Wales) from Terrorist Abuse’⁴ in which the government asserted that, ‘while the scale of terrorist links to charitable activity is extremely small, in comparison to the size of the charitable sector, the scope for exploitation of charities by terrorists could become a significant aspect of the terrorist finance threat without appropriate and coordinated action now by the sector, regulator and government’ (Home Office, 2007: 3). The draft bill also follows critical conclusions by the UK parliament’s Public Accounts Committee that the Charity Commission was ‘not fit for purpose’ (Public Accounts Committee, 2014; BBC News, 2013) as a regulator, particularly in regard to its sparing use of existing enforcement powers. Similar concerns were raised by the National Audit Office (NAO, 2013).

The new legislation proposes that the Commission is granted powers including to ‘direct a charity to be wound-up following an investigation and where that would be more appropriate than attempting to restore the charity to health’ (Cabinet Office, 2014: 26) and to disqualify individuals that it considers unfit to be trustees (Burne James, 2014a). The proposals echo requests by the Commission itself to the government and publicly outlined by its chair, William Shawcross, as part of a tougher approach to non-compliance (Shawcross, 2013). The government has also promised £8 million in additional funding for the Commission over the next three years.

Finally, dialogue around the implications of counter-terrorism measures has increased among British INGOs and between British INGOs and the Charity Commission and the Department for International Development (DFID) and other government departments on this issue in the last 12 months, prompted largely

4 The Review was launched in 2006 by the government in relation to the development of an international best practice standard by the Financial Action Task Force on the prevention of terrorist abuse of charities.

by the factors outlined above. Member organisations of BOND, the UK INGO coordination body, have established a working group that meets regularly to share information and coordinate approaches to the government. The Charity Commission has also solicited regular meetings with the Muslim Charities Forum (MCF), a coordinating body representing the largest British Muslim INGOs, to discuss emerging issues relating to counter-terrorism measures. In October 2014, a roundtable involving the Charity Commission, British INGOs, banks and the UK Treasury was convened to discuss the challenges INGOs faced in accessing financial services. Since late 2011 the US Embassy in London has also been in dialogue with British INGOs, including Muslim INGOs, regarding the impact of US counter-terrorism measures on their work.⁵

For all these reasons, there has been increased concern amongst various stakeholders about how to mitigate the risks of abuse of British INGOs by individuals or groups engaging in terrorist or extremist activities and, for many INGOs, how to do so in a manner that does not undermine legitimate aid work.

1.1 Methodology and scope

This report examines the experiences of both Muslim and non-Muslim UK-registered INGOs with a view to determining the impact of UK counter-terrorism measures on their work in conflict zones, and offers a series of recommendations to reduce this impact. The report builds on previous research undertaken by HPG in 2010–11 (see for example Pantuliano et al., 2011), and by other organisations, including a report on behalf of the Inter-Agency Standing Committee (IASC)⁶ produced by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Norwegian Refugee Council (NRC) (Mackintosh and Duplat, 2013), as well as the work of Harvard’s Counterterrorism and Humanitarian Engagement Project (CHE).

5 For example, two roundtables were hosted by the US Deputy Ambassador with participation from the US Treasury, USAID, the US Department of State, the British Bankers Association, the UK Treasury, DFID and the Charity Commission.

6 The IASC is an international inter-agency forum for coordination, policy development and decision-making involving UN and non-UN humanitarian organisations. It is chaired by the UN Under-Secretary General for Humanitarian Affairs/Emergency Relief Coordinator. It was established in 1992 and endorsed by UN General Assembly Resolution 48/57 in 1993.

Box 1: The legal framework for charities in England and Wales

The primary legal framework for charities in England and Wales is the Charities Act (2011 and 2006).⁷ The law states that a 'charity' is an institution that is established for 'charitable purposes only' and 'is subject to the control of the High Court's charity law jurisdiction' (Charity Commission, 2013e: 2). The definition of 'charitable purposes' includes a list outlined in the legislation, including 'the prevention or relief of poverty', 'the advancement of education', 'the advancement of health or saving of lives', 'the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity' and 'the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage'. To register legally as a charity in England and Wales an organisation must also satisfy the 'public benefit requirement'. To do this a charity's purpose(s) must be 'beneficial' and 'any detriment or harm that results from the purpose must not outweigh the benefit'; it must 'benefit the general public or a sufficient section of the public'; and it must 'not give rise to more than incidental personal benefit' (Charity Commission, 2013b). A charity must apply to be registered with the Charity Commission if it has an annual income of more than £5,000 or is a charitable incorporated organisation, and is based in England and Wales. Registered charities are subject to a range of legal obligations outlined in charity law: they must submit information on their activities, including accounts, to the Charity Commission on an annual basis; they must tell the Charity Commission and the public about their work; they must only conduct activities that are considered 'charitable' in law; they must be run by trustees who do not benefit from the charity; and they must be independent. Registered charities are eligible for tax relief and reduced business rates and can access government grants and funds.

⁷ Charities registered in Scotland or Northern Ireland are subject to separate, though very similar, legal frameworks and regulatory bodies.

Box 2: British INGOs: quick facts

- 164,069 charities are registered with the Charity Commission in England and Wales
- 11,659 reported that they are engaged in some form of 'overseas aid or famine relief'⁸
- Over 440 INGOs are members of BOND – the independent UK network for NGOs working in international development⁹
- Over 1,600 Muslim charities registered with the Charity Commission¹⁰
- 56 British Muslim charities are engaged in international development and/or humanitarian aid (Kroessin, 2009; according to MCF, the number has remained broadly consistent).

Research for this report was conducted in autumn 2014. Due to the limited availability of quantitative data it was predominantly qualitative in nature. It included a review of available literature; semi-structured interviews and informal consultations with more than 40 individuals in UK INGOs (both Muslim and non-Muslim), the banking sector, the UK government, the Charity Commission and independent experts; a small quantitative survey of the ten members of the MCF; and a peer review process with key stakeholders. For the purposes of this report, British INGOs are considered as those registered with the Charity Commission and that have humanitarian and/or development aid operations (i.e. a physical presence) overseas. As a subset of this group, British Muslim INGOs are considered as those that are 'founded on the initiative of Muslims, that mobilize most of their support among Muslims, and whose action is, to varying degrees and in various forms, inspired and legitimated by the Islamic religion or at least certain tenets thereof' (De Cordier, 2009: 609).

⁸ Figures from the Charity Commission Register of Charities as at 30 September 2014.

⁹ See <http://www.bond.org.uk/about-us>.

¹⁰ Figures provided by the Muslim Charities Forum.

2 The INGO perspective

Previous HPG research concluded that the counter-terrorism measures introduced by various donor countries and organisations were affecting the work of international humanitarian organisations operating in high-risk contexts in several key ways:

- Access to funding had become more limited in some contexts as private and governmental donors became more reluctant to provide funding without concrete guarantees that it, or supplies purchased with it, would not inadvertently fall into the hands of proscribed armed groups.
- The administrative burden on humanitarian organisations had increased, reducing the efficiency and timeliness of aid.
- The beneficiary and partner vetting requirements imposed by some donors were undermining relations with local communities and local partner organisations.
- The lack of clarity on the implications of counter-terrorism measures had led to less transparency and accountability, with many humanitarian organisations admitting that they did not acknowledge their engagement with proscribed armed groups in some contexts, while private individuals turned to less regulated routes to donate cash.
- The fear of exposure to possible sanctions under counter-terrorism measures had influenced the programming priorities of many humanitarian organisations and made them reluctant to share information on their activities.

Research for this report indicates that these issues remain valid for British INGOs in relation to UK counter-terrorism measures and those of other jurisdictions, particularly the US. Several British INGOs interviewed for this study explained that they had suspended humanitarian operations in areas of Syria that had come under the control of Islamic State or other proscribed groups in large part because of the risk of exposure to prosecution in the UK or elsewhere.¹¹ Several also noted that they no longer worked with local partners in Syria due to the risks (and the time and cost involved in assessing these risks) that they may be linked to proscribed groups or individuals, instead implementing all their programmes directly through

their own staff. According to interviews for this report, some INGOs operating in Gaza during the conflict in 2014 refrained from delivering aid to displaced Palestinians who had taken refuge in schools run by the Hamas government because they feared that doing so would transgress US counter-terrorism legislation.¹² For the same reasons, some INGOs felt unable to provide rehabilitation support to government schools damaged or destroyed in the conflict.

More broadly, British INGOs interviewed for this report highlighted their continuing concern that some aspects of UK counter-terrorism legislation are too vague and open to wide interpretation.¹³ Concerns pertain mainly to engagement with proscribed individuals or groups and the diversion or theft of funds or assets belonging to the INGO by a proscribed individual or group. This concern was highlighted by the UK Independent Reviewer of Terrorism Legislation, David Anderson QC, in his 2014 report:

It has been suggested to me ... that there are criminal offences under UK anti-terrorism legislation which are also capable of impeding the legitimate activities of international NGOs in conflict areas. Among those which may need particular consideration in this respect are:
a). TA [Terrorism Act] 2000 section 12: see in particular sections 12(2)(b) and 12(3), which criminalise the arranging and addressing of meetings to 'further the activities' of proscribed organisations;
b). TA 2000 sections 14–18, which create general offences relating to the provision of funds or other property to individuals who use them for the purposes of terrorism (Anderson, 2014: 9.30).

11 In one case, Human Care Syria explained in an interview with BBC Radio Four that it was unable to deliver water filters to communities in the north-east of Syria until it could find 'a safe accessible route which doesn't entail us engaging with proscribed organisations' (Whelwell, 2014: 4).

12 Hamas is listed as a proscribed organisation under US counter-terrorism legislation.

13 For example, the related Explanatory Note on Section 12 of the Act articulates that 'genuinely benign meetings' with proscribed entities/organisations are permitted, but does not explain how 'benign' would be interpreted (BOND, 2015).

Box 3: The legal framework of UK counter-terrorism measures

The first terrorism-specific legislation was passed in 1974 in relation to terrorism linked to the situation in Northern Ireland (Anderson, 2015). Currently, there are four principal statutes related to counter-terrorism:

- The Terrorism Act (2000).
- The Terrorism Act (2006).
- The Terrorist Asset-Freezing etc. Act (2010).
- The Terrorism Prevention and Investigation Measures (TPIMs) Act (2011).

The UK has incorporated its obligations under the main UN Security Council resolutions and EU regulations into the Terrorist Asset-Freezing etc. Act (2010): Security Council Resolution 1373, EU Council Regulation 2580/2001, UNSCR 1267 and EU Regulation 881/2002.

The UK's legal definition of 'terrorism', as contained in Section 1 of the Terrorism Act (2000), is as follows:

the use or threat of action where ... the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

The 'actions' covered in this definition include those which involve 'serious violence against a person' or 'serious damage to property', or action which 'endangers a person's life, other than that of the person committing the action', 'creates a serious risk to the health or safety of the public or a section of the public', or is 'designed seriously to interfere with or seriously to disrupt an electronic system'. As noted by Mackintosh and Duplat (2013), this definition is wider than in other jurisdictions since it includes the threat to commit an act, as well as its actual commission.

UK counter-terrorism legislation is subject to independent review. The Independent Reviewer of Terrorism Legislation (currently David Anderson QC) is appointed by the government and has a statutory obligation to 'review and report annually to the Home Secretary or Treasury on the operation' of the four main statutes mentioned above (Anderson, 2015: 434). The report of the Reviewer is also presented to the UK parliament.

As noted in other research, current UK counter-terrorism statutes do not provide exceptions for humanitarian activities, unlike other jurisdictions such as Australia (Mackintosh and Duplat, 2013).

In UK law, under Section 17 of the Terrorist Asset-Freezing, etc. Act (2010), there is provision for the granting of licences to undertake actions related to making funds, financial services or economic resources available to or for the benefit of designated persons. Current US and EU sanctions regimes also envisage the possibility of licences allowing otherwise sanctioned activities in the context of humanitarian work.¹⁴ However, no information has yet been provided by the government as to how and under what circumstances an INGO could potentially apply for such licences in order to facilitate its aid work in high-risk contexts. Based on the experience of INGOs applying for waivers under US counter-terrorism measures, it is also not clear how useful waivers might be in such instances.¹⁵

¹⁴ See http://www.dec.org.uk/sites/default/files/files/Evaluations/Syria/Getting_aid_to_Syria.pdf.

¹⁵ Waivers under US counter-terrorism measures have been granted in relation to NGO activities in the Gaza Strip and Somalia. A detailed analysis is available at Mackintosh and Duplat (2013) and Counter-terrorism and Humanitarian Engagement Project (2013).

Whilst the areas of impact discussed above remain of crucial concern to British INGOs, the research for this report highlighted two additional and interlinked consequences of UK counter-terrorism measures, namely the difficulties British INGOs are facing in accessing financial services, and threats to the public reputation of British INGOs and the implications for their operations.

2.1 Access to financial services

In its 'Compliance Toolkit', the Charity Commission emphasises the importance of banking services for charities: 'Most countries in the world have formal banking systems in place. Using such systems is a prudent way to ensure that charity funds are safeguarded, and that appropriate audit trails are produced of the sort which trustees must keep for the receipt and use of money' (Charity Commission, 2013: 4:1). However, as recent experiences show, it is becoming increasingly difficult for British INGOs to

access effective financial services, including banking services, to facilitate and ensure good governance of their operations.

British INGOs face increasing restrictions on their access to financial services relating to the global regulatory framework in place to prevent the financing of illicit activities, including terrorism. The challenges are greatest for those INGOs working in contexts where proscribed armed groups are operating, such as Syria, Somalia, Afghanistan and Gaza, or in countries subject to international sanctions, such as Myanmar. Receiving, moving and storing money via the formal banking system has become more difficult for these INGOs as some banks have demanded ever-more detailed information about donors, recipients, partners and beneficiaries. In the worst cases, donations transferred to British INGOs and payments made by them have been delayed, blocked or returned; accounts have been frozen or closed, and requests to open new accounts have been declined. Credit card companies, online donation websites and internet payment service companies have imposed similar restrictions (HPG interviews).

In 2012, Islamic Relief Worldwide (IRW), the largest British Muslim INGO, with operations in over 30 countries, discovered that donations that account holders at Swiss bank UBS had tried to send to the charity had been blocked (Young, 2012). In 2014, the Ummah Welfare Trust, which has operations in the Gaza Strip, was notified by HSBC that its account was to be closed (Hooper, 2014). Another INGO interviewed in this research estimated that it had foregone £2m in donations in the preceding 12 months as a result of funds being blocked, and had had to return funds to a donor because it was unable to get them through to their intended destination overseas. Another INGO explained that all of its attempts to transfer funds for aid operations in Myanmar had been blocked by its main bank due to international sanctions. Salaries paid into the bank accounts of aid workers living outside the UK can also be delayed or blocked. Banks have raised particular concerns in relation to large aid operations. For example, ahead of the Disasters Emergency Committee (DEC)¹⁶ appeals for Syria and Gaza, banks' concerns about collecting and distributing funds for these destinations led to discussions with the Charity Commission and DEC

members on the end use of the funds collected, and to obtain assurances for the banks about INGOs' institutional procedures (HPG interviews).

In a 2012 survey of member organisations of the MCF, three out of eight respondents stated that they had experienced difficulties in opening a bank account; half said that their most serious challenge in accessing financial services was transferring funds; and those affected indicated that the greatest problems related to their aid operations in Somalia, Sudan, the occupied Palestinian territories and Iraq. Whilst many of the Muslim INGOs interviewed for this study felt that they were being discriminated against in relation to their access to financial services, secular or other faith-based INGOs also reported difficulties, including having to provide extensive details and documentation in order to open new accounts and delays in transfers.

Withdrawal of or delays to financial transactions are not just an administrative matter: they have serious implications for aid operations. Interviews for this report revealed several instances where delayed financial transfers have resulted in delayed or suspended aid operations; and delayed payments to local suppliers or service providers in conflict areas have resulted in threats to withdraw services and physical threats to staff on the ground. Some INGOs asserted that they were having to increasingly transport cash to high-risk contexts, rather than using electronic banking transfers, and that this inevitably placed staff and offices at increased risk of attack. Using cash or money wiring services also makes it more difficult to account for the end destination of funds.

2.2 Reputational threats and implications for operations

Many British INGOs interviewed for this research, and quoted in the available literature, have expressed deep concern at incidents – though small in number – of abuse of charities by individuals or organisations engaging in or supporting extremist or terrorist activities. Such incidents or alleged incidents are, they assert, damaging their reputation as a sector. They also argue, however, that governmental and other actors in the UK, including the media, are overstating the prevalence or likelihood of such abuse, and that this is having implications for their work.

16 The DEC is an umbrella organisation of 13 major UK charities. See <http://www.dec.org.uk/about-dec>.

With regard to INGOs and extremism or terrorist activities, there has been a series of investigations into allegations of abuse of British INGOs working in Syria in the last two years. In 2013–14, the Charity Commission carried out full statutory inquiries – the most serious level of investigation – into five British INGOs (all Muslim) operating in or raising funds for Syria.¹⁷ Al Fatiha Global, the aid convoy with which murdered British aid worker Alan Henning travelled to Syria, is currently being investigated by the Commission over ‘regulatory issues in connection with reports in the public domain alleging inappropriate links between the charity and individuals purportedly involved in supporting armed or other inappropriate activities in Syria’ (Charity Commission, 2014b)¹⁸ and the Commission has appointed an interim manager at the charity (Charity Commission, 2015). Children in Deen is being investigated by the Commission because of concerns regarding its management and administration, including its alleged responsibility for administering an aid convoy from various charities in which a suicide bomber from the UK allegedly travelled to Syria in July 2013 (Charity Commission, 2014c). Both organisations have denied any links to terrorism, and Al Fatiha Global has launched an appeal against the decision to open a statutory inquiry. The inquiry into a third charity, Aid Convoy, is ‘examining issues relating to the end use of charitable funds, and whether there has been any mismanagement or misconduct on behalf of the charity trustees’. The fourth inquiry, into Syria Aid, is focused on ensuring that ‘the charity is registered and has proper governance systems in place, in particular a sufficient number of trustees to operate, and proper financial management arrangements. The inquiry will also examine concerns about its application of its funds’ (Charity Commission, 2014a). The fifth charity, Human Aid, is being investigated in relation to ‘concerns about the charity’s management, including concerns about poor financial controls and record keeping, including inadequate fundraising controls, and concerns about a lack of trustee oversight’ (Charity Commission, 2014d).

In addition to these cases, the Commission, the government and commentators have expressed serious concern regarding the risk that funds provided to British charities, particularly smaller organisations, are

being diverted, knowingly or unknowingly, to terrorist or extremist groups (Ross et al., 2014). For example, three men subsequently convicted of terrorism offences in the UK fraudulently posed as volunteers for Muslim Aid, one of the largest British Muslim INGOs, collecting up to £14,000 from the public (Rimmer, 2013). The Charity Commission has stated that ‘in total, as at the end of September [2014], there were 37 active cases dealing with regulatory issues or concerns connected to charities raising funds for or operating in Syria’ (Corfe, 2014).

Such incidents and alleged incidents of abuse have done much reputational damage to Muslim INGOs and, to a lesser extent, to British INGOs in general.¹⁹ As asserted by the Chair of the Charity Commission: ‘even if extremist and terrorist abuse is rare, which it is, when it happens it does huge damage to public trust in charities’ (Ross et al., 2014). Whilst strongly condemning such incidents, representatives of British INGOs interviewed in this research stressed that the risks are being overstated and that the UK government and the Charity Commission have taken an overly hard line towards INGOs operating in high-risk contexts. British INGOs are particularly concerned at the government’s explicit involvement of the Charity Commission in its counter-extremism and counter-terrorism strategies, fearing that this is resulting in a major shift in the Commission’s focus to counter-terrorism and counter-extremism, with greater policing of charities on behalf of the government. Several have expressed concerns that this has meant less support to charities to improve their due diligence standards and compliance with their broader obligations with respect to fraud, money laundering and good governance.

INGOs interviewed highlighted the following specific concerns: the Commission is an official partner in the government’s counter-terrorism strategy (‘PREVENT’);²⁰ the government has asserted that current proposals to expand the Commission’s powers ‘will help us tackle extremism, as well as other abuses of charitable status’ (UK Government, 2013: 3) and that the additional £8m in funding it has made available aims to ‘boost the Charity Commission’s

17 In total in 2013–14, the Commission opened 64 statutory inquiries.

18 Media reports published in April 2014 alleged that an official of the organisation was photographed with armed groups inside Syria. See Ribeiro, 2014.

19 See for example articles from the *Daily Mail* (Evans, 2014) and BBC News (Casiani, 2014).

20 PREVENT is part of the national counter-terrorism strategy, CONTEST. It is led by the Home Office and works with a range of sectors to mitigate risks of radicalisation. See <https://www.gov.uk/government/policies/protecting-the-uk-against-terrorism/supporting-pages/prevent>.

ability to tackle abuse, including the use of funds for extremist and terrorist activity’ (Prime Minister’s Office, 2014); Shawcross, the Chair of the Commission, is a conservative political commentator and journalist who has written extensively about terrorism; and Peter Clarke, appointed to the Commission’s Board in 2014, is a retired Deputy Assistant Commissioner of the Metropolitan Police and former head of the Counter-Terrorism Command. Many INGOs interviewed also pointed to Shawcross’ much-discussed statement that ‘the problem of Islamist extremism ... is not the most widespread problem we face in terms of abuse of charities, but is potentially the most deadly’ (Kerbaj, 2014), and to recent remarks made by the Commissioner of the Metropolitan Police, Sir Bernard Hogan-Howe, that the public should be careful who they give money to in case it ends up in the hands of a proscribed armed group (Burne James, 2014b).

There are also concerns that public statements or remarks to the media by government officials could be lending weight to the actions of other governments cracking down on legitimate INGOs (including UK-registered INGOs) or seeking to limit their aid activities for political reasons (HPG interviews). In a recent letter to the UN Security Council, the Syrian government argued that UN cross-border aid was not only illegal but went to ‘terrorists’. The letter, published by the Security Council (UNSC, 2014), referred specifically to media articles on the number of cases the Charity Commission was investigating in relation to allegations of diversion of charitable funds to Islamic State. Whilst there is no evidence of a link to the UK, several INGOs interviewed also referred to the inclusion of IRW in a list published by the United Arab Emirates in November 2014 of 80 entities it designated as terrorist organisations (Delmar-Morgan and Osborne, 2014; WAM, 2014); and to the decision of the Kenyan authorities in December 2014 to de-register over 500 NGOs and charities, and its threats to do the same for a further 12, including Médecins San Frontières and Concern Worldwide (Jamah, 2014).

Many interviewees highlighted the vulnerability of British Muslim INGOs to unfounded or sweeping allegations of links to extremism and terrorism made in the media. For example, the Quilliam Foundation, a counter-extremism think-tank, reportedly asserted that ‘when you take out the major charities like the British Red Cross and the Red Crescent, more than half of the “aid” that goes out to Syria ends up with militant groups’ (Sharkov, 2014). No evidence was provided to

support this assertion. Allegations have also been made against individual British Muslim INGOs: Interpal, IRW and Muslim Aid have all been subject to repeated media allegations that they are linked in some way to extremism or terrorist activities or groups (Delmar-Morgan and Osborne, 2014a; Gilligan, 2010; Bingham and Lazareva, 2014), though none has reportedly been found to be in breach of UK charity law by the Commission. Although a brief internet search highlights allegations against secular or other faith-based British INGOs, few, if any, are related to extremism or terrorism.²¹ Interviewees highlighted that many allegations appear on conservative media sites based overseas, and that INGOs have no recourse to challenge the allegations or remove articles from public view.

Such media reports can seriously damage an INGO’s reputation, and by extension undermine its ability to raise funds, engage partners and garner other support for its work.²² In the case of IRW, the organisation was made aware in June 2014 that an article in the Israeli press claimed that it had been ‘banned’ by the Israeli government (Jerusalem Post, 2014). IRW explained that it had not received any communication from the Israeli government on this issue prior to the publication of the article. The piece was covered by the media in the UK and abroad and led to IRW spending a substantial amount of time and effort trying to address concerns raised about its activities that were not backed up with detailed information or evidence. IRW felt obliged to withdraw from the DEC Gaza Appeal in 2014 while it investigated the concerns – a decision that reduced the overall level of funding it could access for the emergency. An independent audit investigation carried out subsequently found no evidence of any link to terrorist activities in IRW’s operations in the occupied Palestinian territories (Price, 2014). In September 2014 Stand for Peace, a Jewish-Muslim interfaith organisation focused on counter-terrorism, counter-extremism and social cohesion, published an article calling the MCF ‘Islamist’ and

21 In 2014 Oxfam was repeatedly accused of funding and supporting ‘anti-Israeli’ activities, following a much-publicised split with Goodwill Ambassador Scarlet Johansson over her advertising deal with SodaStream, which has operations in Israeli settlements in the West Bank. See Lazaroff (2014) and Canadian Jewish News (2014).

22 This was also raised during an HPN public event on 6 December 2014 – see HPN (2014). The Claystone report provided an example of an INGO whose donations had declined significantly, reportedly as ‘a direct result of Commission investigations and sensationalist media reporting of them’. See Belson, 2014: 7.

alleging that its members ‘all stand accused of funding terror or promoting extremism’ (Stand for Peace, 2014). The allegation was picked up by the *Telegraph* newspaper in the UK, which wrote its own article on the subject (Turner, 2014). The Department for Communities and Local Government (DCLG), which had been a key partner of MCF for several years and provided funding for some of its activities, promptly demanded that MCF respond to the allegations and suspend the activities it funded until further notice. The DCLG has subsequently notified MCF of its intention to terminate funding (Pickles, 2014).²³

Collectively, the experiences outlined above have fuelled frustration amongst British INGOs – frustration at those who have or are alleged to have abused British charities and frustration at what they perceive to be a heavy-handed response by the authorities to all INGOs. Some British Muslim INGOs believe that they are being disproportionately affected by the UK’s counter-terrorism regime; that they are subject to greater scrutiny and held in greater suspicion than secular and other faith-based INGOs by the government and parts of the media; and that they are being actively discriminated against by some banks in the provision of financial services.

2.3 Risk exposure

By the very nature of their work, many British INGOs engaged in humanitarian activities overseas are exposed to the risk of abuse or exploitation by individuals or organisations engaged in extremist or terrorist activities. Their risk exposure relates to several factors, the most significant of which is their necessary engagement with proscribed organisations or individuals.

Many British INGOs work in conflicts and other crises around the world where proscribed armed groups are in control of large areas of territory, often where civilians most in need of emergency relief are located. As a result, these INGOs are necessarily engaging with groups such as Hamas, Al Shabaab and the rapidly proliferating armed groups in Syria and Iraq. This engagement does not consist of delivering aid with, for or alongside these groups. Rather, it involves

²³ MCF issued a public statement in response stating that it ‘rejects the basis on which this funding decision has been made’, that the allegations made against MCF were unsubstantiated and that it would consider ‘all options available to contest the DCLG’s decision and allegations’ (MCF, 2014).

Box 4: Humanitarian engagement

Humanitarian engagement with all authorities, de jure and de facto, has been recognised as an essential component of humanitarian aid operations for decades; it is intrinsically linked to Common Article 3 of the Geneva Conventions of 1949, which asserts that an ‘impartial humanitarian body ... may offer its services to the Parties to the conflict’,²⁴ as well as with the humanitarian principles of neutrality, impartiality and independence endorsed by the UN General Assembly.

essential communication with them for the purpose of gaining access to the civilian population and obtaining guarantees for the safety of an agency’s staff and assets, and of intended aid recipients.

Engagement with such groups and working in areas of high levels of violence increases the exposure of INGOs to physical risks to staff (i.e. death, kidnapping or injury) and assets (i.e. theft or ‘taxation’), as well as to less visible risks of fraud, money laundering or diversion of funds to individuals or organisations posing as beneficiaries or partners. It also brings secondary risks of exposure under the counter-terrorism measures of the UK and other donor countries (i.e. investigation, termination of funding, criminal prosecution, reputational damage).

Research for this report indicates that British Muslim INGOs operating in Syria, the occupied Palestinian territories, Iraq and Somalia may have particularly high levels of risk exposure due to a number of factors. Their Islamic values and the Arabic and local language skills of many of their staff, as well as their predominant use of national rather than international staff, tend to offer important advantages, enabling them to access needy populations in areas of these countries that are often considered too insecure for secular or other faith-based INGOs (Petersen, 2012; Benthall, 2012; Khan, 2012; De Cordier, 2009). As noted above, Muslim charities also tend to be held in greater suspicion and subject to greater scrutiny by the media (Third Sector, 2014), particularly during periods of intense public discussion of armed conflict and terrorism.

²⁴ More detailed analysis on counter-terrorism measures and engagement with proscribed entities is presented in Mackintosh and Duplat, 2013.

Box 5: *Zakat*

Zakat (alms-giving) is one of the five pillars of Islam. It is a religious obligation on Muslims to provide a fixed portion of one's wealth or income as charity. It is calculated at 2.5% of annual cumulative wealth and, since it provides a connection between the giver and the recipient, it is traditionally given as cash directly to a person or people in need. Use of *Zakat* is subject to specific conditions and evinces a strong connection between the giver and God.

A third factor contributing to higher risk exposure for Muslim organisations relates to the inherent challenges in balancing the Islamic concept of charity with the requirement for professional institutional standards. Muslim charities and INGOs were established by, and remain highly dependent on, their local communities – both as a source of funding and of legitimacy as Muslim organisations. However, these communities can be very conservative and unwilling to accept changes in the way that donations are collected and utilised. Some are unable to appreciate that this is necessary to ensure compliance with charity law. For example, it is difficult for some Muslims and Muslim communities to accept that *Zakat* can be passed through a large INGO that may use the contribution in ways that they are not sure will conform with certain religious practices or concepts (such as to pay for administration or logistical costs or to purchase aid materials). Many therefore prefer to provide *Zakat* to smaller organisations, often based in their communities and run by volunteers, that they believe will pass it *directly*, as cash, to needy individuals or families.

Another charge commonly levied in the media or by commentators against British Muslim charities, including INGOs, is that they or individual trustees have links to individuals or groups that have voiced politically controversial or extremist²⁵ views, or that individuals with such views have spoken at charity events. For example, with respect to Interpal the Charity

Commission concluded in 2009 that one of the Charity's trustees could not 'properly discharge his responsibilities to the Charity' as he simultaneously held a position in the controversial Palestinian organisation the Union for Good (Charity Commission, 2009: 23). In its annual reports in 2012–13 and 2013–14 the Commission lists several cases relating to unnamed charities and events involving individuals known to have extremist views (Charity Commission, 2013d: 24; Charity Commission, 2014e: 22). Several interviewees for this report explained that such incidents stem from the lack of a clear understanding amongst some Muslim charities and their local communities of the distinction between charitable activities and 'political activism',²⁶ particularly in relation to conflicts or other crises affecting Muslim populations in countries such as the occupied Palestinian territories and Iraq. Interviewees also pointed to a lack of understanding on the part of some charities or their constituents of the role and responsibilities of trustees. Some Muslim charities feel under pressure from their local communities to appoint local community or religious leaders as trustees, even when the individuals concerned may not be best placed to take on such a role.

The Charity Commission has clearly stated that charity law is consistent with rights to free speech and that charities are not prevented from inviting speakers with controversial views so long as those views are not in violation of UK law (Charity Commission, 2013d: 26). However, it has also emphasised that 'someone with controversial views can be invited to a charity event to speak but the trustees will need to be clear about how this will further the charity's objects and take active steps to manage the risks' (Charity Commission, 2013d: 23).²⁷ With respect to trustees more broadly, the Commission has asserted that 'trustees must also ensure that their conduct in their

25 Since the 2011 revised 'PREVENT' strategy, the UK government has defined extremism as 'vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas' (Prime Minister's Task Force, 2013).

26 Charity Commission guidance on 'charitable purposes' makes clear that an organisation can only engage in political activity if it is 'part of a wider range of activities aimed at furthering the organisation's charitable purposes' (Charity Commission, 2008: 11).

27 For example, in respect of the Cambridge Union Society, which had invited Marine Le Pen, leader of the French Front National, to speak at an event, the Commission found that the Society had 'followed a rigorous procedure for making decisions about which speakers to invite in furtherance of the charity's objects and for managing risks associated with controversial speakers'. This included seeking legal advice regarding speakers invited to events, including to review the text of speeches before they are given to ensure they do not contravene UK law; warning speakers that they would be interrupted if they said anything which might be in breach of UK law; and instituting security measures for events (Charity Commission, 2013d: 26).

personal capacity does not impact negatively upon their charity's reputation ... Any personal associations between a trustee and serious criminal activity such as terrorism would have a significant negative effect on public confidence in their ability to discharge their responsibilities as charity trustees' (Charity Commission, 2009: 21).²⁸

Finally, many Muslim INGOs are established in response to specific crises. Because of the generosity of their local communities and those communities' heightened concern about particular crises, these organisations are often able to raise huge amounts of funding very quickly.²⁹ Managing such rapid growth in operations in conflict contexts is challenging, and some representatives interviewed in this research admitted that they have some catching up to do with regard to fully implementing appropriate financial, administrative and risk management systems. Overall, there is a tendency among some Muslim INGOs to prioritise the 'cause' and those who support it ahead of the organisation and its institutional framework and procedures. Whilst such commitment to charitable action is laudable, a charity or INGO cannot meet the expectations of its supporters and beneficiaries if it does not have the correct standards and procedures in place, in full compliance with the law.

2.4 Risk management

Despite understanding the broad scope of the risks they face in operating environments around the world, related to counter-terrorism measures or otherwise, the majority of British INGOs interviewed for this report expressed concern that risk management and due diligence procedures are still insufficiently robust across the sector.

²⁸ The Commission also includes specific guidance on this issue in Chapter 5 of its 'Compliance Toolkit'.

²⁹ For example, Muslim Hands was established by a Muslim community in Nottingham in the 1990s in response to the conflict in the Balkans, but now has operations in over 50 countries and an annual expenditure of over £7m. Although not a 'Muslim' INGO, Syria Relief similarly was established in 2011 in Manchester by a group of Syrian expatriate medics in response to the conflict in Syria. Today it has an annual budget of up to £6m.

Whilst the type of incidents alleged against Children in Deen and Al Fatiha Global are thankfully rare, general fraud is less so. For example, in 2011–12, the Charity Commission recorded 305 cases of fraud – almost one-third of all 'serious incident reports'. Such cases may involve abuse by staff, trustees, donors or, as in the case of Muslim Aid mentioned earlier, by individuals fraudulently raising money in the name of a charity. Smaller, newly established INGOs often find it particularly difficult to institute the necessary risk management and due diligence procedures, whilst responding to increasing demands for aid. Hiring appropriately qualified financial, administrative, security and compliance staff is often difficult on small budgets, but it is also not necessarily considered a priority by some new or expanding INGOs and charities.

However, some British INGOs, such as IRW and Oxfam, are instituting increasingly robust risk management and due diligence procedures based on professional standards for preventing fraud and money laundering, as well as more specifically related to counter-terrorism measures. These and other organisations have begun screening staff, partners and even beneficiaries against lists of proscribed individuals or entities. Using databases/software provided by a range of suppliers, often at significant cost, some INGOs are able to screen against lists provided by inter-governmental bodies such as the UN and the EU and national governments. One INGO interviewed for this report explained that it now screens every single staff member across its global operations – from senior management to cleaners, as well as all service providers, including the hotels its staff stay in, using the same level of software as that used by international banks. The resources required for such due diligence are, however, significant and are more-or-less fixed, meaning that it would cost smaller INGOs roughly the same amount of money as larger ones, but constitute a far higher proportion of their budget.

Although there are also other factors at play, these high levels of risk, and the often inadequate of that risk by INGOs themselves, are key factors driving the approach of the Charity Commission, the government and the banking sector.

3 The banking perspective

Research for this report shows that two primary factors influence the way that the majority of banks and other financial service providers deal with British INGOs: profitability and risk. Fundamentally, most INGOs and other charities are simply not particularly profitable for banks. Banks commonly argue that, if a client is not going to generate a minimum level of revenue, pursuing a relationship with that client would be irresponsible from a commercial standpoint. This criterion was highlighted in the injunction judgment against Barclays in the case of Dahabshiil, a money service business whose account the bank wanted to close.³⁰ In addition, banks also generally consider that dealing with INGOs increases their exposure to risks of censure or fines under counter-terrorism measures. The result, as bluntly stated in letters sent by HSBC to charities whose accounts it had closed, is that they are deemed to be ‘outside [the] risk appetite’ of the bank (Ummah Welfare Trust, 2014; see also Keatinge, 2014). Simply put, the limited revenue that most INGOs may generate for a bank is not sufficient to justify the risks that banks believe doing business with INGOs will expose them to.

The global counter-terror finance regime and the emergence of regulations and recommendations for government action on banking following 9/11 is key to understanding banks’ exposure to risks and their related lack of risk tolerance. At the heart of this regime lies the Financial Action Task Force (FATF), a global inter-governmental body originally set up in 1989 to tackle money laundering by the Latin American narcotics industry. Following 9/11, FATF’s mandate was expanded and its original 40 ‘Recommendations’ were quickly supplemented with nine ‘Special Recommendations’ focused on terrorist financing, one of which, Recommendation 8, drew attention to the particular vulnerability of non-profit organisations and charities to abuse for the financing of terrorism (FATF, 2012: 13). According to the Recommendation:

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (a) by terrorist organisations posing as legitimate entities;*
- (b) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and*
- (c) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations (FATF, 2012: 13).*

FATF’s ‘Interpretive Note to Recommendation 8’ seeks to provide greater nuance, advising that ‘measures adopted by countries to protect the NPO [non-profit organisation] sector from terrorist abuse should not disrupt or discourage legitimate charitable activities’ (FATF, 2012: 54).

Countries and their banking systems are regularly peer-reviewed by FATF for compliance with its Recommendations, and are expected to have translated the Recommendations into national law. FATF has no enforcement power, but failure to comply can lead to censure from it, with damaging consequences for a country’s financial sector as the perceived risk of dealing with a country deemed to have poor controls results at best in greater costs, and at worst in financial exclusion.

INGOs have argued that, whilst in some instances their operations may expose them, and their banks, to risk, it is wrong to overstate this risk and that the number of actual cases of concern is exceedingly small. FATF has sought to address the concerns of INGOs by undertaking a limited update of its ‘Best Practices Paper’ ‘to reflect the revised FATF Recommendations and the need to protect NPOs’ (FATF, 2013: 3). It has also published a typologies report aimed at advancing the ‘understanding [of] the terrorist threat to the NPO sector’ (FATF, 2014: 1). But, partly as a consequence of the environment created by the interpretation of FATF’s recommendations, banks have effectively

³⁰ In his judgement on an application requesting an injunction against the account closure by Dahabshiil, Mr Justice Henderson noted that ‘the view was taken that it would not be commercially viable for Barclays to continue to provide services to any customer representing less than £100,000 in annual revenue’ (Henderson, 2013).

taken action to ‘de-risk’ their balance sheets and rid themselves of any business that might expose them to penalties or sanctions for breaching the global regulatory framework, particularly if (as in the case of INGOs and other charities) the business offers limited profitability.³¹

Interviews conducted for this report indicate that, whilst banks are spending billions building ever-more extensive risk and compliance departments – KPMG estimates that global annual expenditure on risk management is likely to exceed \$10bn in the next two years (KPMG, 2014) – they are not necessarily investing resources in enhancing their understanding of INGOs to the same degree as other categories of client. Interviews with stakeholders suggest that some banks appear to rely only on electronic risk analysis software³² (which considers a range of sources of information including media reports) to determine the risk level that an INGO or other charity may present. Risk management staff tend to spend little extra time or resources in critically reviewing the results of this automated analysis. In several cases, including IRW, such software has discredited INGOs on the basis of unverified online or media reports, resulting in refusal to process transactions or other negative action by some financial institutions.³³

The majority of British INGOs facing challenges in accessing financial services have not been or are not currently of concern to the Charity Commission – IRW is a case in point. However, some representatives of the banking sector consulted in this research asserted that their sector generally has little confidence in the charity regulator because they do not believe it has particularly robust powers. Thus, they do not seriously consider a statement or other indication of support by the Commission in their assessment of the risk that an INGO or charity may pose. Moreover, given the

31 This issue was the subject of a private report prepared by the BBA for the G20 in 2014, which highlighted the impact that de-risking has had on a range of industries and businesses, including in the development and humanitarian sector. See Arnold and Fleming, 2014.

32 A recent report indicates that ‘entire industries have grown around consulting and advising businesses and governments’ on compliance with counter-terrorism measures (Centre on Law and Globalisation, 2014).

33 Mackintosh and Duplat (2013) highlight another case in which a financial institution initially refused to process a transaction from a donor to a Muslim INGO due to a World-Check report which flagged allegations against the INGO’s trustees.

Box 6: Private sector compliance tools

Whilst financial institutions screen clients (both individuals and entities) against the formal lists published by the UN, the US Office of Foreign Assets Control (OFAC), the EU and others, a private sector compliance industry has grown rapidly in recent years, casting the net over an even greater number of potentially ‘risky’ counterparts. One such company is World-Check which, according to its website, monitors ‘over 400 sanction, watch and regulatory law and enforcement lists, and hundreds of thousands of information sources, often identifying high-risk entities months or years before they are listed’. World-Check claims that ‘in 2012 alone’ it ‘identified more than 180 entities before they appeared on the US Treasury Office of Foreign Assets Control (OFAC) list’.³⁴ Whilst these tools automate the screening of clients against official and unofficial lists, they inevitably alert banks to client names that are not on official sanctions and designation lists. How a financial institution chooses to interpret these ‘hits’ is up to the institution in question, but there is no doubt that the proliferation of such unregulated private sector compliance tools has increased rather than decreased ‘de-risking’: once a name is flagged as potentially risky, it is far more work for a financial institution to investigate and retain a client than it is to de-risk, particularly if the client in question is of limited profitability.

current climate in the banking sector, risk managers in banks or other financial service providers have little incentive to advocate on behalf of risky clients, as indicated recently by the Chairman of HSBC: ‘An observable and growing danger of disproportionate risk aversion [is] creeping into decision-making in our businesses as individuals, facing uncertainty as to what may be criticized with hindsight and perceiving a zero tolerance of error, seek to protect themselves and the firm from future censure’ (Arnold and Braithwaite, 2014; see also Wesseling, 2014).

For their part, some INGOs and charities have, to an extent, inadvertently discouraged banks from taking

34 See <http://accelus.thomsonreuters.com>.

reasonable risks as a result of their own lack of action. As noted earlier, many British INGOs and other charities have insufficient due diligence procedures and, as evidenced in research for this report, make little effort to develop relationships with their banks, explain their work and the nature of the risks they face, or take time to understand the risks that banks are facing or how they, the client, may help mitigate them. Many charities operate their bank accounts as they do their own personal accounts: once the account is opened there is little contact or dialogue with the bank unless a problem arises. Relatively few make an effort to explain to their bank relationship manager the nature of their work or their institutional due diligence procedures, or provide advance warning or explanation of transactions to high-risk contexts. One representative of the banking sector interviewed noted that ‘banking is not a right, it must be earned’ and that the failure to act responsibly by providing full and frank information to their bank regarding their work and activities undermines the trust banks have in INGOs. Other interviewees reiterated that INGOs must ensure regular engagement with their banks to explain their activities and to inform a bank’s assessment of the risk they may expose it to. Such engagement, they asserted, may help to reduce the risk that the bank will withdraw or restrict services.

More significant, however, is the role of the government on this issue. Interviews conducted with the banking sector for this report highlighted that

the lack of specific guidance from the government (specifically the Treasury) on how banks should interpret UK legislation pertaining to terrorist financing has left them with little option but to take a broadly risk-averse approach for fear of finding themselves in breach of the law.³⁵ This fear is exacerbated by the demonstrated extra-territorial reach of the US authorities when it comes to levying significant fines on UK banks such as HSBC and Standard Chartered. As noted by the UK’s Independent Reviewer of Terrorism Legislation: ‘The abuse of charitable status for the funding of terrorism is a serious and important issue. But the wider the net of terrorism is cast, the greater the chance that financial impediments will be placed in the way of positive and worthwhile NGO activity’ (Anderson, 2014: 9.31(b)). This ‘wide net’ – the conservative interpretation of UK counter-terrorism measures – is generating precisely those fears that accelerate de-risking by banks. In order to break the impasse, it is critical for the government to provide clearer guidance and engage in these complex issues in a more meaningful way, as well as utilising its reportedly close ties with the US Department of the Treasury to engage the US authorities.

35 It should be noted that in cases where governments have provided guidance to banks, such as US government clarification on Iranian sanctions or UK government guidance on remittance companies, banks have still remained highly risk averse.

4 The government perspective

Several government departments are concerned with the impact of counter-terrorism measures on British INGOs, including DFID, the Treasury and the Home Office. DFID for its part has been well aware of the impact of the counter-terrorism measures of the UK and other donor countries on British INGOs for years. Responding to requests from its partner INGOs for clarity on its policy, DFID has recently developed a global risk management framework that outlines its expectations for improved risk management procedures from its partners and its commitments with regard to supporting them in their work. DFID noted that, whilst the development of this framework had largely stemmed from the debate on counter-terrorism measures, it also sought to address the wider array of threats that INGOs face in both high- and low-risk contexts, hence its application to all DFID-funded INGO partners globally (HPG interviews). Whilst appreciating the concerns of many INGOs regarding the impact of UK counter-terrorism measures and those of other jurisdictions, DFID explained that these concerns should not deflect from the need to institute minimum professional standards – standards that all charities in the UK are obliged to adhere to (HPG interviews).

Efforts to provide clarity on DFID's expectations are welcome. However, though the risk management document is not yet widely available, comments from one INGO interviewed in this study indicated that more work may be required to ensure that the standards it outlines are workable in practice. A further concern highlighted by several INGOs interviewed in this research was the lack of sufficient high-level public support or acknowledgement from DFID, traditionally seen as their main advocate in government, for British INGOs engaging in high-risk contexts – particularly in instances where unfounded allegations are made against them in online media or by foreign governments that may be parties to the conflicts in which INGOs are operating.

For its part, the Treasury has, on occasion, provided support to organisations facing difficulties in accessing

financial services, including by confirming officially that an organisation is not subject to financial restrictions under UK law – as it did in the case of CAGE when its accounts were closed by Barclays and the Co-operative Bank (CAGE, 2014). Research for this report also indicates that the Treasury has in some cases written to banks to ask them to consider taking on an account being closed by another bank. However, more generally the Treasury has repeatedly emphasised that 'individual commercial decisions of financial institutions are informed by their own compliance and risk policies and are not ones that the Treasury or the regulator can or should determine' (CAGE, 2014). This contrasts with the views of several interviewees, including in the banking sector, who highlighted that it is the lack of clarity from the Treasury on how banks and other financial service providers should interpret UK legislation that is driving their overly conservative approach to British INGOs and charities.

Prompted by the recommendations of the 2014 report of the UK's Independent Reviewer of Terrorism Legislation, the Home Office, the designated lead department for the government's counter-terrorism efforts, has recently initiated a tentative dialogue with representatives of the British INGO community, together with other government departments. However, the sustainability and impact of this dialogue is not yet clear and the active engagement of the Treasury in this process will be key to addressing challenges relating to access to financial services.

Overall, research conducted for this report suggests that the approaches of the various government departments on this topic are not coherent and that there is little joined-up thinking on how to address the concerns raised by different stakeholders. This lack of a cross-Whitehall strategy is adding to the confusion and frustration among all those involved: greater leadership and coherence from the government is clearly required.

5 The Charity Commission perspective

The Charity Commission is in a ‘tricky’ position (Ainsworth, 2014): it must balance its role to ‘police’ the charity sector – taking action to ensure that charities are complying with all aspects of charity law – with its role to provide guidance to, and build the capacity of, a huge variety of charities to ensure that they can all comply. The key concern raised by INGOs in this study and in other fora, including to the Joint Committee on the Protection of Charities Bill (2014: 7:234), is that recently there has been far greater emphasis on the former (particularly in relation to counter-terrorism efforts) and much less on the latter.

There has certainly been a tougher approach by the Commission in the last two years. The number of instances in which the Commission used its compliance powers³⁶ tripled between 2012–13 and 2013–14 (from 216 to 720) (Charity Commission, 2014e: 5) and a class inquiry was launched as part of a crackdown on charities that repeatedly fail to comply with the requirement to submit annual reports and accounts. The decision in 2014 to publicise the names of charities that the Commission is investigating caused some controversy, with some in the sector expressing concern that this would do serious damage to the reputation of charities under investigation even if it was later concluded that they were not in breach of the regulatory framework (HPG interviews). However, the Commission has argued that this is necessary in the public interest (its primary reference point), promotes public confidence in its work as a regulator and has ‘encouraged’ the charities concerned to work more effectively with the Commission in

order to resolve cases as quickly as possible (Charity Commission, 2014e: 8–9).

This tougher approach, strongly encouraged by parliament, should be seen in the broader context of the need for improved risk management and

Box 7: The role of the Charity Commission

The Charity Commission is a ‘non-ministerial government department with quasi-judicial powers’ that answers to the UK parliament. Although it has its origins in the Charitable Trusts Act of 1853, the current form and nature of the Commission was established by the Charities Act of 2006. The Commission’s primary role is ‘to protect the public’s interest in charities and ensure that charities further their charitable purposes for the public benefit and remain independent from private, government or political interests’ (Charity Commission (2014e: 3). It has five statutory objectives:

- ‘to increase public trust and confidence in charities
- to promote awareness and understanding of the operation of the public benefit requirement
- to promote compliance by charity trustees with their legal obligations in exercising control
- to promote the effective use of charitable resources
- to enhance the accountability of charities to donors, beneficiaries and the general public’ (Charities Act, 2006:, art. 1B (3)).

Section 6 of the Charity Law (2006) states that: ‘In the exercise of its functions the Commission shall not be subject to the direction or control of any Minister of the Crown or other government department.’

³⁶ These include ‘investigative powers’ (e.g. issuing an order or direction to obtain information or documents), ‘temporary protective powers’ (e.g. restricting transactions, suspending an individual trustee or staff member – in order to protect the assets of a charity whilst an investigation is pending) and ‘remedial powers’ (e.g. removing a trustee or staff member, or establishing a new system of administration of a charity – these powers can only be used if an investigation concludes that misconduct or mismanagement has taken place). See Charity Commission (2014e: 7–8).

due diligence practices across the sector, discussed earlier. The Commission has repeatedly expressed its concern in this regard, including in relation to new, smaller charities. It should also be noted that the increased number of Commission investigations may not necessarily relate to heightened concerns about abuse of charities for terrorist purposes, as noted by a member of the House of Lords and House of Commons Joint Committee on the Protection of Charities Bill: 'the Charity Commission does an awful lot of investigations, some of which result in nothing. We have to be a little bit careful about how we use that data to suggest that there is a big problem with terrorism' (Joint Committee, 2014: 9:257).

With regard to concerns raised about 'mainstreaming' of counter-terrorism efforts in its work, the Commission is adamant that it does not police charities in respect of counter-terrorism legislation, and insists that UK counter-terrorism measures have not created any additional burdens in terms of compliance with charities' existing fiduciary responsibilities (HPG interviews). Charities are already required to report all instances of financial or other abuse and take all reasonable steps to maximise control of their resources and minimise the risk of diversion, theft or misuse. Equally, all charities need to actively manage risks relating to perceptions of their charitable status and strictly ensure adherence to charity law. This means, for instance, refraining from involvement in political activities or associating with a political group. Irrespective of counter-terrorism legislation, not fulfilling these obligations, the Commission argues, lays charities open to monitoring, investigation and possible sanction.

Echoing the views of many in the charity sector, Sir Stephen Bubb, chair of the Association of Chief Executives of Voluntary Organisations (ACEVO), noted in his evidence before the parliamentary Joint Committee on the Draft Protection of Charities Bill that 'the real role [of the Charity Commission] in terms of promoting good governance is in advice and support' (Joint Committee, 2014: 7:234). This function has however been affected by the significant reduction in the financial resources of the Commission in recent years, which, as Shawcross has noted, has meant that it 'cannot provide as much support for charities as [it] did in the past' and that, as a result, it has to 'prioritise [its] resources on holding charities to account and tackling serious abuse' (Shawcross, 2014). Whilst the reduction in resources was countered in

late 2014 by the promise of an additional £8m from the government, some interviewees were concerned that the extra resources would be focused on the investigatory role of the Commission specifically in relation to counter-terrorism, rather than its support function.

Muslim INGO representatives and some others in the sector are concerned that the Charity Commission as an institution is becoming increasingly biased against Muslim charities.³⁷ Such concerns appear to stem from several factors: the perceived increasing integration of the Commission in the government's counter-terrorism and counter-extremism strategies; the appointment to the Board of Peter Clarke, who as well as being former Head of Counter-Terrorism Command in the Metropolitan Police was also appointed to lead the controversial government investigation into an alleged plot to take over Birmingham schools by Islamists (BBC News, 2014); and reports of high numbers of Muslim charities being monitored and/or investigated by the Commission. With regard to the latter, a recent report by Claystone, a think-tank focused on fostering social cohesion in relation to Muslims in the UK, asserted that '38% of all disclosed statutory investigations initiated after January 1st 2013 and still ongoing in the period between January 1st 2014 and April 23rd 2014' involved Muslim charities and that the Commission 'labelled 55 charities with the issue code "extremism and radicalisation" *without their knowledge* in the period December 5th 2012 to May 8th 2014' [emphasis added] (Belson, 2014: 6). These factors have led some British Muslim INGOs to believe that, notwithstanding the importance of tackling extremism and terrorism, the independence of the Charity Commission is being undermined and that there is an emerging bias against Muslim charities in its work (Ramesh, 2014).

Responding to such allegations, the Chair of the Commission declared that 'protecting Muslim charities from terrorist penetration is a vital element of the Charity Commission's role and we are glad to be able to play our part'. He also explained that 'this misconception may have arisen because we now more frequently announce new investigations, on the basis that it is in the public interest to do so ... We would

37 Stephen Bubb, chair of ACEVO, asserted in a blog post that 'I'm told by my colleagues there is a perception that the Charity Commission are targeting Muslim charities in a disproportionate way. It certainly appears that way' (Bubb, 2014).

be reneging on our duty as regulator if we did not alert charities to the dangers they face and did not support them in ridding themselves of such threats. We would be failing the public' (Shawcross, 2014). Staff have asserted that the Commission's public statements are balanced and it does not discriminate against any charity, but that they have been inaccurately reported or amplified by media outlets that have themselves repeatedly criticised Muslim charities (HPG interviews).

Most representatives of INGOs, including Muslim INGOs, interviewed for this report had a positive view of the work of the Charity Commission and its staff and generally praised their proactive approach, including in assisting them in dealing with the risks of abuse by individuals or organisations engaged in extremism or terrorist activity. Several interviewees highlighted the statement issued by the Commission in defence of Muslim Aid in the case of the two individuals who used the charity's name to fraudulently raise money (Charity Commission, 2013a). Interviewees also praised the Commission's significant investment in providing detailed guidance on how charities can minimise the risk of being exploited for extremist or terrorist purposes, including quickly issuing specific guidance for charities on

emerging issues, such as its regulatory alert on 'Syria and Aid Convoys' issued in February 2014, and providing advice to the public to ensure that they donate to legitimate charities.³⁸ Particular reference was made to the Commission's 'Compliance Toolkit' – referred to by some as the 'counter-terrorism toolkit' – which sets out guidance on how charities can safeguard themselves from 'terrorism, fraud and other abuse' (Charity Commission, 2013c).

Overall, sincere appreciation was expressed amongst most interviewees for the challenges the Commission faces in its work – not least the vast number and range of charities that it regulates. There are, however, clear calls from many stakeholders for the Commission to be more robust in exercising its existing powers, and, from most INGOs interviewed in this report, to maintain an appropriate balance between its two key roles, with greater allocation of resources to guidance and training for charities, particularly smaller, newly established organisations, than is currently the case.

³⁸ See for example the Commission's regulatory alerts, 'Give safely in Ramadan' (June 2014) and 'Donate to registered charities experienced in working in Gaza' (August 2014).

6 Conclusion and recommendations

Assessing the concrete impact of UK counter-terrorism on British INGOs based on currently available information is challenging. Discussions are often overshadowed by political agendas and can be highly emotive, and allegations are not always substantiated by facts. However, as highlighted by the recent attacks in Paris, the stakes are extremely high, and countering the multiple terrorist threats facing the UK requires a major effort by all relevant stakeholders.

In essence, the research for this report shows that there is a genuine risk that British INGOs may be abused for extremist or terrorist purposes, but that the risk has been overstated by some interested parties. The research also indicates that counter-terrorism measures are having a tangible impact on British INGOs, particularly their access to financial services, but that the scale and breadth of that impact have been exaggerated or generalised by some in the INGO sector. The lack of proportionality in discussing this issue is fuelling negative perceptions on all sides, which is in turn hampering efforts to address it.

With regard to the risk of abuse of British INGOs, reported cases in recent years, though small in number, are entirely at odds with the centuries-old concept of charity in the UK. They have done serious reputational damage to the sector and have undermined public confidence in charities, particularly INGOs providing emergency relief to civilians affected by conflicts and other crises in the Middle East and elsewhere. They have also fuelled the concerns of the Charity Commission, the government and the banking sector, and have led to enhanced efforts to prevent similar cases in the future.

The risks of abuse can perhaps be classified in two categories: those that can largely be addressed by improved due diligence procedures and improved governance, such as fraud and money laundering; and those that are inherent in the provision of aid in high-risk conflict contexts, such as theft of aid or attacks

on staff or premises, which can be managed but are difficult to minimise significantly due to the nature of the operating context.

It is clear that more can and must be done by British INGOs to minimise the risks of abuse within their own organisations and across the sector. A recent initiative by DEC members, in collaboration with banks through the British Bankers Association (BBA), to outline key principles in due diligence is an important step forward, and there is evidently a greater role for the sector in raising its own standards with regard to risk management and due diligence. Such efforts, led by INGO coordinating bodies, could provide greater reassurance to the British public, to the government, to the Charity Commission and to the banking sector that funds raised or provided for aid operations run by British INGOs are used appropriately, that all reasonable measures to mitigate abuse have been taken, and that those who so desperately need the assistance provided by British INGOs are receiving it. Managing inherent risks that INGOs face when operating in high-risk contexts is more challenging, though again there is more that British INGOs could do here as well.³⁹

Supporting INGOs in improving their institutional standards is a key function of the Charity Commission. In the last two years, the Commission has taken a much tougher stance towards charities, including INGOs that do not comply with charity law. This marked change in approach and tone has seen a significant, though not exclusive, focus on protecting charities from abuse for terrorist purposes. Noting the concerns of parliamentary bodies and the NAO that the Commission has been too lax on charities that fail to comply with the law,

³⁹ The subject of aid worker security has been much debated within the sector in recent years, with repeated acknowledgement that humanitarian organisations operating in high-risk contexts should do more to manage the risks of attacks on their staff and assets. See for example Humanitarian Outcomes, 2014; UNOCHA, 2011; Metcalfe et al., 2011; and HPN, 2010.

increased efforts by the Commission to build the capacity of the sector and tackle non-compliance more robustly should be welcomed.

Notwithstanding the damage done by those who have abused British charities in support of their extremist or terrorist agendas, these incidents are very small in proportion to the number of British charities overall, including those working in international aid. As noted by a 2007 government review of efforts to safeguard the charitable sector from abuse, overstating the risk undermines the credibility of the sector as a whole (Home Office and HM Treasury, 2007). Recent media articles and statements or remarks by government and Commission officials are certainly fuelling a perception amongst British INGOs, and Muslim INGOs in particular, that the government views them with a high degree of suspicion. The government's efforts to explicitly link the Commission with its counter-extremism and counter-terrorism strategies are adding to this perception, as well as reinforcing the view that the independence of the Charity Commission is being undermined.

Some Muslim INGOs have been quick to assert that they are being actively targeted or discriminated against in respect of counter terrorism measures. Is this true? Certainly, the incidents of abuse of British Muslim charities and INGOs by individuals or entities engaging in terrorist activities have damaged the reputation of British Muslim INGOs as a group. There is also some indication that Muslim INGOs are experiencing more problems than others in accessing financial services.⁴⁰ However, it is also the case that British Muslim INGOs may be regarded by some banks as higher risk than secular or other faith-based INGOs by virtue of the nature of their work and the location of their operations. There is also evidently high media value in allegations of abuse by or of Muslim INGOs, though it is difficult to argue that such media coverage is directly linked to actions taken by the Commission or the government.

For its part the Charity Commission has strenuously denied accusations of discrimination against Muslim charities (Shawcross, 2014) and the Cabinet Office has asserted that it has 'seen no evidence of any unlawful discrimination in the exercise of the Charity

Commission's existing compliance powers' (Cabinet Office, 2014). Information reported by the Commission for the year 2013–14 indicates that Muslim charities accounted for 5% of compliance cases and 4% of inquiries (Charity Commission, 2014e: 49–54), though others, such as Claystone, have put the figure much higher. Ainsworth (2014) suggests that there is a reporting bias here as 'Muslim charities keep coming to [the Commission's] attention, because people are watching them closely'. Overall, Muslim INGOs interviewed in this research had a positive view of the work of the Commission and its staff, both in terms of its capacity-building efforts and its role in investigating and monitoring the work of British charities.

The most tangible impact of counter-terrorism measures on British INGOs is related to their access to financial services. The delayed transfers, bank closures or other restrictions placed by banks and other entities on the financial services they offer INGOs are, in some cases, having a direct impact on aid operations, including curtailing or closure of projects and delayed salary and supplier payments. More generally, banks' demand for more and more documentation from their INGO clients is cumbersome and taking up staff time and resources.

There is also evidence that some INGOs operating in Syria, Gaza and other high-risk contexts are taking decisions on where to operate and which affected communities to provide aid to in part on the basis of their risk of exposure under UK and other counter-terrorism measures. Beyond this, however, it is difficult to gain a more concrete understanding of other areas of impact. Despite the broad nature of concerns raised by many INGOs, only a handful of those contacted for this report were able to provide detailed examples of how counter-terrorism measures had affected their work. Whilst noting that there are important areas that should be addressed as a matter of some urgency, any exaggeration of the impact of counter-terrorism measures can also damage efforts to find solutions. Care is also needed lest the debate on the impact of counter-terrorism measures overshadows the far more frequent incidence of fraud, poor governance and money laundering unrelated to terrorism or extremism.

This report indicates that there is a broader problem of perception in relation to this issue: both the risk of abuse of INGOs and the impact of counter-terrorism measures on INGOs are perceived by the stakeholders involved to be greater than the facts seem to suggest.

⁴⁰ Researchers for this report were not aware of any similar cases of account closures in relation to other faith-based or secular INGOs.

These perceptions are in turn affecting professional working relationships between British INGOs and the regulator, the government and the banking and financial services sector – relationships that are essential to the effective functioning of British INGOs and British overseas aid more generally. This is further complicated by a reluctance on the part of some stakeholders to acknowledge their failings and to work with others to address this issue.

Of particular concern is the lack of a sufficiently clear and coordinated approach by British INGOs to the government, banks and the Charity Commission. There are a number of coordinating or umbrella bodies of charities and INGOs in the UK, several of which are concerned about this issue, such as BOND, the Charities Finance Group, the Association of Chief Executives of Voluntary Organisations (ACEVO), the National Council for Voluntary Organisations (NCVO) and MCF. However, there has been no clear leadership and only limited coordination within the sector around how to address the different aspects of this issue, or how to approach the government, banks and the Charity Commission to raise a coherent argument or present constructive solutions.

In efforts to address the impact of counter-terrorism measures on the work of INGOs, a key question must be answered: what level of risk is acceptable to INGOs, governments and banks? Should INGOs aim to eradicate *all* risks of abuse? While this may be desirable, it would effectively require, amongst other things, that INGOs withdraw entirely from certain high-risk contexts, such as parts of Syria, Gaza or Somalia. This is no easy decision to take – in just these few locations many thousands of people are depending on the life-saving assistance that British INGOs provide every day. The government has also repeatedly reiterated its commitment to providing aid to the poorest and most vulnerable people in these crises.⁴¹ Ensuring that British aid lives up to these commitments requires a recalibration of current efforts. Working collaboratively, INGOs, the government, the Charity Commission and the banking sector must find ways to work together to minimise the risk of abuse of British INGOs by extremist or

terrorist groups, and to do so in a way that does not adversely affect legitimate aid activities.

6.1 Recommendations

The following recommendations are offered as suggestions as to actions that may be taken by the relevant stakeholders.

British INGOs

- As organisations that exist for the public benefit, all charities should strive to ensure that they, and the funds that they receive for their activities, are adequately safeguarded against any abuse, including in relation to extremism or terrorism. British INGOs and other charities must ensure that trustees and staff are fully conversant with charity law, particularly their obligations under it.
- Institutionalisation of the guidance provided by the Charity Commission, particularly the ‘Compliance Toolkit’, is key to ensuring adherence to relevant legal standards, and in protecting INGOs and other charities from all forms of abuse, including relating to terrorism or other criminal activity.
- Increased efforts are urgently required across the charitable and INGO sector to raise awareness of the importance of and ensure improved adherence to risk management, due diligence and other financial and administrative standards. In this regard, it may be useful for umbrella or coordinating bodies to undertake or support a ‘needs assessment’ of their member organisations to determine more accurately where the gaps or weaknesses are and how they can best be addressed.
- Building on the guidance already issued by the Charity Commission and the good practices established by some larger INGOs, INGOs and other charities, with the support of umbrella bodies including NCVO, the Charity Finance Group (CFG), BOND, the DEC and MCF, should consider developing best practice standards in risk management and due diligence. This may include inviting third parties to assess INGOs’ performance against these standards, as is common in banking and other sectors. Such efforts, though voluntary, would increase the confidence of the Commission, the government, banks and the public in the robustness and adequacy of INGOs’ systems and processes.
- INGOs that already have high standards and good systems in place could provide mentoring or other

⁴¹ With respect to Syria, DFID has emphasised its role in providing aid in contested or opposition-held areas. Justine Greening, the Secretary of State for International Development, has stated that ‘The UK has led the way in responding to this crisis so far and we will continue to stand alongside the Syrian people in their time of need’ (DFID, 2014: 2).

support to smaller, newer INGOs to help build their capacity, as well as ensuring greater cohesion across the sector. Strengthening risk management and due diligence capacities will necessarily require all INGOs, irrespective of size or income, to have qualified, salaried staff and to prioritise adequate financial resources for this.

- A sea-change in INGOs' engagement with banks is required. This includes INGOs proactively approaching their own banks, providing them with all relevant information on their activities and advance warning on transactions that may increase risks, and appointing designated focal points within the organisation. The DEC's efforts to develop a common set of due diligence principles will hopefully provide a starting point in this regard.
- The increased involvement of Muslim INGOs in mainstream coordination fora such as the IASC at headquarters level and Humanitarian Country Teams and NGO fora at country level would facilitate increased policy and operational coordination, as well as more inclusive sector-wide responses when Muslim or other INGOs come under reputational attack in the media or physical attack on the ground.
- Many British Muslim INGOs operate on the sidelines, with limited interaction with the wider British public or other British INGOs. Increased engagement with all relevant stakeholders and greater transparency in their work is now required. In particular, British Muslim INGOs should be more proactive in raising public awareness of the important work they do in some of the world's most dangerous places, as well as the values and standards that they adhere to and their part in the wider British aid effort. More proactive communication may go some way to challenging the suspicions and negative media coverage of Muslim INGOs. The increased involvement of Muslim INGOs in mainstream coordination fora such as the IASC at headquarters level and Humanitarian Country Teams and NGO fora at country level would facilitate increased policy and operational coordination, as well as more inclusive sector-wide responses when Muslim or other INGOs come under reputational attack in the media or physical attack on the ground.
- Increased outreach by Muslim INGOs to their Muslim communities is necessary to ensure that charitable donations reach legitimate and professional INGOs. Such outreach may also include addressing concerns regarding the

perceived incompatibility of some regulations and professional standards with traditional or religious concepts of charitable giving.

UK government

- The government has a strategic interest in maintaining an effective charitable sector, particularly in relation to overseas aid, and must therefore more actively lead efforts to address the adverse impact of counter-terrorism measures on legitimate British INGOs. As the Independent Reviewer has noted, 'a dialogue [needs to] be initiated between international NGOs and policy makers, including in the Home Office and Treasury, with a view to exploring how the objectives of anti-terrorism law can be met without unnecessarily prejudicing the ability of NGOs to [operate]' (Anderson, 2014: 9.33). In this regard, a permanent cross-government committee or mechanism could be established, together with the Charity Commission, charities represented by their umbrella bodies and the financial services sector, to discuss and find solutions to the impact of counter-terrorism measures on British charities and INGOs.
- Maintaining adequate resources for the Charity Commission is essential to enable it to effectively discharge its role as regulator. The government should also ensure that its efforts to enhance the capacity of the Commission to protect charities from all forms of abuse, including extremism and terrorism, reinforces rather than undermines its role as an independent entity.
- In line with FATF recommendations, the government should also 'work with the [NGO] sector to develop and refine best practices to address terrorist financing risks and vulnerabilities and thus protect the sector from terrorist abuse' (FATF, 2012: 56. 5(a) (iii)). In reference to the committee suggested above, this will require convening all stakeholders, including the Charity Commission, the Treasury, DFID, the Home Office, INGOs and other charities (represented by umbrella bodies) and the banking sector, tasked with a clear plan of work and concrete commitments to implement it.
- DFID should continue to play a key role in facilitating dialogue between British INGOs (both their institutional partners and other INGOs) and other relevant governmental departments (Treasury, Home Office, Foreign Office). The Department should also consider ways to clearly demonstrate

its confidence in British INGOs, particularly in reference to allegations made by foreign governments (or other actors) against DFID partner INGOs and for which no supporting evidence is presented.

- The Treasury should consider utilising its reportedly close ties with the US Department of the Treasury to engage the US authorities, fear of whose extra-territorial reach impacts heavily on the decision-making and risk aversion of banks in this country, in order to find appropriate solutions.

Charity Commission

- The Charity Commission should strive to maintain an appropriate balance between its two key roles – ensuring compliance of INGOs with charity law through more robust use of its enforcement powers and the provision of guidance and support.
- Noting the high value of practical guidance it has already issued, the Commission should consider producing additional guidance for British charities raising funding for aid operations, or actually undertaking aid operations, in Syria and Iraq, highlighting the risks that they face in terms of diversion or misuse of charity funds, assets or resources, their obligations to mitigate these risks and the support the Commission can provide in this regard.
- Noting the damage that can be done by unfounded allegations against or abuse of British charities by others, the Commission could consider speaking out in the media more actively in cases where it has found no evidence to substantiate such claims or in defence of charities which have been subject to abuse by others, and positively affirm the lifesaving work they are carrying out.

Banks

- Banks are in an invidious position, surrounded by regulation that appears to trigger unintended

consequences and weighed down by expectations from the government and charities that seem incompatible. However, de-risking and excluding INGOs and other charities from financial services is not the way to address this challenge. Whilst INGOs may not be particularly profitable clients compared to other categories, providing services to them goes some way to ensuring that banks ‘have values of integration into society, [offering] mutual service to all other parts of society’ (Welby, 2013).

- Improved guidance for banks’ risk managers on dealing with INGO clients would help them to understand the risks such clients may expose a bank to, and how these risks can be mitigated. Such guidance could be developed by the British Bankers Association and/or the Joint Money Laundering Steering Group (JMLSG), and should be endorsed by the Treasury.⁴² INGOs could provide inputs as necessary.
- Banks should ensure their staff have the skills to understand and engage with INGOs and other charities. This engagement should include transparent information-sharing with individual organisations on the reasons for delays in transfers and the opening or closing of accounts or other services, as well as streamlined requests for documentation from INGOs necessary to inform risk analyses. This may also include helping INGO clients to understand what reasonable actions they can take that may mitigate the risk of delays to or withdrawal of financial services.
- Engaging in consistent dialogue as a sector, utilising the role of the BBA, with charitable organisations will also be important to understand emerging issues of concern and how these may be addressed.

⁴² Similar guidance was issued by the JMLSG in regard to the Remittance Action Group, which was endorsed by the Treasury.

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