
In first of three reports, charitable sector advisory committee proposes three core reforms

Title: In first of three reports, charitable sector advisory committee proposes three core reforms

Author: Tim Harper

Published in: *The Philanthropist*

ISSN: 2562-1491

Date: March 17, 2021

Original Link: <https://thephilanthropist.ca/2021/03/in-first-of-three-reports-charitable-sector-advisory-committee-proposes-three-core-reforms/>

Date of PDF Download: March 17, 2021

An advisory committee on the charitable sector has presented the federal government with three core reforms that could fundamentally change the way charities serve Canadians.

The proposed changes, [released last week](#), would make the sector more efficient, update laws defining the role of charities, and provide them with a much-needed champion inside the federal civil service. All three have been long-standing requests of the sector, [detailed over many years](#) in *The Philanthropist* and by charity law experts like [Peter Broder](#), of the Pemsel Case Foundation.

The committee, in its first of three scheduled reports to be released this year, has proposed an amendment to the Income Tax Act that would eliminate the [“own activities” test](#), which it calls “paternalistic and intrusive.” The existing provision forces charities into a controlling relationship with non-charitable third parties and is seen as a [remnant of another era](#), out of step with the more productive collaborative partnerships of today. The report recommends replacing the existing regulation with an accountability framework that ensures resources are used for the public good.

The committee, known as the Advisory Committee on the Charitable Sector (ACCS), also called for an easier path for appeals of registration or revocation decisions. Currently, those appeals must go to the Federal Court of Canada. The committee proposed that those cases be heard by the Tax Court. The system now in place means the legal definition of a charity has not evolved because the federal court rules only on whether the Canada Revenue Agency acted within its regulations in making any decisions.

Finally, the report called for Minister of National Revenue Diane Lebouthillier to work with her colleagues to create a permanent “home” in government, outside the CRA, for a sector that too often appears to be an afterthought in federal decision-making.

The advisory committee says this home should provide a secretariat for comprehensive policy development, to be overseen by someone seen as an advocate of the sector.

“Clearly the best thing for us would be a minister with responsibility, because such a minister would be a champion. And without a cabinet-level champion, not a whole lot of stuff happens,” says committee co-chair Hilary Pearson.

The proposed changes serve as a reminder of the much more extensive relationship that existed between Ottawa and the sector between the mid-1990s and early 2000s, when Jean Chrétien’s Liberals launched a five-year, \$94.6-million Voluntary Sector Initiative following several years of policy development. As Peter Elson [detailed](#) in *The Philanthropist*, that program led to a formal accord, the development of codes of good practice, and a data-gathering project led by the Canadian Centre for Philanthropy (now Imagine Canada) and Statistics Canada.

Gordon Floyd, editorial director of *The Philanthropist*, says that while the three recommendations are important, only the elimination of the “own activities” could be immediately implemented because it has been exhaustively researched and there are legislative models in the UK and the US that could be followed.

The most far-reaching recommendation, says Floyd, was the call for a home in government. It could be a permanent version of the Voluntary Sector Initiative, but he says the VSI showed that the charitable and non-profit sector interacted with some 30 different federal departments, and the charitable sector cannot decide where that government “home” should be located.

“The federal government is only organized to work across silos in a whole-of-government manner when a central agency is in charge,” he says, “and since the only central agencies are the Prime Minister’s Office, the Privy Council Office, and Finance Canada, there’s no obvious ‘fit’ for a voluntary sector ‘home.’”

The current advisory group was formed in late 2019 as a means of engaging and advising the federal government on the state of laws and regulations supporting the work and operations of charities. There is broad consensus across the sector that it’s time to review and update federal policies that define the activities of charities and govern the way they raise funds, work with non-charities, and deploy their resources.

The committee is composed of 14 sector leaders and has a mandate to report directly to Lebouthillier, but Pearson says the initial three recommendations are aimed at the government as a whole. Lebouthillier, who addressed sector leaders at their October 2020 meeting, has been fully engaged, Pearson adds.

“If you get change in any of these areas, you get substantial improvement in the relationship between the sector and the federal government,” she argues. “All three have also been extensively discussed and extensively analyzed.”

The committee’s work also appears to have support within the sector.

Devika Shah, the executive director of Environment Funders Canada, says the “own activities” amendment is urgent because of the increased demands placed on charities during the pandemic.

The existing rules allow charities to outsource work to trusted specialists with needed expertise but effectively [require them to micro-manage those contractors](#) to an extent that no private sector company would ever accept, Shah says: If it doesn’t work in the private sector, why would it work in the charitable sector?

“The pandemic has shown that in times of emergency, you need trusted messengers. A lot of those trusted messengers are not registered charities,” she says. This is [particularly true with Indigenous organizations](#), who know best what is needed on the ground but must be treated by charities in a patronizing colonial manner because of the “own activities” requirements.

“This requirement makes no sense,” Shah says.

Shortly after the committee’s first full meeting, its work took on greater urgency with the onset of the pandemic, which has magnified many of the existing concerns about the future of a sector facing depleted resources, reduced fundraising capacity, a disproportionately older and female workforce, and increased demand for services.

The second of the three reports is expected to be released by the end of April.