



Mr Brian Stanley TD,
Chairman, Committee of Public Accounts,
Leinster House,
Kildare Street
Dublin D02 XR20.

17th June 2022

Dear Chairman,

I write on behalf of Benefacts, a company established in 2014 at the initiative of the Department of Public Expenditure & Reform. Benefacts ceased trading on March 2022 as a direct result of the termination of funding from DPER. All of its staff were made redundant and the company is currently in the course of being removed from the Register of Companies. Having discharged all of its obligations, the company continues in existence in an inactive state pending this voluntary strike-off.

The background to Benefacts' demise has become the subject of correspondence with your Committee. Having reviewed this correspondence, we would like to correct the record.

The points at issue arise from materials provided to the committee by DPER dated 16th February and 29th March (Refs. R1080 PAC33, R1161 PAC33 respectively), a briefing note to the committee from the Department of Rural & Community Development dated May 2022 (Ref: S0852 PAC33). The Central Statistics Office's submission dated May (1246 (ii) PAC33) also refers.

I will deal in turn with the rationale for the establishment of Benefacts by DPER, the Department's funding conditions (and the contingencies these created), DPER's engagement with the company, the burden of advice sought by the Department, from economic consultants Indecon and the interaction of Benefacts with other State bodies.

Rationale for the establishment of Benefacts by DPER

When Benefacts' founder and managing director Patricia Quinn was invited to meet the then Secretary General in January 2014, it was to be told that the then Minister wished to see a project for which she had previously developed a proof-of-concept (Irish Nonprofits Knowledge Exchange or INKEx 2009-2012) reinstated. A condition of the Department's initial three-year grant of €2m was that it be match-funded by philanthropic donations.

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This condition was achieved in the course of the year and Benefacts was incorporated in November following detailed discussions and correspondence with the Department and the co-funders who made their funding commitments in December. The Department took legal advice before signing the funding agreement the following March.

At no time was Benefacts referred to as a “pathfinder” project - although INKEx could have been described in such a way. Nor was it Benefacts role to provide greater transparency in the charities sector as such - the Charities Act 2009 commencing the work of the Charities Regulator had already come into force in October 2014. The rationale for the Department of Public Expenditure & Reform to provide funding to Benefacts was connected with its unique role as an Open Data/Public Service Reform/ICT project, set out by DPER in its funding agreement as follows:

D) A key objective of “Our Public Service – 2020” is to innovate for our future, by designing and delivering better and more cost-effective public services, which can deliver better outcomes for users of public services. Key objectives of the Government’s Public Service ICT Strategy are – digital first; data as an enabler; build to share; improve governance, increase capability. The Government’s Open Data mission is to encourage and drive the uptake and use of Open Data and in doing so add value to the economy by increasing transparency, stimulating new business applications, building trust in Government and improving the lives of citizens by delivering better services. To achieve these objectives, the Government Funder agrees to fund the Company inter alia to promote transparency, efficiency and effectiveness of Government Departments and other public bodies’ interaction with the nonprofit sector.

DPER’s conditions for providing funding

Benefacts was incorporated as a not-for-profit company (limited by guarantee without share capital) at DPER’s behest. This reflected the public benefit purposes for which it was established. It meant that the company had no beneficial owners in the commercial sense, and also that – unlike a for-profit enterprise – it was unable to make any medium or long-term plans based on equity or borrowings.

As a condition of its 2015-’17 grant, the Department required Benefacts to build and maintain its database, publish current extracts on a free searchable public website and to provide any data or related services that might be requested by any State body at no charge. This was the basis on which Benefacts initiated a quarterly file of high quality data to the Central Statistics Office, for which – as the CSO has explained in their submission to the Committee – no substitute is available from the Charities Regulator or anyone else.

The Secretary General states (R1161 PAC33) that "as part of the review of Benefacts’ funding undertaken in 2020, the Department took into account *the decision of the Charities Regulatory Authority to compile its own registry and to no longer use the Benefacts database*. The CRA made no such decision. The Charities Regulatory Authority never used the Benefacts database to compile its registry.

In June 2017, Benefacts was asked by the Charities Regulator to provide a website for publishing the Register of Charities using data provided by the Charities Regulator. This free temporary arrangement – which was co-funded by DPER, the Ireland Funds and the Atlantic Philanthropies – lasted for less than a year and was terminated when the Regulator was ready to launch its own commercially-tendered website.

In December 2017 following a detailed internal review involving cross-agency consultation, DPER decided to renew its funding agreement for another three years 2018-‘20, having again taken advice from the Chief State Solicitor’s Office. A copy of that performance review is attached*.

DPER’s engagement with Benefacts

DPER’s February submission to your Committee says that “this Department does not intend to establish a similar database, as it has no business need for one (it is not in itself a user of Benefacts’ services).” This is not the case. In 2018 following the launch of Benefacts second Sector Analysis report by the then Minister for PER (who commented enthusiastically on the quality and range of Benefacts unique database – his remarks are attached*), Benefacts was contacted by the Pay and Pensions Unit of the Department and asked to provide a detailed analysis of the pay, pensions and PRSI profile of all nonprofits receiving funding from any State source, for review by an IGEES economist assigned to the project. In 2021, Benefacts was asked to provide an expanded, updated version of these datasets from officials in the Department who commented that there was no other source of such high quality, full population data.

Benefacts’ engagement with the range of users of its data in Government was overseen by a project group drawn from across the State sector. Initially this group (which also included a nominee of philanthropic co-funder The Ireland Funds) met regularly and was a dynamic forum for providing guidance, building understanding and sharing ideas. In 2018 these project governance arrangements were consolidated in the form of a new Funding Oversight Agreement (copy attached*) which provided for more regular and formalised meetings of the oversight group, with Benefacts’ participation, in addition to regular meetings at a line officer and senior management level. At the same time, Benefacts was asked to adopt and conform with the Code of Practice for the Governance of State Bodies – which of course it did in every subsequent year (even though it was not a State body).

While it is certainly the case that officials of DPER “worked closely with the officers of Benefacts to ensure the orderly, timely and compliant cessation of the company” in the first three months of 2022, this was in contrast to the want of any meaningful communication from the Department in the previous three years. Meetings of the project oversight group continued but Benefacts was expressly excluded from participation or even notice that they were being held. In our last meeting with the Assistant Secretary General, we were told in December 2019 that a decision was being prepared for Government approval but not to what end – we were given to understand that a procurement exercise was under active consideration.

This is why we – and other State users of our data – were astonished to be told in July 2020 that the Department’s plan was to terminate the funding relationship. We learned subsequently that an evaluation had been performed by officials without any engagement with us or request for submissions. There was no response to our repeated correspondence inviting discussion of alternative institutional, governance or funding arrangements that could have been used by ourselves or by others to build on the legacy of our work.

Benefacts engagement with the Department of Rural & Community Development

In their submission to the Committee, the Department of Rural & Community Development (DRCD) say they “never had a funding relationship with Benefacts.” This is not true - at the request of the Department’s Social Enterprise unit, Benefacts was funded to produce a detailed dataset to assist officials in identifying nonprofits that might be capable of being recognised by the Department as social enterprises.

We were invited by DRCD in 2018 to make a costed proposal for a grant to undertake tracking analysis of philanthropic giving in Ireland over three years but when we forwarded a proposal, DPER’s officials intervened to ask why this work was not being tendered. Two years later, despite public assurances (in a meeting of philanthropy interests) that this work would indeed be publicly tendered, the Department contracted economic consultants Indecon for this purpose. A general public tender would have allowed Benefacts and its academic research partners to bid for the work but instead the Department availed of the pre-qualified panel process, which is not a public one. (Benefacts went ahead with the project on a more modest basis solely with philanthropic co-funding, and published three reports on the subject in 2019, ’20 and ’21).

The Secretary General of DPER has said in his submission that “under a separate initiative, unrelated to anything previously developed by Benefacts, the Department of Rural and Community Development is exploring options for the establishment of a centralised grantee database for the community and voluntary sector.” The agency charged with this exploratory work is Pobal.

Of course we don’t know the precise nature of the brief to Pobal for this work since that organisation enjoys the benefit of “Teckal” status which means the brief is neither publicly available nor competitively tendered. However it is not the case that this initiative is unrelated to anything previously developed by Benefacts: we published a centralised grantee database (Benefacts Who Funds What: a Directory of €7bn in State funding to nonprofits) as a free searchable public website in 2021.

A cost-effective solution

The Secretary General states in his March letter that " the State’s grant was far in excess of the quantifiable benefits derived from Benefacts". This is directly contradicted by the analysis of the market for nonprofit data commissioned by DPER from Indecon in 2019.

On page 57 of their report (a copy of which I attach*) Indecon say that “An analysis of a number of case studies suggests that the benefits of the information provided by Benefacts are likely to be in excess of the costs involved... Our evaluation suggests that while it is difficult to estimate the costs of obtaining the same data directly, access to a centralised database is likely to be very cost effective”.

In providing datasets, analysis reports and data analytic services at their request we engaged with senior officials across a range of State institutions including the Departments respectively of Children, Equality, Disability, Integration & Youth; Foreign Affairs; Health; Housing, Local Government & Heritage; Justice; Public Expenditure & Reform; Social Protection, Rural & Community Development; as well as the Central Statistics Office, the research service of the Oireachtas, the Housing Agency, Tusla, the Office of the Comptroller & Auditor General, Revenue, and a number of local authorities.

Following our discussions with these State interests as well as the Department of the Taoiseach, in 2021 Benefacts produced an outline costed proposal showing how its work could be funded in the future. This would have involved a combination of the following:-

- a) a more modest central grant (reflecting the value which the CSO themselves put on the substitution costs of our service to them in preparing the National Accounts);
- b) a subscription payment of €50,000 each from ten State bodies directly benefitting from core shared services including the routinised provision of a centralised grantee database;
- c) fee earnings from bespoke projects for users in the public, private and third sectors and
- d) continued philanthropic support (when Benefacts wound up it returned philanthropic grants in 2022 to the value of more than €100,000).

Implementing this plan would likely have required institutional and governance changes which the Board of Benefacts was fully prepared to consider.

As was explained to us by all of the departments and agencies concerned, consideration of such a solution would have required DPER to lead the process of transition from the old arrangements to the new. This is something that DPER absolutely declined to do, instead placing the responsibility for making a business case and undertaking a procurement process on any and every State body that might wish to do so. Such conditions were guaranteed to result in business failure for Benefacts, constituted as it was as a specialised nonprofit company without access to equity or borrowings.

Incidentally in their report, Indecon specifically counsel against ceasing funding for the services that Benefacts provided, and suggest measures to provide for a transition following a “well-managed open procurement process” (p.iii).

On page iv they say “Indecon therefore believes that the option of ceasing funding should be the counterfactual against which all programmes should be evaluated. Our analysis suggests that ceasing funding of Benefacts or an alternative service would reduce information which is needed for effective governance. In a previous review by the Comptroller and Auditor General, the importance of adequate oversight arrangement where public funding is provided to a range of organisations was highlighted”. They went on to make specific recommendations concerning the process for addressing procurement risk, without wasting the investment that had been made by the State (and others) in the Benefacts project.

In conclusion

Benefacts was a unique public benefit project that set out to make the work of all Irish nonprofits more transparent and more digitally accessible. Neither we nor our many stakeholders in the nonprofit, research and philanthropic communities saw the product of our work as a market commodity and even if it was, we were never given the opportunity by the State – the biggest user of our work - to tender competitively for the provision of it.

Aside from the transactional or value-for-money concerns of State actors, the sector and the public are the poorer for the loss of timely access to this trusted and impartial body of information about the entire population of our civil society organisations – however they may or may not be regulated.

This is something that the Board greatly regrets. We wound up the company with very heavy hearts.

Yours sincerely,



Tom Boland
Chairman

* Attachments:

- DPER internal review of Benefacts 2017;
- Remarks by Paschal Donohoe TD, Minister for Public Expenditure & Reform on the launch of Benefacts second sector analysis report May 2018;
- DPER/Benefacts Funding Oversight Agreement Oct 2018 appended to the Funding Agreement Dec 2017
- Analysis of the Market for Data on the Non-Profit Sector (Indecon 2019)

DATED [13] DECEMBER 2017

FUNDING AGREEMENT

Between:

THE MINISTER FOR PUBLIC EXPENDITURE AND REFORM

and

BENEFACTS

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SCHEDULES

SCHEDULE 1 BUSINESS AND STRATEGY PLAN 2018-2020

SCHEDULE 2 GRANTS AND PAYMENT SCHEDULE

**SCHEDULE 3 TERMS OF REFERENCE OF THE PROJECT ADVISORY
COMMITTEE**

THIS AGREEMENT is made on the ___ day of December 2017 **BETWEEN**

(1) THE MINISTER FOR FINANCE AND PUBLIC EXPENDITURE AND REFORM, Government Buildings, Upper Merrion Street, Dublin 2 (the “Minister”); and

(2) BENEFACTS, a company registered in Ireland No. 553387 having its registered office at 6 Merrion Square, Dublin 2 (the “Company”).

(each a “Party” and together the “Parties”)

WHEREAS

- A) The Minister and the Company previously entered into a Funding Agreement dated 3rd March 2015 concerning the funding of the Project described in that Agreement over the period 3 March 2015 to 31 December 2017.
- B) It has been agreed that Minister will renew the funding for the Project on the terms set out below.
- C) The rationale for grant funding is to provide for further innovation in promoting public trust and confidence in nonprofits, to promote greater transparency in public expenditure and support greater policy coherence in public policy vis-à-vis the work of nonprofits. These policy goals are expressed for example in “**Our Public Service – 2020**”, in the **Public Service ICT Strategy**, and in Government’s promotion of greater use of **Open Data** as part of the strategy for a national data infrastructure.
- D) This Agreement sets out the terms and conditions under which the Company will receive the grant from the Minister. These terms and conditions are intended to ensure that the said grant is used for the purpose for which it has been awarded.
- E) The Company has succeeded in securing certain funding for the Project from philanthropic and other sources.

AGREED TERMS

1. DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

Commencement Date: 1 January 2018

Board: the Board of Directors of the Company

DPER Circular: The circular of the Department of Public Expenditure and Reform No. 13/2014 concerning management of and accountability for grants from Exchequer Funds.

Grant: the sum of €2,850,000 (two million, eight hundred and fifty thousand euro) to be paid to the Company by the Minister subject to the conditions set out in this Agreement.

Grant Period: the period from the Commencement Date to 31st December 2020.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including Know-How and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Know-How: information, data, know-how or experience and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Plan: the Company's Strategy and Business Plan 2018-2020 attached in Schedule 1

Project: the maintenance and development of the Irish non-profits database in order to promote the visibility, accountability and transparency of Irish nonprofit organisations to include the delivery of the activities specified in clause 10 of this Agreement in accordance with the Plan

Project Advisory Committee: the committee convened by the Minister in accordance with clause 9.2 and Schedule 3..

- 1.2 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

2. AGREEMENT

The Company has agreed to observe and comply with the conditions herein contained.

3. DURATION

This Agreement shall commence on the Commencement Date and continue in force, unless terminated in accordance with this Agreement, for the Grant Period.

4. PAYMENT OF GRANT

4.1 Subject to and in consideration of the terms of this Agreement, the Minister shall pay the Grant to the Company during the Grant Period, in such instalments and at such times as are set forth in Schedule 2.

4.2 The Grant monies shall be paid into a separate bank account in the name of the Company which shall be an ordinary business bank account.

4.3 The Minister shall be under no obligation to pay the Grant or any funding under this Agreement and the availability and amount of any funding made available under this Agreement is subject to change at the Minister's sole discretion at any time and for any reason including (but not limited to) the general availability of exchequer funds.

4.4 Payment of the Grant or any part thereof shall at all times be conditional on and subject to:

4.4.1 the Minister being satisfied that such payment will be used for proper expenditure in the delivery of the Project

4.4.2 the Company being in possession of a valid tax clearance certificate and in compliance with all relevant taxation law

4.4.3 compliance by the Company with the terms of this Agreement

4.4.4 use by the Company of the Grant solely for the purposes of the Project

4.5 The Company shall comply at all times with all applicable laws including without limitation all employment legislation, data protection legislation, freedom of information and all requirements of law pertaining to its legal status.

5 PURPOSES OF THE GRANT

- 5.1 The Company shall use the Grant solely for the delivery of its plan, and in line with the indicative budget contained at Schedule 1. The Grant shall not be used for any other purpose without the prior written consent of the Minister.
- 5.2 The Company warrants to the Minister that it shall apply the Funds wholly and exclusively for the purposes of the Project.
- 5.3 Under the terms of a policy to be adopted by the Board, the Company will make prudent provision in its annual budgets for operating reserves.
- 5.4 The Company shall not use the Grant to:
- a) make any payment to members of the Board except by way of reimbursement of expenses necessarily incurred for the purposes of the Project
 - b) purchase buildings or land; or
 - c) pay for any expenditure commitments of the Company entered into before the Commencement Date, unless this has been approved in writing by the Minister.
- 5.5 The Company shall not spend any part of the Grant after the Grant Period.
- 5.6 Should any part of the Grant remain unspent at the end of the Grant Period, the Company shall ensure that any unspent monies are returned to the Minister, unless otherwise agreed in writing between the Parties.

6. ACCOUNTS AND RECORDS

- 6.1 The Company shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of all of grants and donations received by it, from whatever source.
- 6.2 The Company shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of all grants and donations received by it for a period of at least six years following receipt of the same.
- 6.3 The Company shall comply with all applicable statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns.

7. FINANCIAL REPORTING

- 7.1 The Company shall on request provide the Minister with such further information, explanations and documents as the Minister may reasonably require in order to establish that the Grant monies have been used properly in accordance with this Agreement.
- 7.2 The Company shall permit the Minister to review, at the Minister's reasonable request, the Company's accounts and records that relate to the application of the Grant monies and to take copies of such accounts and records.

- 7.3 The Company shall make its financial records available for inspection to the Comptroller and Auditor General, as and when required, in accordance with the provisions of the DPER Circular.
- 7.4 The Company shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that its aims and objectives are being met and that this Agreement is being adhered to.
- 7.5 The Company shall keep minutes of all meetings relating to this Agreement and certified copies of such minutes shall be sent to the Minister.

8. ADDITIONAL REVENUES AND GRANTS

- 8.1 The Company is committed to generating certain revenues as set out in its Plan and shall use its best endeavours to secure such revenues so that these are available as and when required, during the Grant Period.
- 8.2 It is agreed that such revenues are required for the roll-out of the Project, which will be subject to monitoring by the Project Advisory Committee

9. DELIVERY OF THE PLAN

- 9.1 The Company has been incorporated as a company limited by guarantee without a share capital. The Company shall deliver the Project in accordance with its constitution.
- 9.2 A Project Advisory Committee shall be convened by the Minister, whose purpose will be to monitor the Project and compliance by the Company with the terms of this Agreement
- 9.3 A Stakeholders' Interest Group shall be convened by the Board of the Company and Chaired by a person nominated by them, to ensure that the Project is being undertaken in a way that reflects the interests of civil society.
- 9.4 Without prejudice to the generality of the foregoing, the Board of the Company shall be responsible for its direction and general governance, as specified in the Company's constitution.

10. ACTIVITIES AND DELIVERABLES

- 10.1 The purpose of the Project during the Grant Period includes:
- a) The maintenance up-to-date by the Company of a list of Irish civil society entities constituted on a not-for profit basis for public benefit and receiving public funds, based on a definition of entities in scope to be approved by the Project Advisory Committee
 - b) In co-operation with others, the development and maintenance of single web-based location where all of the registered identities (registered

numbers, business and trading names) of such civil society entities are listed and maintained up to date

- c) The publication of a searchable website where topical data on all listed entities is freely available to anyone, and where listed entities are able to make additional voluntary information disclosures
- d) The ongoing development and maintenance of a live database of Irish nonprofits, derived from the digitisation and aggregation of data from a range of licensed regulatory and voluntary sources including multi-annual data from audited financial accounts for the full population of Irish nonprofits in scope
- e) In cooperation with the Minister, government agencies and other third parties, the further development, piloting and user testing of activities which are intended
 - to promote greater transparency, and improve public understanding of the work of Irish civil society entities
 - to pilot practical technical solutions for facilitating cross-agency access to and sharing of data
 - to exploit information and communications technologies as a means of facilitating the interaction between Government and non-profit organisations.
- f) The publication of a daily-updated file listing all of the nonprofits in the Benefacts Database of Irish Nonprofits and providing machine-readable files on the Irish Government's Open Data portal www.data.gov.ie
- g) The provision of a quarterly updated file to the Central Statistics Office
- h) The provision of a web service linking data from the Benefacts Database of Irish Nonprofits to the analysis screens of Revenue officials

10.2 Grants and revenues from government agencies and other third parties are agreed to be potential revenues which will be treated as additional to the Grant specified in this Agreement and will not be offset against or otherwise act to reduce the Grant as they are revenues which relate to the further development of pilot solutions derived from the data, in cooperation with Government Departments and Agencies and others. Such activities and further development to be funded on a cost-recovery basis.

11 ACCOUNTABILITY AND COMPLIANCE MONITORING

11.1 The Company shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that its aims and objectives are being met and that this Agreement is being adhered to.

11.2 After an initial period of up to twelve months (to be determined by the Project Advisory Committee) during which the requirements of key stakeholders and prospective end-users are appraised, a review of planned activities as set out at Clause 10 will be undertaken by the Company to ensure that these are appropriately configured to meet the stated goals.

11.3 The Company shall comply with its obligations under Directives 2014/24 EU on public procurement as implemented in Ireland by SI 284/2016 the European Union (Award of Public Authority Contracts) Regulations 2016 and will all guidance notes and circulars published by the Office of Government Procurement.

12 ACKNOWLEDGMENT AND PUBLICITY

12.1 The Company shall acknowledge the Grant in its annual report and accounts, and in any written or spoken public presentations. Such acknowledgements (where appropriate or as requested by the Minister) shall, with the prior written approval of the Department, include the Minister's name and logo using such templates as may be provided by the Minister from time to time.

12.2 The Company agrees to participate in and co-operate with promotional activities relating to its work that may be instigated and/or organised by the Minister.

12.3 The Minister may acknowledge the Company's work in an appropriate manner without prior notice.

12.4 The Company shall comply with any reasonable requests from the Minister to facilitate reports, statistics and case studies compiled or conducted by the Company.

13 INTELLECTUAL PROPERTY RIGHTS

13.1 All Intellectual Property Rights, Know-How, and all right, title and interest in or to any information, data, reports, documents, procedures, forecasts and technology howsoever generated by the Company or in which the Company has secured an interest for the purposes of the Project, shall belong to the Company.

13.2 Notwithstanding the provisions of 13.1, the Company agrees that in the event of non-continuance its work after the Grant Period, the Company shall give the Minister free access to all of the data generated from regulatory (public) disclosures and data voluntarily disclosed by public service bodies.

14 CONFIDENTIALITY

14.1 Subject to clause 15 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not divulge the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the disclosing party.

- 14.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to information which at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party.

15 FREEDOM OF INFORMATION

The Company acknowledges that the Minister is subject to the provisions of the Freedom of Information Act 2014. In the event of the Minister receiving a request for information related to the Company, the Minister shall take reasonable steps to consult with the Company in respect of such information and the Company shall cooperate with the Minister in relation to the processing of the request, notifying the Minister of any information which the Company considers to be confidential or commercially sensitive. The Minister shall however determine in his/her sole discretion whether any information should be disclosed under the Freedom of Information Act.

16 OPEN DATA

The Company shall be mindful of the requirements of the Open Data Initiative within the Open Government Partnership National Action Plan, one of whose objectives is to provide greater transparency in Government grant-making in the non-profit sector. The Company will facilitate initiatives and assist public bodies in giving expression to the Open Data policies.

17 DATA PROTECTION

The Company shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with all data protection legislation including the provisions of the Data Protection Act 1988 and the Data Protection (Amendment) Act 2003 (DPA), the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) and all and any amendments to data protection legislation.

18. LIMITATION OF LIABILITY

- 18.1 The Minister accepts no liability for any consequences, whether direct or indirect, that may come about from the Company delivering the Project or using the Grant, or from any withdrawal, suspension termination or amendment of the Grant or part thereof.
- 18.2 Notwithstanding anything herein contained, the Minister shall not be liable for any claim howsoever arising as a result of the negligence, breach of duty, breach of statutory duty or breach of contract on the part of the Company, its servants, agents, licensees or invitees in its operation of this Agreement.
- 18.3 The Company shall indemnify and hold harmless the Minister, his servants and agents against all claims, demands, expenses, actions, costs, expenses, losses, damages and all other liabilities and proceedings arising directly or indirectly from any breach of contract, negligence, act, omission, breach of duty,

insolvency, recklessness, bad faith, wilful default or fraud of the Company, its employees, subcontractors or agents or from any death of or injury to any person or damage to property arising directly or indirectly from the carrying out by the Company of its obligations and activities under this Agreement.

19 CONFLICTS, REGISTERABLE INTERESTS & CORRUPT GIFTS

19.1 The Company confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to its obligations undertaken under this Agreement. The Company hereby undertakes to advise the Minister forthwith should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Minister's directions in respect thereof.

19.2 Any registrable interest involving the Company and the Minister, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed by the Company to the Minister immediately upon such information becoming known to the Company and the Company undertakes to comply with the Minister's directions in respect thereof, to the satisfaction of the Minister. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.

19.3 The Company shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 19 or the commission of any offence by the Company, any subcontractor, agent or employee under the Prevention of Corruption Acts, 2010 shall entitle the Minister to terminate this Agreement forthwith and to recover the amount of any loss resulting from such cancellation.

20 WARRANTIES

The Company warrants, undertakes and agrees that:

- a) it has all necessary resources and expertise to to deliver the outcomes specified in clause 10 herein (assuming due and timely receipt of the Grant),
- b) it shall at all times comply with all relevant legislation and all applicable regulations, and the requirements of the DPER Circular including the requirement where relevant for contracts to be subject to competitive tender, process, which will discharged honestly, fairly, and in a manner that secures best value for public money and that it shall notify the Minister immediately of any significant departure from any such legislation, regulations or requirements,
- c) it shall comply with the requirements of Health and Safety legislation and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working for it,

- d) it shall comply with data protection legislation, as set forth in clause 17 and any amendments thereto,
- e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest,
- f) it has and shall keep in place systems to oversee financial controls, and to deal with the prevention of fraud and/or administrative malfunction,
- g) all financial and other information concerning the Company which has been disclosed to the Funders is to the best of its knowledge and belief, true and accurate,
- h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations under this Agreement,.
- i) it has full power and authority to enter into this Agreement and to carry out its obligations and responsibilities under this Agreement.

21 INSURANCE

21.1 The Company shall effect and maintain with a reputable insurance company or companies policies of insurance which shall include:

- public liability insurance with a limit of indemnity of not less than six million five hundred thousand euros (€6,500,000) in relation to any one claim or series of claims arising from the Project,
- employer's liability insurance with a limit of indemnity of not less than twelve million seven hundred thousand euros (€12,700,000) in relation to any one claim or series of claims arising from the Project,
- directors' and officers' Insurance.

21.2 The Company shall (on request) supply to the Minister a copy of such insurance policies and evidence that the relevant premiums have been paid.

22 ASSIGNMENT

The Company may not, without the prior written consent of the Minister, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of a Grant. The Minister may assign this Agreement to any other Government Minister or public service body.

23 NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed, all such communications shall be deemed to have been given when

received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

24 WITHHOLDING, SUSPENSION OR REPAYMENT OF GRANT

24.1 Subject to the terms of this Agreement, the Minister's intention is that the Grant will be paid to the Company in full.

24.2 The Minister may at its discretion withhold or suspend payment or require repayment of all or part of the Grant or part thereof if:

24.1.1 the Company uses the Grant or part thereof for purposes other than those for which it has been granted;

24.1.2 the Company provides the Minister with any materially misleading or inaccurate information;

24.1.3 the Minister considers that the Company has not made sufficient progress with the delivery of the Project.

24.1.4. any member of the Board, employee or volunteer of the Company has acted (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Minister, being or likely to bring the Minister's name or reputation into disrepute and the effect of the same has not been sufficiently mitigated by the Company.

24.2 The Funds to be made available pursuant to this Agreement are made available by way of grant and any part of the said Funds which are unspent or were not spent on the delivery of the Project shall immediately become repayable by the Company but without interest, charges or other expenses.

24.3 Should the Company be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement it will notify the Funders as soon as possible so that, if possible, and without creating any legal obligation, the Minister will have an opportunity to consider what remedies might be available to resolve the problem or to take action to protect the Minister and the Grant monies.

25. TERMINATION

25.1 The Minister may terminate this Agreement and any Grant Payments on giving the Company 3 months written notice should it be required to do so by financial constraints or for any other reason.

25.2 This Agreement shall automatically terminate:

25.2.1 upon the expiry of the Grant Period;

- 25.2.2 in the event that the Company ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- 25.2.3 in the event that the Company becomes insolvent, or it is declared bankrupt, or it is placed into receivership, examinership or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due.

27. CONSEQUENCES OF TERMINATION

- 27.1 Upon the termination of this Agreement, the following clauses shall continue in force: 6.3 (retention of invoices), 13.2 (access to data) 14 (confidentiality) and 18 (limitation of liability).

28. DISPUTE AND CONFLICT RESOLUTION

Subject to the Parties' respective rights to apply to the courts upon any cause of action at any time, the Parties shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by the Agreement, amicably.

29. NO PARTNERSHIP OR AGENCY

- 29.1 This Agreement shall not create any partnership or joint venture between the Minister and the Company, nor any relationship of principal and agent, nor authorise any Party to make or enter into any commitments for or on behalf of the other Party.
- 29.2 The Company shall at all times be an independent contractor for the purpose of this Agreement and the relationship of principal and agent shall not exist between the Minister and the Company. For the avoidance of doubt it is expressly declared and confirmed that it is not the purpose or intention of this Agreement to create, nor shall the same be construed as creating any commercial or other partnership or fiduciary relationship between the Minister and the Company.
- 29.3 The employees of the Company are not, and shall not hold themselves out to be (and shall not be held by the Company) as being servants or agents of the Minister for any purposes whatsoever.

29.3 It is an express condition of this Agreement that the responsibility for recruitment and management of staff to work on the Project shall be a matter for the Company. For the avoidance of doubt all employment contracts shall be entered into between the Company as employer and the Company staff as employees. It is hereby acknowledged and confirmed that no employment relationship is hereby created or deemed to be created or shall at any time be created between the Minister and the Company directors, officers, and/or staff arising from or pursuant to this Agreement and

the Company shall ensure that this is expressly acknowledged by the Company directors, offices and/or staff within their contract of employment with the Company.

30. FURTHER ASSURANCES

Each party shall, and shall use all reasonable endeavors to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

31. SEVERANCE

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

32. VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the Parties or their authorised representatives.

33. WAIVER

No failure or delay by either Party to exercise any right or remedy under this Agreement shall be construed as a waiver of that or any other right or remedy.

34. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of Ireland and the parties irrevocably submit to the exclusive jurisdiction of the Irish courts.

IN WITNESS of which this Agreement has been signed by duly authorised representatives on behalf of the parties on the day and year first stated above.

SIGNED BY: Lucy Fellen-Byrne

being an Officer so authorised by the
Minister for Public Expenditure and Reform
under section 15(4) of the Minister's and Secretaries
Act, 1924

[MINISTER]

In the presence of: [Signature]

Witness:

SIGNED BY: Patricia Minny

being an Officer so authorised by the Board of
BENEFACTS

In the presence of: [Signature]
DIRECTOR

SCHEDULE 1

Business and Strategy Plan 2018-2020
(To be attached)

SCHEDULE 2

Grants and payment schedule
(To be attached)

SCHEDULE 3

Terms of reference of the Project Advisory Committee
(To be attached)

Oversight Agreement
Between the
Department of Public Expenditure and
Reform
And
Benefacts
2018

Date: 1 October 2018

Version: 2.1

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1. Introduction

1.1 Purpose and Scope of the Agreement

The Department of Public Expenditure and Reform provides an annual grant of up to €950,000 to Benefacts under a Funding Agreement for the years 2018 to 2020. Other public bodies may provide further grants. The purpose of this oversight agreement is to set out the terms of the relationship between the Department of Public Expenditure and Reform and Benefacts and to demonstrate that the governance standards under which public funds are spent by Benefacts meet the requirements in the Code of Practice for Good Governance of Community, Voluntary and Charitable Organisations in Ireland (CVC Governance Code) which are aligned with the objectives for good governance set out in the Code of Practice for the Governance of State Bodies and achieve equivalent outcomes in governance.

In particular this oversight agreement will:

1. Provide clarity on the strategic and operational aspects of the organisations' relationship;
2. Establish structured arrangements for communications, reporting and liaison, accountability and governance;
3. Facilitate improved communication, engagement and co-operation between both organisations;

This agreement complements the Funding Agreement (as appended) between the two organisations.

Both organisations will ensure that all relevant staff are familiar with the Agreement and its implications and that all dealings between the two organisations are conducted in accordance with its principles and provisions. The Agreement will be approved by the Board of Benefacts and signed on its behalf by its Chairman and on behalf of the Department by the Assistant Secretary with responsibility for the Funding Agreement in the Department.

1.2 Duration of the Agreement

The duration of the Agreement is for the same period as the Funding Agreement, as appended. The oversight agreement is to be reviewed annually and updated as required.

1.3 Amendments to the Agreement

This Oversight Agreement may be modified to reflect changing circumstances. A necessity for amendments may be prompted by changes in, e.g., legislation, Government/Ministerial priorities, prevailing operating circumstances and/or broader political, economic, financial or related priorities. Where amendments become necessary, the Department will engage with Benefacts to agree the amended Oversight Agreement.

2. Roles and Functions of Benefacts and the Department in relation to this agreement

2.1 Legal Framework

Benefacts is a private, not for profit company limited by guarantee, constituted under the Companies Act 2014. The legal underpinnings of the relationship with the Department are provided by the Funding Agreement. The Funding Agreement (Clause 10) describes the rationale for grant funding and sets out the activities the company is to undertake and the things it is to deliver. The Funding Agreement is equivalent in its purpose and content to the Performance Delivery Agreements put in place for State bodies under the aegis of Government departments. It reflects what is to be delivered by Benefacts in return for the Department's grant.

Given the number of public sector bodies funding the non-profit sector and the high complexity and cost to them of collecting data on the sector, an evident market failure arose through the absence of a mechanism for those bodies to identify, and co-ordinate, their data needs and to specify how that data could be made more useable and available to them at low marginal costs. More useable and lower cost data could reduce oversight costs and support more effective decision-making by freeing staff resources to focus on analysis and other value adding activity. The grant funding supports the identification by public sector bodies of the potential benefits to them of data on the non-profit sector in tandem with development of the means to provide that data.

The Department will periodically review with public sector bodies the perceived value in data on the non-profit sector relative to the grant funding. Any review process will seek information from Benefacts on its activities and the Company will provide such information. Clause 25.1 of the Funding Agreement allows the Minister to terminate grant payments on giving the Company 3 months written notice should it be required to do so by financial constraints or for any other reason, including a material breach of the Funding Agreement. This is understood by both parties to this agreement to provide for where (a) the objectives of the Business and Strategy plan were not achieved (b) where public bodies are sufficiently clear of their data needs and of the market to satisfy those needs through open procurement processes or (c) Benefacts fails to observe its obligations to the Department under the Funding Agreement, including, failure to provide sufficient assurance to the Department that appropriate controls are in place and public funds are being used with probity and in accordance with this agreement.

Benefacts will be free to tender in any future open procurement process for the kind of activities it now engages in or may engage in in the future. Should a contract for services be awarded to Benefacts and the attached Funding Agreement be terminated, this Oversight Agreement will also terminate and the roles and responsibilities will be governed by the procurement contract.

2.2 Operating Environment

The non-profit sector makes up just over 11% of all organisations in Ireland and, in 2017, employed some 158,000 people. It turned over more than €12.1 billion that year, of which some €5.7 billion was government funding. That makes Government the largest single source of funding for non-profit organisations. Given the size and significance of the non-profit sector in Irish society and the importance of public trust in the sector, providing easily accessible data to the public, media and researchers is aimed at increasing transparency and accountability. In addition to public funds, Benefacts receives support from the Ireland Funds. Benefacts works with other non-profit organisations, as well as funders, to establish new ways in which data can be used to promote the

highest standards of governance and transparency in the sector. The operating environment is technical and involves innovation and risk in developing new data services.

2.3 Department of Public Expenditure and Reform

The rationale for the Department's grant funding is to provide for further innovation in promoting public trust and confidence in non-profit organisations, to promote greater transparency in public expenditure and to support greater policy coherence in public policy vis-à-vis the work of non-profit organisations. These policy goals are expressed for example in "Our Public Service – 2020", in the Public Service ICT Strategy and in Government's promotion of greater use of Open Data as part of the strategy for a national data infrastructure. The Department has an interest in enhancing economic and policy evaluation capacity across the Civil Service and in promoting data as an enabler for evidenced-based policy making. Better data assists Government in designing and delivering better services that support the goal of achieving the best possible outcomes for the public. Compliance overheads for non-profit bodies can be reduced by simplifying compliance and developing digital means to file the data in the first place ('Digital First'). The Department's investment in the project to date therefore reflects a long-term perspective that comes with some risks, as the potential benefits will involve systemic changes in how public sector bodies use data and how the sector responds to greater transparency.

The Department convenes a Project Advisory Committee. Its membership includes a representative from the Ireland Funds and senior representatives with responsibility *inter alia* for grant administration and ICT functions in government departments and agencies. Its purpose is to monitor the project, the implementation of the company's Strategy and Business Plan and compliance by Benefacts with the terms of the Funding Agreement. Members also share knowledge and experience of other parallel initiatives to guide the work of Benefacts in delivering on the Funding Agreement.

2.4 Benefacts

Benefacts was established in November 2014. It is a non-profit company, limited by guarantee without share capital, CRO 553387. Its Board of Directors are appointed by the members of the company, and drawn from the non-profit, philanthropic and professional services sectors. Benefacts is an independent, non-governmental organisation. It does not represent any sectoral interest, and has no regulatory powers or responsibilities.

Benefacts' purpose is to create and expand a database and to provide free access, through its website, to data on non-profit organisations derived from publicly-available sources and to explore the range of potential uses of that data. In this way it is intended to increase transparency and public trust and to assist government and the sector. The Benefacts database is made up of more than 20,000 civil society organisations in Ireland. Besides charities, this includes philanthropies, sports bodies, political, human rights and advocacy organisations, business and trade associations.

To date Benefacts has been co-funded by the Department of Public Expenditure and Reform, the Atlantic Philanthropies, and the Ireland Funds. The company also has as an object the promotion of the use of the data in order to establish a self-funding business model for the Company. There is no current prospect for the company to provide data on the non-profit sector without public funds.

2.5 Benefacts' Strategy and Business Plan

Benefacts' Strategy and Business Plan 2018-2020 forms an essential part of the Funding Agreement with the Department. The Company can use the grant from the Department only to contribute to for the delivery of its Strategy and Business Plan 2018-2020 and in line with the indicative budget contained in it. The budget provides for certain of Benefacts core costs to be met by sources other than the Department. The grant cannot be used for any other purpose without the prior written consent of the Minister. As noted earlier, the Project Advisory Committee monitors implementation of the Plan and compliance with the delivery of the project in accordance with the Funding Agreement.

2.6 Remuneration and Superannuation

Remuneration and superannuation are matters for the Board of the Company. The Board of the Company will be cognisant of the sources of its funding, including public money from the Department and other public bodies. The company will provide details of pay levels in the company, while respecting confidentiality and privacy, on request to the Department and will publish the profile of higher-paid employees in its annual report under the provisions of FRS102. Proposed changes to the remuneration and superannuation payments that depart from the indicative budget must be notified in advance to the Department. Proposed revisions to levels of remuneration and superannuation should be consistent with overall pay and budget considerations. In considering changes to remuneration and superannuation, a detailed business case setting out the rationale for the proposal will be provided to the Department. Such a business case will provide information on any changes to the role, skills required and the reasons for these. Pay relativities with other staff and within the non-profit sector will be examined. The Board will take account of the Department's views in considering proposals regarding remuneration and superannuation.

3. Corporate Governance

3.1 Code of Practice for Good Governance of Community, Voluntary and Charitable Organisations in Ireland (CVC Code)

Benefacts applies the best practice framework for good governance provided by the 'Code of Practice for Good Governance of Community, Voluntary and Charitable Organisations in Ireland' (CVC Code). This is a voluntary code provided free to all not-for-profit groups to encourage them to check themselves against best practice in the governance of their affairs. The CVC Code has been developed by a working group made up of representatives of eight national organisations and one private sector consultancy who have worked on a voluntary basis on the process. The members have a wide base of contact with the whole Community, Voluntary and Charities (CVC) sector.

The Governance Code is based on five principles:

- (i) leading the organisation,
- (ii) exercising control over the organisation,
- (iii) being transparent and accountable,
- (iv) working effectively,
- (v) behaving with integrity.

Each of these applies to every non-profit, although the Code offers three 'classes' or degrees of adoption depending on size: Benefacts is considered a "type C" organisation. The main

characteristics of these organisations is that the people who sit on the board focus solely on their governance/oversight role, delegating all management and operational duties to the staff. There is a clear division between the governance role of the board and the management role of staff.

The CVC Code is accompanied by a checklist to aid non-profit organisations in documenting their adoption of its provisions, which is done on a 'comply or explain' basis and reported on by the Company in its annual report. The checklist and a report on compliance with the code is reviewed annually by the Board of Benefacts and shared with the Department.

The Department is satisfied that, in tandem with additional requirements contained in this Oversight Agreement, the requirements of the CVC Code are sufficiently aligned with the principles of the Code of Practice for the Governance of State Bodies so as, if implemented fully, to achieve equivalent outcomes in terms of corporate governance in respect of:

1. The Role of the Board
2. Role of the Chairperson
3. Role of Board Members
4. Board Effectiveness
5. Risk management, Internal Control, Internal Audit and Audit and Risk Committees

3.2 FRS 102

The directors of Benefacts, as is the case for directors of all private companies, are required to conform with the reporting and disclosure standards of Financial Reporting Standard (FRS) 102, and specifically to provide for reserves in a prudent way and report this policy in their financial statements.

3.3 Board Appointments

The Code of Practice for Good Governance of Community, Voluntary and Charitable Organisations in Ireland provides detailed guidance on the recruitment of directors, and the Chairperson and Directors are accountable to the members of the company. In line with provisions of the code all vacancies on the Board of Benefacts are filled after applications have been publicly invited.

3.4 Additional Information

Benefacts accepts that the Accounting Officer of the Department must satisfy himself that the requirements of the CVC Code, the Funding Agreement and this Oversight Agreement are being properly implemented and observed. The Accounting Officer, or his Department, may from time to time request information/evidence that the Company is in compliance with the CVC Code. Benefacts is committed to complying with all reasonable requests from the Department to supply additional information on a timely basis.

The Company and the Department will consider and agree whether any reporting requirements, additional to the CVC code and consistent with the Company's status as a private company limited by guarantee, are necessary to ensure that the extent of financial disclosure by the Company is sufficient to ensure a similar level of transparency and accountability as intended by the "Code of Practice for the Governance of State Bodies". The Company has documented its governance policies and standards, including its Code of Conduct for Board Members, in equivalent detail to that required by the Code of Practice for the Governance of State Bodies, where relevant.

3.5 Governance Statement and Chairperson's Report

The Directors will prepare a Governance Statement for inclusion in the Company's Annual Report. This will:

- (a) meet all of the requirements of FRS102, which is the Financial Reporting Standard relevant to Benefacts under the Companies Act, 2014,
- (b) report on the company's compliance with the CVC Code, and explain the reasons why it does not comply with any aspects of the Code

Along with the Company's Annual Report, the Chairperson, on behalf of the Board of Directors, will, by letter addressed to the Minister, report on the company's compliance with the Code of Practice for the Governance of State Bodies, on a comply or explain basis although Benefacts is not a State body.

3.6 Statutory Obligations

Benefacts is committed to complying with all relevant Statutory Obligations that affect the corporate governance of the Company, including data protection. Any breach of data protection rules will be disclosed and explained immediately to the Data Protection Commissioner and to the Department (

3.7 Public Procurement

As provided for in the Funding Agreement, Benefacts is committed to procuring goods and services in full compliance with Public Procurement Rules. Any departure from those rules will be disclosed and explained immediately to the Department.

3.8 Legal Settlements

Where Benefacts concludes any legal settlement, details of that settlement may be disclosed to the Minister where required by law or where a public interest in such disclosure is identified.

3.9 Codes of Conduct and Ethics

Benefacts publishes its code of conduct for its directors and as a matter of compliance with the CVC Governance Code. The company will, with the Department, identify any areas where the code needs further action.

3.10 Accounting and Systems of Internal Financial Control

As provided for in the Funding Agreement, Benefacts will supply the Department with a copy of its Internal Financial Policies & Procedures and provide financial data reasonably requested to assist the Department in understanding the company's expenditure.

3.11 Freedom of Information

The Minister may, at his discretion, make an Order under S.7 of the Freedom of Information Act 2014, designating the Company as an FOI Body.

3.12 Roles and Responsibilities

The Company will provide the Department with a document setting out the roles and responsibilities of the Managing Director and the Chairperson.

4. Monitoring and Reporting Arrangements

The monitoring, reporting and liaison arrangements of the Agreement are set out below.

4.1 Regular Reports and Liaison

The Department's official with responsibility for liaison with the company, or any other person designated by the Department from time to time, will be the primary contact point for communications between the company and the Department.

4.2 Monitoring of Grant Payments and Expenditure

A checklist, as provided at Appendix 2, is used to provide assurance on adherence to Grant Circular 13/2014 at the start of each year and signed by an official in the Department and the Head of Finance in the Company. The grant drawdown process requires the provision of documents for each payment request as set out in Appendix 3. The Department's official with responsibility for liaison with the company will meet the company's Head of Finance quarterly to review the Grant Circular Checklist and Grant drawdown process.

4.3 Progress Reports

Progress Reports will be provided by Benefacts to the Department quarterly. These reports will cover:

- Progress in delivering the project, as set out in Clause 10 of the Funding agreement, as assessed by the Project Advisory Committee.
- Compliance with this oversight agreement, including details of compliance with the 'Type C' checklist under the CVC Governance Code.
- The Financial Plan of the company.
- Early warning of any potential changes to the above.

4.4 Senior Level Communication

In addition to regular meetings and ongoing dialogue between the management in the relevant areas of responsibility in the two organisations, and in addition to up to eight meetings annually of the Project Advisory Committee, four meetings will be held during the year to review the progress reports at 4.3. The meetings will be held quarterly and attended by the Company's Managing Director and the responsible Principal Officer in the Department. The end of year meeting will be attended by the Company's Chairperson and the responsible Assistant Secretary in the Department.

The meetings will assess:

- Progress in delivering the project as per the Company's Business Plan and Strategy
- Performance against the Company's Financial Plan
- Compliance with this oversight agreement
- Review of governance standards with respect to the 'Type C' checklist of the CVC Governance Code
- Progress in including additional reporting requirements as per 3.4

The meetings will agree any changes to the Company's Business Plan, Strategy, Financial Plan and this Oversight Agreement that have been approved by the Board and any remedial action required to implement those plans and this agreement.

The end year meeting will additionally include a review of broader policy in relation to the non-profit sector and how data on the sector can support that policy.

4.5 Exceptional Communication

Should an issue arise for the company that is not covered by the Funding Agreement and require consideration at a senior level, Benefacts will submit a report setting out an analysis of the issue, signed by the Chairperson. This will ensure that the issue is dealt with at the appropriate level and with appropriate urgency.

4.6 Accounts and Audit

Benefacts will:

- Ensure that proper accounts are maintained and are available for audit;
- Submit its draft unaudited accounts not later than two months after the end of the relevant financial year
- Provide the Department with a copy of its draft unaudited accounts not later than two months after the end of the relevant financial year
- Ensure the financial statements are audited by an independent auditor within the relevant timeframe.

As provided for in Comptroller and Auditor General (Amendment) Act 1993 8 (1)(C) the Office of the Comptroller and Auditor General may carry out an inspection of the books and accounts of the Company, so long as 50% or more of its funding is derived from State sources.

4.7 Annual Report

The company's annual report will be adopted by the members of the Company, presented to the Minister by 30 April each year and published on the company's website.

4.8 Statement of Internal Control and Comprehensive Report to the Minister

In providing the Minister with the Company's Annual Report, the Directors will provide a Statement on Internal Control. The Statement will tailor the format set out in Appendix D of "Code of Practice for the Governance of State Bodies: Business and Financial Reporting Requirements" to reflect the size and operations of the company and the fact that it is not, itself, a State Body. The Statement will provide a full understanding of the procedures, as put in place by the Board to provide effective internal control and highlight any weaknesses in the internal control system during the reporting period.

The Chairperson will submit annually, a comprehensive report to the Minister consistent with the reporting requirements set out in paragraph 1.9 of *Code of Practice for the Governance of State Bodies – Business and Financial Reporting Requirements*, tailored to reflect the size and operations of the company and the fact that it is not, itself, a State Body. The Chairperson's comprehensive report to the Minister is a confidential letter on behalf of the Board to the Minister. It includes information on items such as affirmation that Government policy is being complied with, significant post balance sheet events, a statement on the system of internal control and an outline of all commercially significant developments affecting the company in the preceding year.

4.9 Changes to the Indicative Budget

Based on a materiality threshold €10,000, the Company will notify the Department of changes in the indicative budget forming part of the Funding Agreement, including projected income, and as part of regular financial reviews with the Department.

It is noted that the provisions of paragraphs 4.6 and 4.7 are already substantially provided for in the Funding Agreement and are included here for completeness.

5. Agreement Approval



A handwritten signature in blue ink that reads "Lucy Fallon-Byrne". The signature is written in a cursive style and is positioned above a horizontal line.

Dr. Lucy Fallon-Byrne, Assistant Secretary, Department of Public Expenditure and Reform



A handwritten signature in black ink that reads "Tom Boland". The signature is written in a cursive style and is positioned above a horizontal line.

Mr. Tom Boland, Chairman, Benefacts Board.

Transcript – Minister Paschal Donohoe remarks May 2018 in launching Benefacts second Sector Analysis Report at the Royal Irish Academy, Dublin

Well good morning everybody, Tom, Ombudsperson, Patricia.

I just want to recognise you all and thank you all for your immense work in getting to this point in this very important project. I'm really delighted to be back here today. As Tom has already said, the very first public event I ever did as Minister for Public Expenditure and Reform, was to launch this project and launch the website in relation to it.

An awful lot has happened since then and I have seen an awful lot of change. But one of the things that has been constant across this period is the admiration and supports that I and my Department have for the Benefacts project. If you want an example as to why I believe this is a very valuable project, as to why I believe the output is so crucial, a lot of that is actually contained in the final chapter in this report which I think is worth considering. It is entitled 'Scope and Approach', and it goes through the process that was followed to get to this point and the further work that needs to be done.

And the key thing in all of this is that all of this is possible only because Benefacts have done a huge amount of work to assemble all of the information that is needed in relation to what is happening in the not-for-profit sector: the sources of income, the scale of the sector, the outputs the sector generates. And the process that has got us to this point is incredibly important.

As someone who has spent so much of his time looking at outputs as opposed to input, the outputs that are now emerging from this are really helpful. Patricia has already touched on one of them, the clarity that is available for the first time for example on remuneration. This is very important, to have clarity with where we are now in relation to the level of disclosure within the sector is very important. For the first time we can all be clear on the scale of funding that is involved in this sector, what goes to whom and why. The analysis and the interrogation of all of this data is now possible in an objective way because of the work of Patricia and her team. And I think it is incredibly important.

Transcript – Minister Paschal Donohoe remarks May 2018 in launching Benefacts second Sector Analysis Report at the Royal Irish Academy, Dublin

In Patricia's conclusion, she made reference to the importance of information, the importance of having data to be able to understand where we are and understand where we are going. And I guess this is something in the environment of fake news, of post truth politics or whatever, the value of these things is something now that we can't take for granted and maybe even the value is even higher than it was a short time a while ago.

And that is what the Benefacts project is looking to do, they are looking for a sector that is really important, that after all it receives from various funders well in excess of €10billion worth of support - from the Exchequer alone, support of over €5billion - which are gigantic amounts of money.

What Benefacts allows us to do is now bring a fact-based approach to understanding how that money is used, what's the totality of funding and what are the disclosure levels in organisation of all the recipients of all of that funding. And that is vital. It's vital in the era that we are in, but it's also vital for another reason. Again, as Patricia said, the not-for-profit sector is a sector that we as a country have decided to entrust with the delivery at times of public services or with the delivery of objectives that we believe are really important to our society. And given that importance and given the debate that is taking place around who does what in our society and what organisation should perform what services to who and under what conditions? It's more important than ever to have the deepest understanding of what is happening, to deal with misperceptions, to deal with things that are not true, but also to appreciate the scale of what goes on, so that when we want to acknowledge the fantastic work that does happen in that sector and let's be clear of fantastic work that takes place, the degree of professionalism, the efficiency that is there in that sector, is really there it's something that pulses through us.

But also, as we acknowledge what we want to do differently, how we want to improve, how we want to change. The starting point for any kind of discussion like this has to be facts, there has to be evidence. And a huge challenge that we have had in the past is trying to integrate all of that into a single place and then when we integrate it trying to do that integration in a way that's accessible to all.

Transcript – Minister Paschal Donohoe remarks May 2018 in launching Benefacts second Sector Analysis Report at the Royal Irish Academy, Dublin

It's to the huge credit of Benefacts that they have been able to do it, I want to acknowledge the other sponsors and funders that they have had, Atlantic Philanthropies, we see the reference to the Ireland funds here who have been huge supporter of the project. My own Department has prioritised this project for a nearly 2 million euro worth of funding in its first three-year period. And we did this because we think this is really important work. We are now engaging with Patricia and Tom in relation to the business plan for this organisation and the future.

But to end where I began, I and my Department believe this is really important work and it's more important now than ever. Facts give us an ability to understand what is happening, they give us the ability to explain to the public where the money is going. This is incredibly important now.

So, it's for those reasons I'm delighted to be here and to be associated with the launch of this report. I want to thank Tom and Patricia and all of their staff and their team for the great work they have done in the set up of this organisation, the set up of the site and the early publication of an incredible valuable and useful report. Thank you.

Ends.

Analysis of the Market for Data on the Non-Profit Sector

**Strictly confidential, not for
publication. Report contains
commercially sensitive information
and other information provided on a
confidential basis to Indecon.**

**Prepared for the Department of
Public Expenditure and Reform**

by

Indecon International Economic Consultants

Indecon

www.indecon.ie

18 November 2019

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Executive Summary

Introduction, Background and Methodology

This report represents an independent evidence-based analysis of the market for data on non-profit organisations in Ireland. Following a competitive tender, Indecon Research Economists were appointed by the Department of Public Expenditure and Reform to complete this study to inform future policy development. The objectives of the study are to: assess the existing and potential demand for data on the non-profit sector and the value that a number of public sector bodies attach to that demand being met; assess the methodologies and technologies used by Benefacts to meet the data needs of public bodies; identify and assess alternative methodologies; and assess the likelihood that an open procurement process would attract bids from a number of companies and for that process to deliver value for money.

Background to Non-Profits in Ireland

Recognising the significance of the non-profit sector and issues relating to public trust, the Department of Public Expenditure and Reform identified a market failure in the provision of easily accessible public information on non-profit organisations, which made it difficult for the public to see where both public and donated monies were being spent and to understand the work and governance of non-profits. The Department also recognised the potential for administrative efficiencies in the provision of better data on the sector. Since 2015 the Department has provided a grant to Benefacts in order to provide greater transparency on the sector as a public good. The significance of information on the non-profit sector is confirmed by Indecon's analysis which indicates that there are around 20,000 non-profit organisations in Ireland. Non-profit organisations range from very small community-based organisations to major providers of public services, particularly in the health and education sectors. There is limited comprehensive centralised information available on the wider non-profit sector other than Benefacts, although the Charities Regulator also has a detailed database on regulated charities.

Benefacts

Benefacts is a non-profit company that was set up in 2014 to establish, maintain and publish extracts from a database derived from publicly available sources augmented by voluntary disclosures, concerning non-profit entities. The aim of the organisation is to assist government, the non-profit sector and the public to better understand and assess the objects and performance of such entities. Since its establishment, nearly half of Benefacts funding has come from the Department of Public Expenditure and Reform. Atlantic Philanthropies also provided very significant initial support for a defined period. However, the organisation is now primarily dependent on public funding.

Benefacts Methodologies and Technologies

Benefacts uses a number of methodologies to source, adjust and digitise data from a range of public sources, including manual re-keying of financial statements annually. This is supplemented by the provision of non-public files directly supplied to Benefacts by a number of non-profits and public bodies for various purposes. Indecon believes that there are economies of scale in deriving data from central databases for specific business processes in public bodies.

Benefacts has developed a number of analytical tools to facilitate the use of the data. Analytics to help users interpret data is an area of rapid development and many innovations are likely to emerge. Indecon notes that although the Exchequer is currently the main funder of the Benefacts service, the databases and analytical tools are not owned by the state. Indecon believes this is a mistake in terms of maximising the value of the state's investment. In the event of continued support, Indecon believes the issue of ownership to any assets or IP developed with state funding should be dealt with.

Alternative Methodologies

Indecon's review indicates that in many other countries, databases have been developed to increase transparency and trust in the non-profit sector. In general, these approaches apply similar methodologies to those implemented in Ireland which in basic terms involve either the creation of new data sources or the aggregation of existing sources of data. Of note is that most of these databases have been either developed by publicly funded regulators or with public funding or philanthropic support. Indecon's assessment is that the development of such services is not commercially viable in Ireland without Exchequer or philanthropic funding.

Indecon recognises that in a number of other countries, non-profit organisations are required to directly submit financial reports to be eligible for public funding. This also occurs in Ireland and many public sector funders require up-to-date financial information. In a number of cases the timelines of the provision of information is critical and depending on data from the aggregation of information from other databases is not sufficient.

Existing and Potential Demand

Indecon's assessment of existing and potential demand has indicated that accurate data on the non-profit sector is required by a number of public sector bodies. This is needed for effective governance and to enhance evidence based policymaking. This is particularly required where more than one funder is assisting a non-profit organisation. It is however important to recognise that while there is a demand for the provision of information on the non-profit sector, this does not in itself ensure appropriate governance and the use of the information is critical.

In addition to the demand for general information on the non-profit sector there are specific user requirements. These include tailored information on the non-profit required by the Central Statistics Office, the Department of Justice concerning the Financial Action Task Force, and from local authorities and government departments and a number of other public bodies.

Indecon's analysis has also found that some major funders require specialised information which is not currently provided by Benefacts. Public Sector organisations in areas such as health, education and community development require detailed information including performance measures which is provided directly by individual non-profit organisations.

An analysis of a number of case studies suggests that the benefits of the information provided by Benefacts are likely to be in excess of the costs involved. A review of two significant users suggests that the alternative costs for these organisations alone would amount to over one third of the total annual costs of the Benefacts services. Our evaluation suggests that while it is difficult to estimate the costs of obtaining the same data directly, access to a centralised database is likely to be very cost effective.

Case Study Estimates of Alternative Costs Impacts if Benefacts was Not Available

Total	€471,463
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Source: Indecon Analysis Based on Estimates of Salary Costs Provided by Two Organisations. Other inputs based on Indecon's review of The Public Spending Code E. Technical References on the calculation of staff costs.

Potential Market Interest in Open Tender

Indecon believes that given the developments which have been made by Benefacts since its establishment, it is now feasible to specify the requirements for an information/database service concerning the non-profit sector. In this context, we note that there are a number of specialised practices which develop and maintain databases. In addition, a number of professional practices have strong competencies in this area.

A well-managed open procurement process would be likely to attract bids from a number of companies. Such a process has the potential to enhance cost effectiveness and potentially could open up the opportunity for new innovations including in the associated analytical tools. Whether a tender for the services provided by Benefacts would constitute a “transfer of undertakings” could impact on the likely level of interest of bids in any procurement.

In order to ensure that the process would be likely to deliver value for money and that the existing assets are protected, Indecon would recommend that a mechanism is found to enable Benefacts to be a bidder in the process, or for the existing assets, experience and knowledge to be maintained. In this context depending on the timescales involved, there may be a need for the Government to consider transitional arrangements to ensure that the service is maintained until a bidding process is completed.

Conclusions

A summary of conclusions is presented in the table below.

Summary Conclusions	
1.	There is a demand and a requirement for data on the non-profit sector by a number of public bodies which is currently met by Benefacts.
2.	Indecon’s analysis suggests that the overall benefits of the Benefacts service are likely to be in excess of the costs.
3.	There is also a need for more specialised data which is required by the major funding organisations which is not currently met by Benefacts.
4.	Indecon’s assessment suggests that the methodologies used by Benefacts are appropriate and are in line with the approaches used in other countries. Some enhancement of the services would be useful and there is an alternative option for more centralised public service provision.
5.	An open procurement process would be likely to attract bids from a number of companies.

Potential Options for Benefacts

Based on the analysis undertaken, Indecon has outlined overleaf our assessment of the main options which could be considered by the Government in relation to the services provided by Benefacts.

1. Cease Funding of Benefacts or Alternative Service

In order to ensure the best use of scarce public expenditure, it is appropriate to consider the continued relevance of all areas of expenditure. Indecon therefore believes that the option of ceasing funding should be the counterfactual against which all programmes should be evaluated. Our analysis suggests that ceasing funding of Benefacts or an alternative service would reduce information which is needed for effective governance. In a previous review by the Comptroller and Auditor General, the importance of adequate oversight arrangement where public funding is provided to a range of organisations was highlighted.

2. Pursue open Procurement for All or Part of the Services Provided by Benefacts

Indecon believes that subject to TUPE clarification an effective public procurement process would attract bids from a number of companies. Such a process would potentially facilitate innovative solutions to the service requirements. If it was decided by the state to continue to fund the Benefacts services, then this approach would have merit. There would also be an option to fund part of the services provided by Benefacts, for example, the collection, checking and refinement of the data and the maintenance of the website. Other added value services or user specification applications could be supplied on a separate contract for services basis.

3. Develop Alternative State Provision

The provision of centralised information on the non-profit sector could also be provided directly by a government department or agency. Such an approach would have advantages in terms of facilitating the sharing of information between statutory agencies which may not be feasible with a private organisation. If this was part of a wider initiative to facilitate information for all of the public bodies who have requirements in this area, there could be advantages in terms of increased economies of scale. This, however, would be a long-term project and the priorities of this, vis a vis other government IT requirements, would need further evaluation.

4. Continue to Fund Benefacts Directly

Indecon believes that such an option would not be consistent with procurement rules. In addition, it is unlikely to be the most effective way to generate value for money or innovation in service provision.

1 Introduction, Background and Methodology

1.1 Introduction

This report represents an independent evidence-based analysis of the market for data on non-profit organisations in Ireland. Following a competitive tender, Indecon Research Economists were appointed by the Department of Public Expenditure and Reform to complete this study to inform future policy development.

1.2 Background to Research

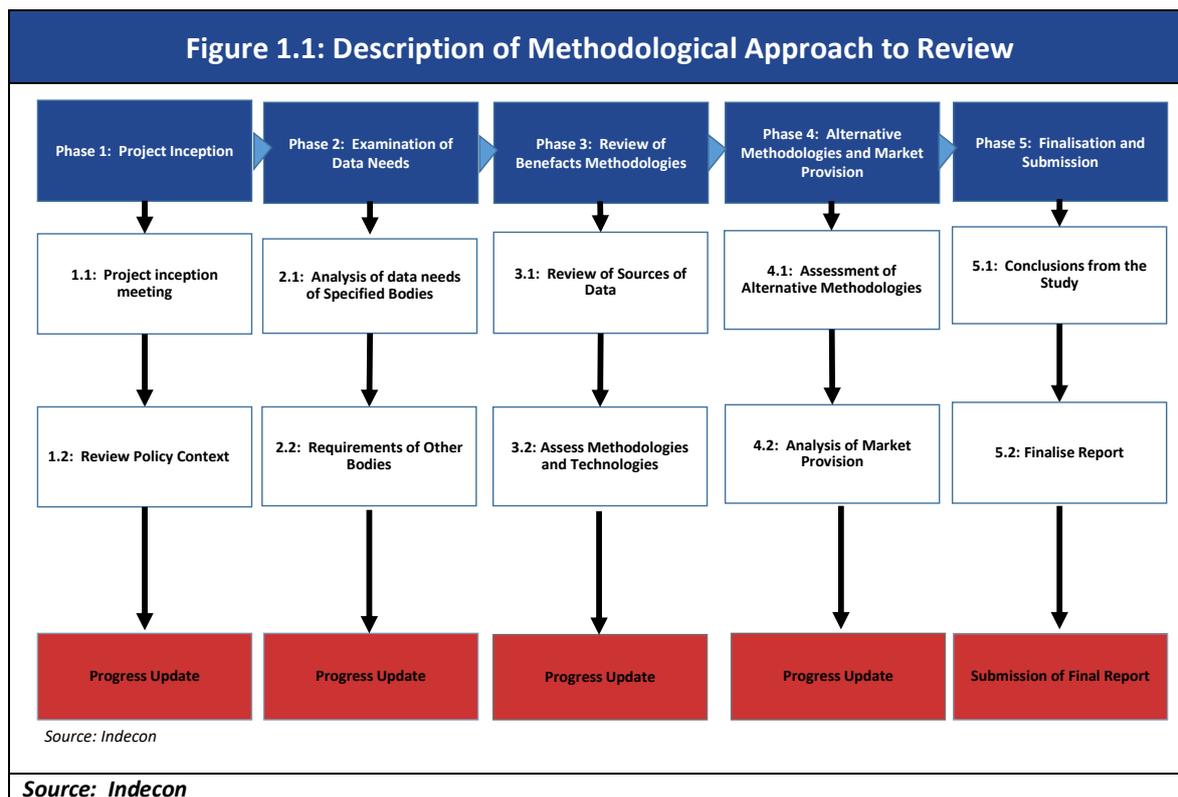
Non-profit organisations in Ireland play an important role in the delivery of social services in Ireland. Non-profit organisations range from very small community-based organisations to major providers of public services, particularly in the health and education sectors.

This report seeks to review the market for data on non-profits in Ireland and Benefacts' place in that market. The goals of this research project are to:

- Assess the existing and potential demand for data on the non-profit sector in a number of public sector bodies and the value they attach to that demand being met;
- Assess the methodologies and technologies used by Benefacts to fulfil the data needs of public bodies;
- Identify and assess alternative methodologies; and
- Assess the likelihood that an open procurement process would attract bids from a number of companies and for that process to deliver value for money.

1.3 Methodological Approach to Review

This review study was completed, based on a five-phased work programme. An overview of this work programme, including associated research, engagement and analytical elements, is presented in the next figure. We also acknowledge with thanks the information and lessons learned from Indecon's review of the evaluation of a Charity Passport on behalf of the Charity Regulator.



1.4 Report Structure

The remainder of the report is structured as follows:

- Section 2 sets out a background to the non-profit sector in Ireland;
- Section 3 presents details on Benefacts;
- Section 4 examines the methodologies and technologies used;
- Section 5 examines alternative approaches to the provision of non-profit data;
- Section 6 examines existing and potential demand for non-profit data in Ireland;
- Section 7 examines potential interest in an open tender to supply service; and
- Section 8 concludes.

1.5 Acknowledgements and Disclaimer

Indecon would like to acknowledge the very valuable assistance and inputs to this study from Ian Devlin, Mary Austin and John Howlin, of the Department of Public Expenditure and Reform. We are also grateful for inputs from Ciara Bates of the Department of Rural and Community Development; John Conlon and Damian Byrne, in the Department of Employment Affairs and Social Protection; John Conlan of the Department of Foreign Affairs and Trade; Paul Lemass and George Hussey of the Department of Housing, Planning and Local Government; Mark Warren of the Office of the Government Chief Information Officer and DPER; David Hegarty, Department of Business, Enterprise and Innovation; Caitriona Fottrell, Vice President and Director of the Ireland Funds; Paul Morrin, Assistant Director General with responsibility for Statistical System Co-ordination at the CSO; Peter O'Brien of Tusla; Madelaine Dennison of the Houses of the Oireachtas Library Service; Kevin Cleary of the Health Service Executive; Helen Martin of the Charities Regulator; Patricia Quinn of Benefacts; Bob Ottenhoff, ex. CEO of GuideStar in the US and current board member of Benefacts; Tom Boland and Bernie Cullinan, Board Members of Benefacts; Declan Rigney of the Revenue Commissioners; Andy Harkness of the Comptroller & Auditor General; and Pobal.

The usual disclaimer applies and responsibility for the analysis and findings in this independent report remains the sole responsibility of Indecon.

2 Background to Non-Profits in Ireland

2.1 Introduction

Recognising the significance of the non-profit sector and issues relating to public trust, the Department of Public Expenditure and Reform identified a market failure in the provision of easily accessible public information on non-profit organisations, which made it difficult for the public to see where and why both public and donated monies were being spent and to understand the work and governance of non-profits. The Department also recognised the potential for administrative efficiencies in the provision of better data on the sector. Since 2015, the Department has provided a grant to Benefacts in order to provide greater transparency on the sector as a public good. The significance of information on the non-profit sector is confirmed by Indecon’s analysis which indicates that there are around 20,000 non-profit organisations in Ireland. Non-profit organisations range from very small community-based organisations to some very significant providers of public services, particularly in the health and education sectors. There is limited comprehensive centralised information available on the wider non-profit sector other than Benefacts, although the Charities Regulator has a database on regulated charities.

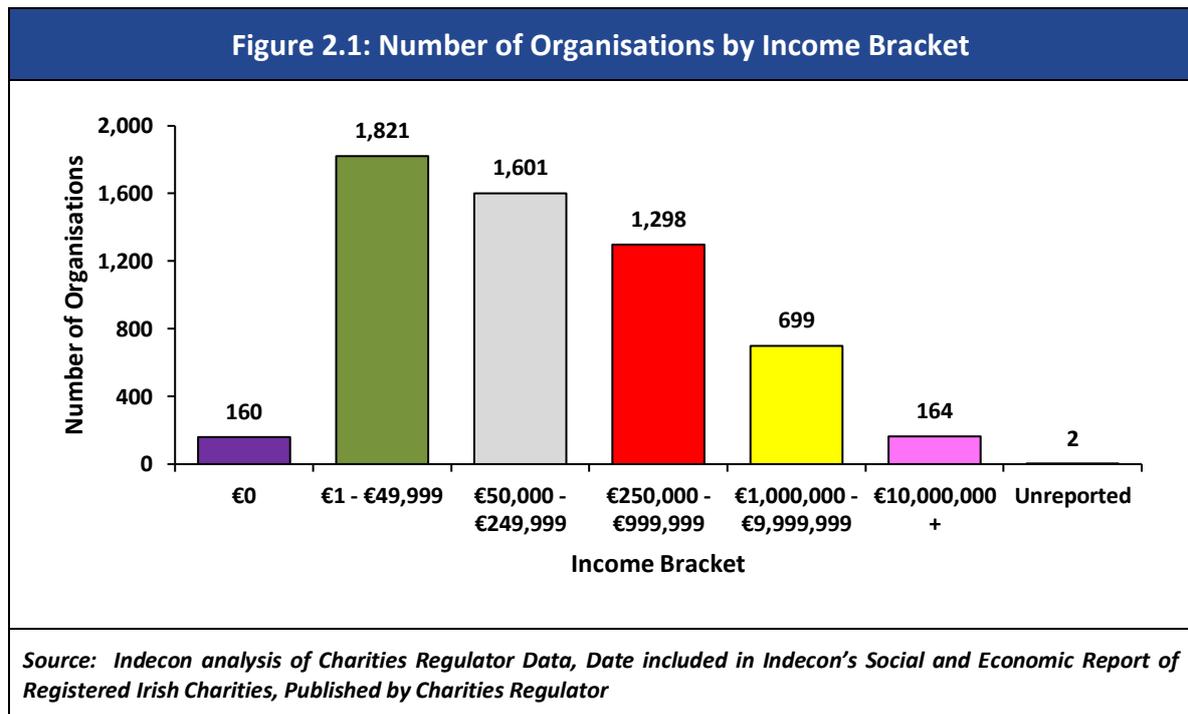
Non-profit organisations in Ireland include a diverse range of organisations. ‘Non-profit’ has been defined by the UN as being: a) organizations; b) not-for-profit and non-profit-distributing; c) institutionally separate from government; d) self-governing; and e) non-compulsory.¹ Indecon’s analysis indicates that there are around 20,000 non-profit organisations identified in the Benefacts database of non-profits. An important point to note from the perspective of this review is that non-profit organisations represent a broader group of organisations than the entities which are Registered Charities. A breakdown of these by body is provided in the table 2.1.

Table 2.1: Number of Different Forms of Non-Profit Organisation in Ireland, 2019	
Information Field	Number
Non-Profits as listed on Benefacts	19,540
Charities Regulator	9,687
Companies Registration Office	9,333
Revenue Commission CHY Number	6,957
Approved Housing Bodies	254
Department of Education Roll Number	4,022
Register of Friendly Societies	687

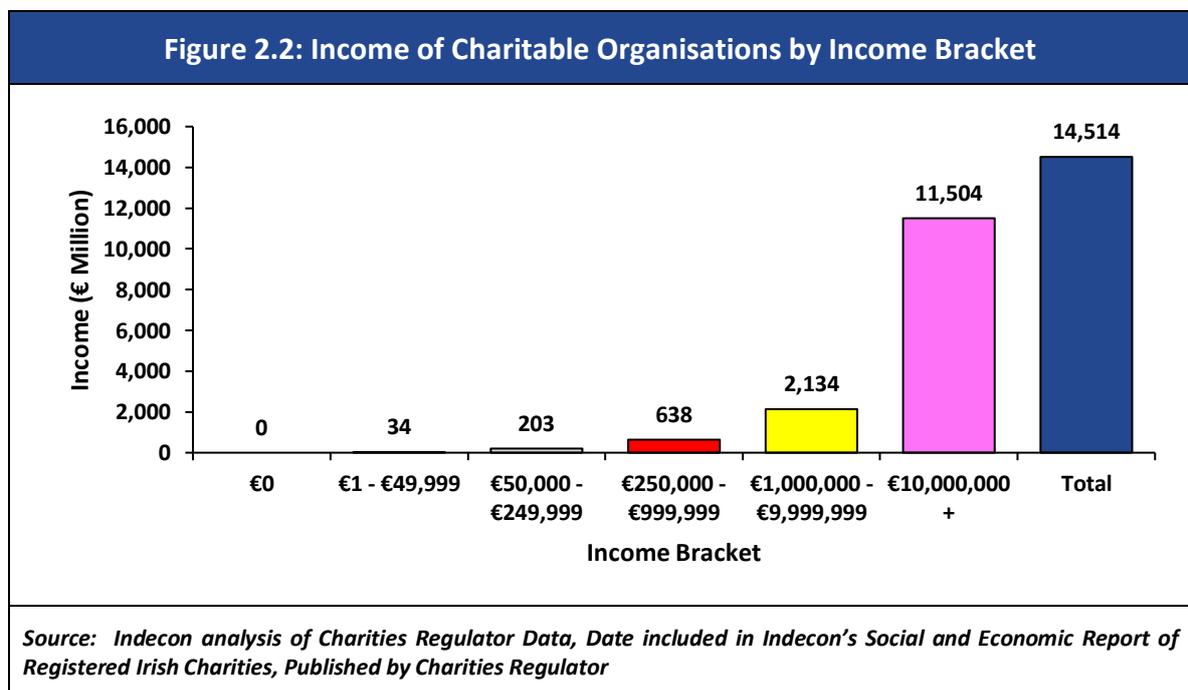
Source: Benefacts Public Database as of 31 January 2019
Note: Excludes those still included in the database but listed as having been deregistered by the Charities Regulator

¹ United Nations, Handbook on Non-Profit Institutions in the System of National Accounts, Series F., No. 91.

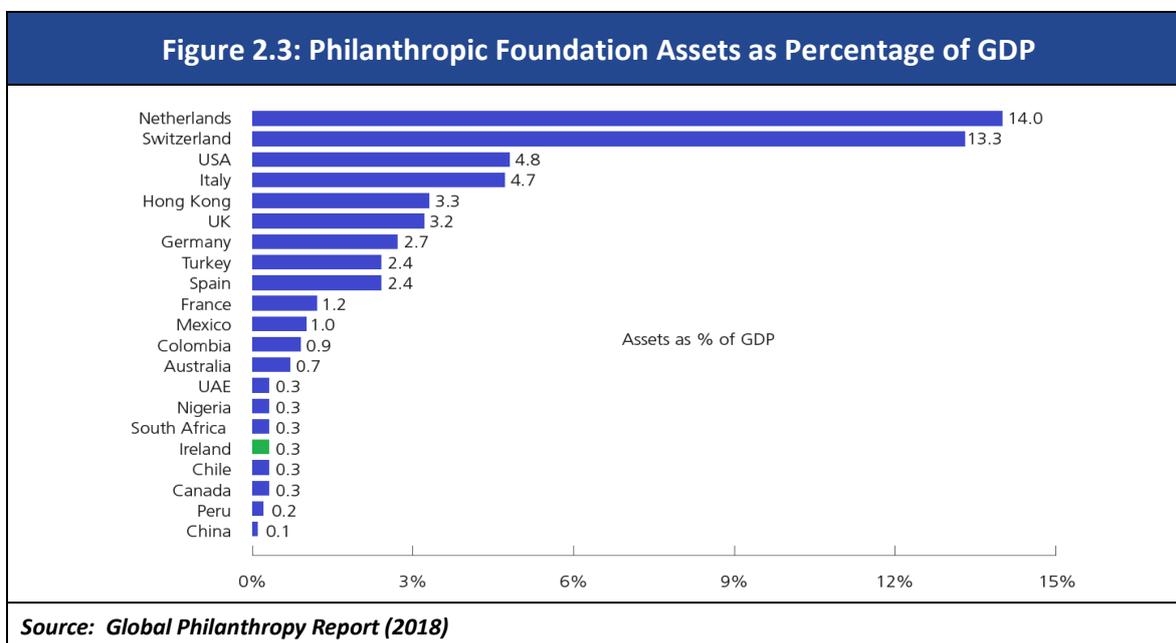
While non-profit organisations include registered charities and many other organisations, it is useful to consider the size profile of the charities regulated by the Charities Regulator.



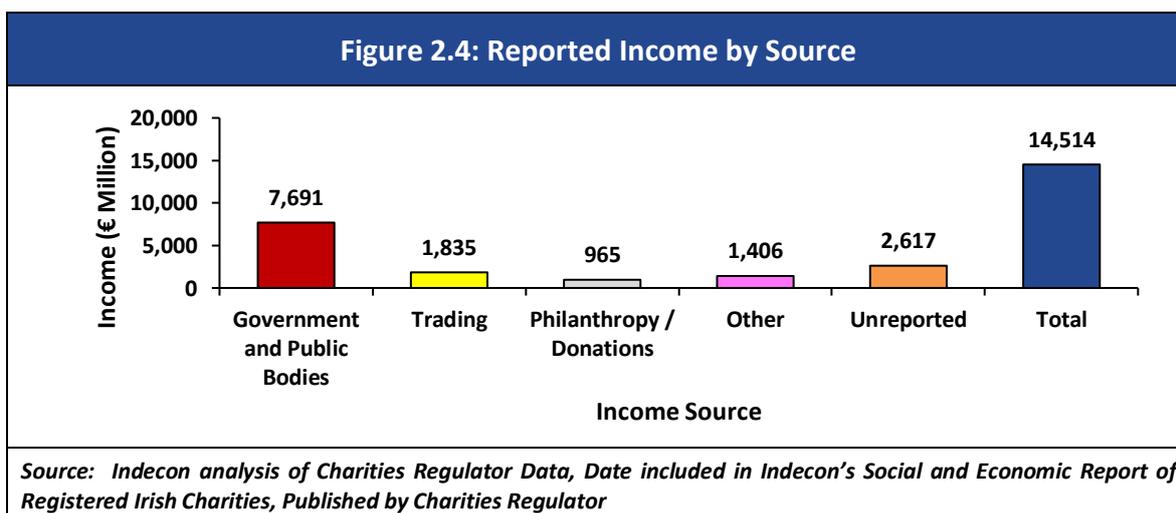
A small number of charities constitute a large portion of total income for the sector. However, even small charities and small non-profit organisations can impact on the reputation of the sector. Having access to accurate information on these smaller organisations is therefore important.



One feature of Ireland is the relatively minor role played by philanthropic foundations. As indicated in Figure 2.3, expressed as a percentage of GDP, philanthropic foundation assets in Ireland are only 0.3% which is much less than in some other countries. This however may relate in part to definitional issues and Indecon would not place too much emphasis on this precise metric. However, the central point of low levels of philanthropic funding remains valid.



The structure of funding of non-profits in Ireland indicates a relatively minor role of philanthropic funding and the dependence on Exchequer resources. The extent of public funding for non-profit organisations who are charitable organisations is presented in Figure 2.4. This shows that public funding of €7.69 billion was provided to registered charities. Of the reported income, income from philanthropy and donations made up just 7% of the total, while funding from government and public bodies is of critical importance. This highlights the significance of ensuring that information is available for the public sector to monitor the organisations in receipt of scarce exchequer resources.



2.2 Regulation of Non-Profits in Ireland

In Ireland a charity is defined under the Charities Act 2009 as per Figure 2.5. All bodies that meet the criteria of being a charity as outlined in the Charities Act 2009 are statutorily required to register with the Charities Regulator and to submit data to the Regulator. This is also a pre-requisite for being granted charitable tax relief by the Revenue Commissioners.²

Figure 2.5: Definition of a Charity

1. *“The trustees of a charitable trust, or*
2. *A body corporate or an unincorporated body of persons:*
 - (i) *that promotes a charitable purpose only,*
 - (ii) *that, under its constitution, is required to apply all of its property (both real and personal) in furtherance of that purpose, except for moneys expended:*
 - a. *in the operation and maintenance of the body, including moneys paid in remuneration and superannuation of members of the staff of the body, and*
 - b. *in the case of a religious organisation or community, on accommodation and care of members of the organisation or community, and*
 - (iii) *none of the property of which is payable to the members of the body other than in accordance with section 89 [of the Charities Act].”*

Source: Charities Act (2009)

Some bodies that may meet the above definition are termed as ‘excluded bodies’ by the Charities Act 2009. Such bodies are not required to register with the Charities Regulator. These excluded bodies are:

- Political Parties or any organisation that promotes a political party or candidate for election to public office. Political parties in Ireland have to register with the Registrar of Political Parties which is housed in the Houses of the Oireachtas.³
- Any organisation that promotes a political cause with an exception made where the promotion of the political cause directly concerns the advancement of the organisations’ charitable purpose.⁴
- Sporting organisations that are defined within section 235 of the Taxes Consolidation Act 1997. The majority (e.g. GAA clubs) are not classified as charities. Only sporting organisations which have a clear charitable purpose may be classed as charities (e.g. a running club whose proceeds go towards Cystic Fibrosis sufferers).⁵

² <https://www.revenue.ie/en/companies-and-charities/charities-and-sports-bodies/charitable-tax-exemption/index.aspx> (accessed 21/01/2019)

³ <https://www.cro.ie/Registration/Registering-Political-Parties> (accessed 21/01/2019)

⁴ Citizens Information 2018, Charities Regulation in Ireland in *Relate* 45(5). Available at: http://www.citizensinformationboard.ie/downloads/relate/Relate_2018_05.pdf (accessed 29/01/2019)

⁵ Citizens Information 2018, Charities Regulation in Ireland in *Relate* 45(5). Available at: http://www.citizensinformationboard.ie/downloads/relate/Relate_2018_05.pdf (accessed 29/01/2019)

- Trade unions or employer representative organisations: such organisations are obliged to register as ‘friendly societies’ with the Companies Registration Office (CRO) for inclusion on the Register of Friendly Societies.
- Chambers of Commerce: while these are non-profits, they are not charities. As these are companies limited by guarantee without share capital, they have to register with the CRO.

The Charities Regulator was established in 2014 having being legislated for by the Charities Act 2009.⁶ Of relevance to this review is that the Charities Regulator has a legislative mandate to keep a database of all charitable organisations in Ireland. While organisations which are defined as charities must register their charitable status with the Charities Regulator, they also must separately register with the Revenue Commissioners for charitable tax exemption⁷ and are listed in separately on the Revenue Commissioners Register. Upon registering with the Charities Regulator, a charity receives a Registered Charity Number (RCN).

In 2017, there were over 9,000 organisations on the register of charities.⁸ Members of the public can search this database for records on individual charities on the Charities Regulator’s website and there is also a facility for bulk download of the database in excel format.⁹ Indecon understands that initially this service was developed by Benefacts under an agreement with the Charities Regulator using data collected by the Charities Regulator.¹⁰ Prior to Benefacts involvement, an online register of charities had been outsourced to the Department of Justice and Equality and was constructed using Lotus Notes.¹¹

The Revenue Commissioners who have independent statutory responsibility for the implementation of compliance with the Irish tax code and the collection of taxes also obtain data from non-profit organisations. There are a number of schemes available to non-profit organisations which register as charities which enable them to achieve special treatment in terms of taxation, namely the charitable tax exemption and the charitable donation scheme.

The charitable tax exemption provides that once a charitable organisation has been recognised as a charity by the Charities Regulator, and has received a CRA number, it can then apply for charitable tax exemption from the Revenue Commissioners.¹² This means that it may be exempt from paying Income Tax; Corporation Tax; Capital Gains Tax; Deposit Interest Retention Tax; Capital; Acquisitions Tax; Dividend Withholding Tax; and Stamp

⁶ <https://drcd.gov.ie/about/charities-regulator/> (Accessed 29/01/2019)

⁷ Citizens Information, http://www.citizensinformation.ie/en/government_in_ireland/national_government/standards_and_accountability/charities_regulatory_authority.html (Accessed 22.01.2019)

⁸ Charities Regulator 2017, Annual Report 2017

⁹ <https://www.charitiesregulator.ie/en/information-for-the-public/search-the-charities-register> (accessed 18/01/2019)

¹⁰ Benefacts 2017, Agreement Between Charities Regulator and Benefacts

¹¹ DPER 2017, Benefacts: Review of Pilot Project Plan 2015-2017 and Assessment of Business Plan 2018-2020.

¹² <https://www.revenue.ie/en/companies-and-charities/charities-and-sports-bodies/charitable-tax-exemption/index.aspx> (Accessed 20/01/2019)

Duty. As of the January 2019, there were 7,131 bodies registered for charitable tax exemption by the Revenue Commissioner.¹³ Bodies that are recognised as charities by the Revenue Commissioners for tax purposes receive a CHY number.

The charitable donation scheme is based on: Section 848 of Taxes Consolidation Act 1997 and grants tax relief on donations to certain charities.¹⁴ The Revenue Commissioners publishes two separate lists on its website concerning bodies that avail of the charitable donation scheme, one for resident (Irish) bodies and non-resident bodies. The number of charities availing of charitable tax relief on donations is a fraction of that the number availing of charitable tax exemption. As of 23 November, there were 2,484 resident charities receiving tax relief on donations, while only 10 non-resident bodies were availing of the scheme.¹⁵

Non-profits that are not registered as charities cannot avail of the aforementioned tax schemes. However, sporting organisations that are not registered as charities can avail of tax exemption under Section 235 of the Taxes Consolidation Act 1997. A list of sporting organisations that avail of this tax exemption is published by the Revenue Commissioners on its website and as of 29 January 2019, there were 2,250 relevant sporting organisations.¹⁶ Such bodies must have the sole purpose of promoting an athletic or amateur game or sport, and all income received by such bodies must be used to promote that game or sport.¹⁷ Once approved, sporting organisations that apply for tax exemption receive a GS exemption number.

In practice, many registered charities as other well as non-profit organisations have to meet regulatory, legislative and administrative requirements of a wider range of bodies including from government funding organisations. Table 2.2 indicates that 4,629 charities registered with the CRO are also registered with the CRA, and 4,441 charities registered with the CRO are also registered with the Revenue Commission. Of the total number of non-profits, just under half (9,687) are issued a CRN number by the Charities Regulator, while over 70% of these also have been issued with a CHY number by the Revenue Commissioners. In total there were 19,540 registered bodies on the Benefacts Database as of 31 January 2019. Of these, 9687 were registered with the Charities Regulator.

¹³ Bodies with charitable tax exemption dataset (as of 29/01/2019). Available at: <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/registrations-assessments-transactions/charities/bodies-charitable-tax-exemption.aspx> (accessed 30/01/2019)

¹⁴ <http://www.irishstatutebook.ie/eli/1997/act/39/section/848/enacted/en/html> (Accessed: 21/01/2019).

¹⁵ Resident charities and approved bodies – Tax relief on donations and Non-resident charities and approved bodies – Tax relief on donations datasets (as of 23/11/2018). Available at: <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/registrations-assessments-transactions/charities/resident-charities.aspx> and <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/registrations-assessments-transactions/charities/non-resident-charities.aspx> (accessed 30/01/2019).

¹⁶ Sports bodies with a tax exemption dataset (as of 29/01/2019). <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/registrations-assessments-transactions/sport-bodies.aspx> Available at: (accessed 30/01/2019).

¹⁷ <https://www.revenue.ie/en/companies-and-charities/charities-and-sports-bodies/tax-relief-on-donations-to-certain-sporting-bodies/what-is-an-approved-sports-body.aspx> (accessed 30/01/2019).

Table 2.2: Overlapping Categories in Benefacts Database

	Charites Regulator	CRO	Revenue (CHY Number)	Dept. of Education and Skills	Register of Friendly Societies	Dept. of Housing (Approved Housing Bodies)
Dept. of Housing (Approved Housing Bodies)	250	243	245	0	5	254
Register of Friendly Societies	23	0	20	0	687	
Dept. of Education and Skills	2,256	15	61	4,022		
Revenue (CHY Number)	6,843	4,441	6,957			
Companies Registration Office	4,629	9,333				
Charites Regulator	9,687					

Source: Indecon Analysis of Benefacts Database

2.3 Role of Information and Extent of Market Failure

An issue for this review is what role is played by the provision of information and data on the non-profit sector and to what extent is there market failure which requires government intervention. Indecon's analysis suggests that market failure can occur due to information asymmetries. This provides a potential justification for government intervention to provide centralised information on the sector but only if the costs of the data provision are less than the benefits which are derived.

Information asymmetries between donors or funders and non-profit organisations can lead to adverse selection¹⁸ and inefficient outcomes in society.¹⁹ This type of market failure can in part be mitigated by the collection and dissemination of information on non-profit organisations. For this reason, registers of approved charities are published in many countries, while in the US, a number of organisations have emerged which provide ratings as to how effective charities are as a guide for potential donors.²⁰

An additional source of potential market failure in the non-profits sector is the principal-agent problem. This occurs in situations where the agent is conducting tasks on behalf of another, the principal, and the agent's incentives may not be aligned.^{21, 22}

¹⁸ Akerlof, G., 1970. "The Market for "Lemons": Quality Uncertainty and the Market Mechanism" in *The Quarterly Journal of Economics*, 84:3, 488-500

¹⁹ Prakash, A., & Gugerty, M. K. (2010). Trust but verify? Voluntary regulation programs in the non-profit sector. *Regulation & Governance*, 4(1), 22-47.

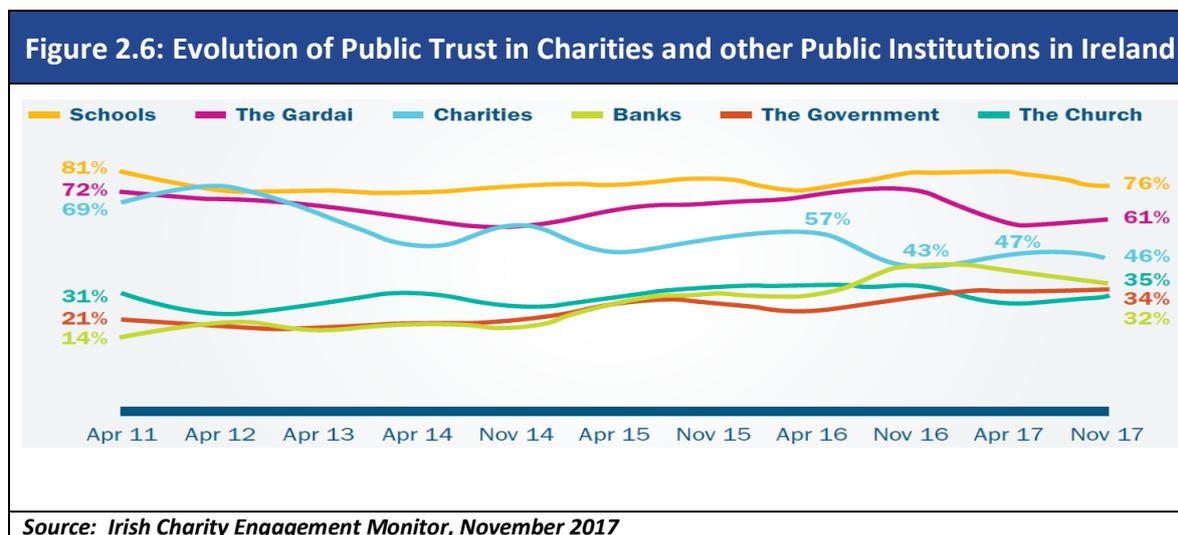
<https://trust.guidestar.org/impact-auditing-for-smarter-giving> (accessed 24/01/2019) - in the original Akerlof paper the "bad charity" was the lemon, an American term for a poor quality second hand car.

²⁰ Bekkers, R. (2003). "Trust, accreditation, and philanthropy in the Netherlands. *Nonprofit and Voluntary Sector Quarterly*, 32(4), 596-615.

²¹ Ross, S. 1973, "The Economic Theory of Agency: The Principal's Problem", *The American Economic Review*, 63:2, 134-139

²² Steinberg, R. (2010). Principal-agent theory and non-profit accountability. In K. Hopt & T. Von Hippel (Eds.), *Comparative Corporate Governance of Non-Profit Organizations (International Corporate Law and Financial Market Regulation*, pp. 73-126). Cambridge: Cambridge University Press. doi:10.1017/CBO9780511712128.006

The publication of a database of regulated non-profits can help to overcome some causes of market failure. Such information can help inform how well the non-profits to utilise their funds which is a critical issue given the need to maximise the use of scarce economic resources.²³ In addition, increased information or accreditation can help in maintaining trust of non-profits.²⁴ Evidence from the Netherlands suggests that accreditation systems for non-profits increase trust in charities and hence donors who are aware of accreditation systems give more than those who are not.²⁵ As is evident in Figure 2.6, in Ireland, public trust in charities declined in certain years following issues which arose in individual charities.



There are a number of initiatives that governments can take to enhance data provision and overcome market failure in the non-profit and other sectors. Data has become increasingly important for effective evidence based public administration and the Irish government has committed to putting data at the centre of the delivery of public services. This, for example, is reflected in the inclusion of Open Data in the Government's strategy for the development of public services, *Our Public Service 2020*, and the establishment of a dedicated Open Data Governance Board in Department of Public Expenditure and Reform.²⁶ The stated intention is to:

- Increase transparency and trust in the government among the public;
- Improve policy formulation driven by better analytics;
- Reduced bureaucracy by removing the need for individuals and organisations to provide the same data multiple times;
- Improved data protection procedures; and
- Improve the delivery of public services.²⁷

²³ Prakash, A., & Gugerty, M. K. (2010). Trust but verify? Voluntary regulation programs in the non-profit sector. *Regulation & Governance*.

²⁴ Steinberg, R. (2010). Principal-agent theory and non-profit accountability. In K. Hopt & T. Von Hippel.

²⁵ Bekkers, R. (2003). "Trust, accreditation, and philanthropy in the Netherlands. *Nonprofit and Voluntary Sector Quarterly*.

²⁶ DPER 2017, *Our Public Service 2020*.

²⁷ DPER 2017, *Open Data Strategy 2017-2022*

These efforts are in the context of a series of policy statements concerning government and open data from the OECD, EU Commission and UN.²⁸ Among these is the EU Tallinn Declaration on eGovernment of 2017, which Ireland has signed, which binds signatories to take initiatives to develop a culture of re-usable and transparent data within administrations.²⁹ An additional goal underpinned by the Tallinn Declaration concerns a once-only policy for the giving of data by members of the public and organisations. The contribution of open data across Europe for the years 2016-2020 has been estimated at around €325 billion.³⁰

As part of the Irish Government's data strategy there is a commitment to further develop the government's open data portal: www.data.gov.ie. Over 80 government departments and public bodies have published datasets on the website with others harvested from domain-specific data catalogues.³¹ Data that is submitted for publication on the open data portal should be 'High Value'.³² From the perspective of the publisher, high value data is defined as that which either contributes to transparency; is of benefit to citizens; contributes to the creation of employment; directly or indirectly relates public tasks; leads to a cost reduction; and, is relative to the size and type of the data's target audience.³³

2.4 Summary of Findings

- ❑ Recognising the significance of the non-profit sector and issues relating to public trust, the Department of Public Expenditure and Reform identified a market failure in the provision of easily accessible public information on non-profit organisations, which made it difficult for the public to see where both public and donated monies were being spent and to understand the work and governance of non-profits.
- ❑ The Department also recognised the potential for administrative efficiencies in the provision of better data on the sector. Since 2015, the Department has provided a grant to Benefacts in order to provide greater transparency on the sector as a public good. The significance of information on the non-profit sector is confirmed by Indecon's analysis which indicates that there are around 20,000 non-profit organisations in Ireland. Non-profit organisations range from very small community-based organisations to major providers of public services. There is very limited comprehensive centralised information available on the wider non-profit sector other than Benefacts, although the Charities Regulator also has a detailed database on regulated charities.

²⁸ DPER 2018, Public Service Digital Strategy 2019-2023

²⁹ EU Commission 2017, Tallinn Declaration on eGovernment. Available at: <https://ec.europa.eu/digital-single-market/en/news/ministerial-declaration-egovernment-tallinn-declaration> (accessed 28/01/2019)

³⁰ Caggemini Consulting. (2015). Creating Value through Open Data. European Commission.

³¹ <https://data.gov.ie/pages/aboutdata-gov-ie> (accessed 28/01/2019)

³² DPER 2017, Open Data Strategy 2017-2022.

³³ DPER 2017, Open Data Strategy 2017-2022.

3 Benefacts

3.1 Introduction

Benefacts is a non-profit company that was set up in 2014 to establish, maintain and publish extracts from a database derived from publicly available sources augmented by voluntary disclosures, concerning non-profit entities. The aim of the organisation is to assist government, the non-profit sector and its stakeholders, to better understand and assess the objectives and performance of such entities. Its purpose is also to explore the extent of the data available on non-profit organisations operating in Ireland and the range of potential uses of that data, and regularly to expand and update the database with relevant information.³⁴ The objectives of Benefacts as set out in its constitution are shown in Figure 3.1. Indecon would note that while the objectives include the establishment of a self-funding business model, our assessment is that the data provision for non-profits is unlikely to be commercially viable on a self-funding model without philanthropic or government funding. Indecon understands that the self-funding model envisaged by Benefacts was one in which costs were remunerated by fee income or grants mainly, but not exclusively, from public expenditure.

Figure 3.1: Legal Objectives of Benefacts

1. To establish, maintain and publish extracts from a database derived from publicly-available sources augmented by voluntary disclosures, concerning non-profit entities established for public benefit, however constituted, with the aim of assisting government, the non-profit sector and its stakeholders better to understand and assess the objects and performance of such entities.
2. To explore the extent of the data available on non-profit organisations operating in Ireland and the range of potential uses of that data, and regularly to expand and update the database with relevant information in order to optimise the quality and value, and promote the use of the data in order to establish a self-funding business model for the Company.
3. To do all such other things as are incidental or conducive to the attainment of the above objects.

Source: Benefacts (2014), Constitution.

The background to the history of Benefacts is The GuideStar concept which was introduced to Ireland by way of a market validation grant provided by the European Commission under the eTEN programme to a consortium of non-profit interests including Ireland, the Netherlands, Hungary, Germany and GuideStar International, a charity based in the UK. The Department of Community, Rural and Gaeltacht Affairs provided €90,000 in match funding to this preliminary proof of concept project 2007/8 (the Irish portion of the EU grant was €60,000). The decision to provide a three-year grant to fund the next stage of development was in response to a business plan prepared in the course of the pilot project.

³⁴ Benefacts 2015, Directors' Report and Financial Statements for the 14 Month Period Ended 31 December 2015.

The company that was established in 2009 was Irish Non-profits Knowledge Exchange (INKEx), originally called GuideStar Ireland and based on a concept originated by the US non-profit data aggregator GuideStar. The purpose of this organisation as set out in its constitution was:

“To promote for the public benefit the community and voluntary sector and the entities within it working for the public benefit by establishing and maintaining a publicly available database of the trustees, directors, promoters, activities and finances of charities, trusts and other non-profit bodies (howsoever constituted) established in Ireland, so as to enable the non-profit sector and its participants and beneficiaries, donors, funders, promoters, policy-makers, potential volunteers, researchers and the public generally better to understand and assess the objects and performance of such entities.”

The decision to provide three-year funding to GuideStar Ireland (GI) was made following a memo brought to Government by the then Minister for Community, Rural and Gaeltacht Affairs, Pat Carey. The Secretary General told GI’s then Chairman and CEO that the objectives in providing funding were three-fold:

- a) to create a resource that would provide informational assets to non-profits to improve their business planning capability;
- b) to save the necessity for the Charities Regulator to create its own database on establishment; and
- c) to provide whole of government intelligence on which departments and agencies were funding which non-profits.

The Charities Act 2009 which legislated for the creation of a charities register stated that a register of charities was to be maintained by the regulator.³⁵ However, in an amendment introduced by the Minister of State,³⁶ the following provision was added to the Act at Section 15 (2)(c):

15.— (1) The Minister may, in relation to the performance by the Authority of its functions, give a direction in writing to the Authority requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, in relation to the performance by the Authority of its functions under *section 39*, give a direction in writing to the Authority requiring it to comply with such matters specified in the direction relating to—

- (a) the maintenance of the register,
- (b) the collection and collation of information for the purpose of maintaining the register, or
- (c) the entry into agreements with persons, other than charitable organisations, for the purpose of obtaining such information.

³⁵ Charities Act 2009

³⁶ Proceedings of the Oireachtas <https://www.oireachtas.ie/en/debates/debate/dail/2009-02-11/26/>

To fund its establishment and operations, INKEx received €750,000 from the Department of Community, Rural and Gaeltacht Affairs, €300,000 from the Department of Foreign Affairs and €150,000 from Atlantic Philanthropies.³⁷ By the time of its closure, INKEx had established a database of non-profits using data obtained from the Revenue Commissioners and the Companies Registration Office.³⁸ The searchable website using data derived from this database (www.irishnonprofits.ie) was made available for test purposes to the non-profits that were recorded on it in 2010 and to the general public in 2011. It was taken down later in 2011 following the decision of the Minister for Justice in June 2011 to withdraw funding. INKEx was wound up in June 2012 following the publication of a sector analysis report. Table 3.1 shows the timeline for the establishment of INKEx, Benefacts and the Charities Regulator.

Table 3.1: Benefacts and Charities Regulator Timeline	
2009	Charities Act legislates for the establishment of Charities Regulator (it is not actually established until 2014). The Irish Non-profits Knowledge Exchange (INKEx) is also established
2011	www.irishnonprofits.ie a searchable website/database of non-profits developed by the INKEx becomes available to non-profits and subsequently goes live to the general public
2011 (June)	Funding is withdrawn from the INKEx, www.irishnonprofits.ie is taken down
2012 (January)	INKEx publishes a sector report derived from the database (Irish Non-profits: what do we know?)
2014 (October)	Charities Regulator comes into existence
2014 (November)	Benefacts is incorporated following a 9-month period of discussions with funders
2016	www.benefacts.ie a searchable website/database of Irish non-profits developed by Benefacts goes live
<i>Source: Benefacts</i>	

Benefacts has since created the Database of Irish Non-profits. The company provides a range of free public web-based services derived from the most recently available data, and also provides data, information and analysis services in a range of (free) public and paid (commissioned) forms. Since it commenced operations in March 2015, Benefacts has developed and delivered five distinct services, examples of which are instanced here:

1. DATA SERVICES (agreed datasets extracted from the database on a once-off or repeating basis) – provided at their request to:
 - the Central Statistics Office
 - www.Data.Gov.ie
 - Revenue

³⁷ Burke 2013, Case Study of Irish Non-profits Knowledge Exchange (INKEx)

³⁸ Burke 2013, Case Study of Irish Non-profits Knowledge Exchange (INKEx)

2. WEB SERVICES
 - www.benefacts.ie
 - free public API at <https://en.benefacts.ie/get-data/#public-api>
 - the Public Register of Charities - developed, hosted and maintained by Benefacts on behalf of the Charities Regulator between June 2017 and June 2018.

3. INFORMATION SERVICES (datasets with narrative information explaining their relevance) – provided at their request to e.g.
 - the Irish Government Economic and Evaluation Service
 - the Housing Agency (twice)
 - the Office of the Comptroller & Auditor General
 - the research service of the Houses of the Oireachtas

4. ANALYSIS REPORTS - including Benefacts own annual sector analysis reports, also provided on a fee or grant payment basis in 2018 to
 - the Department of Justice and Equality (following a public tender)
 - the Department of Employment and Social Protection
 - a number of non-profit and private sector clients

5. BENEFACTS ANALYTICS - a productised service, currently in development with six test users in central and local government agencies, which will provide enterprise-specific data governance, data analysis and risk management services to registered users.

The database has expanded to now include approximately 30,000 non-profits in Ireland. In addition to registered charities (which are regulated by the charities regulator) this includes other non-profits — such as sports organisations, political parties, human rights organisations, and other organisations whether ineligible to be registered as charities, or not yet registered as charities.³⁹ Benefacts has entered into a memorandum of understanding with the CSO for the provision of a quarterly data dump. This includes the data that the CSO is required to provide to Eurostat concerning non-profit institutions serving households. The information transfer to the CSO includes full extracts from the Benefacts database at quarterly intervals, including biographical information on non-profits (including location), financial data (including data derived from the balance sheet, income and expenditure accounts, and notes to the accounts) and data about employment (including payroll costs, numbers employed, and the profile of higher-remunerated employees).

³⁹ DPER 2018, Oversight Agreement between the Department of Public Expenditure and Reform and Benefacts.

3.2 Funding

Since it commenced operations in March 2015, nearly half of Benefacts funding has come from grants from the Department of Public Expenditure and Reform. The terms of Benefacts first funding agreement with DPER 2015-2017 prohibited the company from charging any government department or agency for services. For the period 2018-2020 no such prohibition was required.

Table 3.2 shows the sources of funding for Benefacts from 2014 to 2017. Of the total funding in this period, just under half came from grants from DPER under the terms of its 2015 funding agreement with Benefacts.⁴⁰ €1.4m (35% of funding) was made in grants from Atlantic Philanthropies for a defined period up to 2017, actually paid before the end of 2016. In addition, €0.4m of grants were provided by the Ireland Funds, with the remainder of funding coming from other grants and donations. In December 2017, the DPER agreed to provide €2.85m in grants (up to €0.95m per annum) between January 2018 and the end of 2020.⁴¹ The Ireland Funds continued to provide 10% of Benefacts' overall funding.

Table 3.2: Benefacts Sources of Income, 2014-2017 (€'s)

	2014	2015	2016	2017	Total
DPER		350,000	650,000	950,000	1,950,000
Atlantic Philanthropies		800,000	600,000		1,400,000
Ireland Funds	10,000	75,000	100,000	215,000	400,000
Other Grants and Donations	5,000	35,000	90,000	120,000	25,000

Source: Benefacts

The drawdown of funds by Benefacts is displayed in Table 3.3. Since 2018, Benefacts has entered into a number of co-funded pilot projects to further research and develop its Benefacts Analytics service.⁴²

Table 3.3: Benefacts Income Drawdown, 2015-2017 (€'s)

	2015	2016	2017	Total
DPER	350,000	650,000	621,000	1,621,000
Atlantic Philanthropies	387,000	442,000	571,000	1,400,000
Ireland Funds	110,000	200,000	53,000	363,000
Other Grants and Donations	5,000	-	20,000	25,000

Source: Benefacts Annual Reports, 2015-2017

⁴⁰ DPER 2015, Funding Agreement between the Minister for Public Expenditure and Reform and the Irish Non-profits Project Limited.

⁴¹ DPER 2017, Funding Agreement between the Minister for Public Expenditure and Reform and the Irish Non-profits Project Limited.

⁴² Benefacts 2017, Annual Report 2017.

3.3 Governance

Benefacts is a private not-for-profit company limited by guarantee without share capital.⁴³ Benefacts is governed by a distinguished voluntary board (only the Managing Director is remunerated, in her executive capacity) of seven persons with extensive experience in public policy, philanthropy and professional services. The members of the Board of Directors are listed in Table 3.4.

Table 3.4: Members of the Board of Directors of Benefacts	
Tom Boland	Robert Ottenhoff
Rory Coveney	Patricia Quinn
Bernie Cullinan	Philip Smith
Emma Lane-Spollen	
<i>Source: Benefacts</i>	

Members of the Board of Directors of Benefacts have competency in one or more of the following:⁴⁴

- Civil leadership, management and governance.
- Information and communications technologies with particular reference to data and information services.
- Philanthropy.
- Financial management, audit and accountancy.
- Public policy and administration.
- Marketing, communications and branding.
- Legal and regulatory expertise including for example in contract law, intellectual property, data protection and related areas.

Benefacts engages with its stakeholders and funders by means of a Project Advisory Group, which includes a representative from each funder. Subsequently a new committee has been established.⁴⁵

Benefacts is audited by KPMG Chartered Accountants in accordance with Section 383(2) of the Companies Act 2014.⁴⁶ Benefacts has a funding oversight agreement with the DPER whose provisions include the submission of quarterly progress reports to the DPER, and the adoption where relevant of State body governance standards including Public Procurement Rules.⁴⁷ Table 3.5 provides the numbers of full-time equivalent staff that were employed in Benefacts in the 2015-2017 period, when employment increased from nine to 15 full-time equivalents (23 part-time employees) as the company recruited its core staff complement. Most of the financial analyst/data keying staff are employed part-time.

⁴³ DPER 2018, Oversight Agreement Between the Department of Public Expenditure and Reform and Benefacts.

⁴⁴ Benefacts 2016, Benefacts Governance Manual

⁴⁵ Benefacts 2017, Annual Report 2017

⁴⁶ Benefacts 2017, Annual Report 2017

⁴⁷ 2018. Oversight Agreement between the Department of Public Expenditure and Reform and Benefacts.

Table 3.5: Full-Time Equivalent Employees in Benefacts, 2015-2017

	2015	2016	2017
Full-Time	7	9	7
Part-Time	2	6	8
Total	9	15	15

Source: Benefacts Annual Reports 2015-2017

3.4 Summary of Findings

- ❑ Benefacts is a non-profit company that was set up in 2014 to establish, maintain and publish extracts from a database derived from publicly available sources augmented by voluntary disclosures, concerning non-profit entities.
- ❑ The aim of the organisation is to assist government, the non-profit sector and the public to better understand and assess the objects and performance of such entities.
- ❑ Since its establishment, nearly half of Benefacts funding has come from the Department of Public Expenditure and Reform. Atlantic Philanthropies provided co-funding support until 2017 and the Ireland Funds still provides 10% of turnover. However, the organisation is now primarily dependent on public funding.

4 Benefacts Methodologies and Technologies

4.1 Introduction

Benefacts has developed and maintained a detailed database of Irish non-profits.⁴⁸ To build and maintain its database up to date, Benefacts draws on 31 local and 11 national sources of public information, listed on its website (<https://analysis2019.benefacts.ie/faq/#sectionSources>). Only a small number of these sources publish their data in machine-readable formats. In addition, to build the trial instance of Benefacts Analytics for the Department of Foreign Affairs and Trade/Emigrant Support programme, Benefacts has re-keyed the contents of publicly available financial statements procured from regulatory authorities overseas.

The sources of the greatest volume of premium (financial) data in Benefacts Database are the financial statements of about 10,000 non-profits, from which Benefacts derives the financial and narrative data by a manual process of analysis and digitisation described in more detail below (Section 4.3). Pending the introduction of XBRL for company filings in Ireland there is no alternative source of this data in digital form. This public data is supplemented – to a very limited degree - by certain voluntary disclosures.

There are some 30,000 non-profits in Benefacts Database of Irish Non-profits, including 10,000 local and community-based organisations whose data Benefacts has procured from the individual websites of local Public Participation Networks in local authority areas. These locally-based entities were not published as of the time of our research on Benefacts.ie (with the exception of Fingal, where Benefacts has an MoU providing for reciprocal APIs to share data) pending agreement with the publishers, but their data were analysed in the Benefacts' 2019 sector analysis report.

Table 4.1 shows an analysis of approximately 10,000 charities and non-charity non-profits in the Benefacts database by sub-sector type. To be included in the Benefacts database an organisation must be:

1. Organised: with some kind of formality and institutional reality;
2. Private: institutionally separate from government;
3. Non-profit distributing: not returning any surpluses generated to members or owners;
4. Self-governing: in a position to control their own activities and have their own internal procedures for governance
5. Voluntary: participation in these organisations must not be mandatory.”

⁴⁸ Benefacts 2017, Annual Report 2017.

Table 4.1: Non-profits in the Benefacts Database by Sub-Sector Type, including current regulatory status

Charities (Registered with CRA)			Other		
Main Purpose	Number	%	Main Purpose	Number	%
Primary education	2,076	21%	Sports organisations	3,012	31%
Local development	1,099	11%	Primary education	1,323	14%
Religious associations	582	6%	Local development	1,037	11%
Secondary education	438	5%	Secondary education	459	5%
Pre-school childcare	436	5%	Professional or sector representative body	426	4%
Fund-raising	365	4%	Group water schemes	338	3%
Arts	334	3%	Job creation	328	3%
Health services and health promotion	279	3%	Arts	252	3%
Professional or sector representative bodies	268	3%	Recreational clubs, societies	243	2%
Social housing	252	3%	Pre-school childcare	162	2%
Places of worship	238	2%	Religious associations	147	2%
International devel't	224	2%	Social enterprise	144	1%
Family support services	212	2%	Heritage and visitor attractions	99	1%
Education support	209	2%	Trade unions, employer orgs	92	1%
Services for older people	206	2%	Chambers of commerce	91	1%
Services for people with disabilities	192	2%	Advocacy	85	1%
Youth services	164	2%	Environmental sustainability	81	1%
Philanthropy	158	2%	Health services and health promotion	80	1%
Animal welfare	144	1%	Travellers and ethnic minorities	77	1%
Heritage and visitor attractions	134	1%	Environmental enhancement	74	1%
Other	1,677	17%	Other	1,189	12%
Total	9,687	100%	Total	9,739	100%

Source: Benefacts Database of Irish Non-profits. Notes: 114 organisations that had a CHY number from revenue but did not have a CRA number were excluded from the above figures.

Based on its database, Benefacts provides a variety of services to users, some free and some paid. The main free public website is easy-to-use interface with which parts of the database can be searched. Benefacts free public services are the 'simple' and 'advanced' online search and API facilities on its website, which enable users:

- a) to look for clustered results to search questions (e.g. “which are the non-profit companies with religious objects that are not registered as charities?”, or “what are the organisations providing addiction support services in Limerick?”);
- b) search for profiles of individual non-profits in Benefacts’ Database of Irish Non-profits; and
- c) use the open data forms and the free public API to access large current datasets.⁴⁹

Table 4.2 presents the information that can be freely obtained using Benefacts’ search facility. Additionally, a non-profit’s constitution and its financial statement/annual report can be downloaded in .pdf format, where these are publicly available.

Table 4.2: Information Fields in Charity Profiles on the Benefacts Website	
Heading	Information
About	Registered address
	Benefacts ID number
	Website
Purposes	Purpose(s) of the charity
	Objectives of the charity
	Activates of the charity
Finance	Income
	Expenditure
	Net Assets
	Sources of income (governmental, non-governmental, other and unspecified)
Governance	Current directors and/or trustees – with dates of appointment
	Data incorporated
	Governing form
	Average number of employees
Sources	Voluntary codes, standards
	Authorities which regulate the charity (Charities Regulatory Authority, Companies Registration Office, Revenue (Charities Unit) etc.)
	Source documents (organisation constitution and financial statements – both downloadable in their entirety in pdf format)
<i>Source: Benefacts</i>	

⁴⁹ <https://search.benefacts.ie/> (accessed 18/01/2019)

To produce the premium financial data, Benefacts employs six FTE financial accountants to review the financial statements of non-profits that are in the public domain, and re-key (digitise) their contents using a proprietary data harvesting process described in more detail in Section 4.3. The chief purpose of this process is to procure a large body of financial and governance data for storage in the Benefacts Database. Any issues identified with the accounts are notified to the relevant regulatory authority, as required under the data re-use license terms.

Where Benefacts identifies an issue with a financial statement, it notifies this to the appropriate agency. Benefacts employs thirteen part-time staff including six chartered accountants to analyse financial statements and re-key their contents into the Database of Irish Non-profits. A by-product of their work involves notifying regulatory authorities of any material misstatements within the accounts. Table 4.3 show Benefacts' estimates of the number of material misstatements identified by Benefacts in 2016-2017.⁵⁰ Indecon understands that reporting these misstatements is marginal to Benefacts function.

As part of this review Benefacts has indicated they verify the data as part of its quality control process. Benefacts have indicated this suggests a small and declining numbers of cases of material misstatement (summarised in Table 4.3), and they have also identified under-reporting of some information including employee numbers, payroll including pension costs and levels of remuneration.

Table 4.3: Material Misstatements/Distorted Financial Statements as Identified by Benefacts		
Year	Material Misstatements Reported	Distorted Statements Reported
2014	-	119
2015	-	123
2016	44	75
2017	17	52

Source: Benefacts Submission to Indecon Concerning the Reporting of Material Misstatements or Distorted Financial Statements

Benefacts is the only non-governmental organisation that publishes data on the government's open data portal, which it does under the terms of its funding agreement with DPER. The data that is published in the downloadable dataset represents a small subset of the fields that are available using Benefacts' open datasets of non-profits published on its website. Table 4.4 illustrates organisations who have published data on non-profits on the Irish government's open data website. Indecon notes that there are differences in the figures on income and expenditure for a number of charities between data on Charities Regulator website and Benefacts data.

⁵⁰ Benefacts 2019, "Benefacts Submission to Indecon Concerning the Reporting of Material Misstatements or Distorted Financial Statements"

Table 4.4: Data on Non-Profits Available from Irish Government’s Open Data Website www.data.gov.ie		
Body	Available Data	Download Format
Benefacts	Names, addresses, Eircode, country, sub-sector (i.e. area of operation), if the body is on the Register of Friendly Societies and CRO, CRA CHY, AHB, DES numbers*	API, CSV, JSON
Charities Regulator	Registered Charity Number/Name, Primary Address, Governing Form, CHY and CRO Numbers, Country Established, Charitable Purpose, Objects & Activities, Beneficiaries, Gross Income/Expenditure, Number Volunteers	XLSX, CSV
Revenue Commissioners - Bodies with charitable tax exemption	Names and addresses and CHY number only	CSV, PDF
Revenue Commissioners - Resident charities and approved bodies – tax relief on donations	Names and addresses and CHY number only	XLS, CSV, PDF
Revenue Commissioners - Non-resident charities and approved bodies – tax relief on donations	Names and addresses and CHY number only	CSV, PDF
Revenue Commissioners – Sporting bodies with tax exemption	Names and addresses and GS exemption number only	CSV, PDF
<i>Source: Irish Government Open Data Portal (www.data.gov.ie)</i>		
<i>*: CRO (Companies Registration Number), CRA (Charities Regulatory Authority), CHY (indicates charitable tax exemption status), AHB (Approved Housing Body) and DES (Department of Education and Skills).</i>		

4.2 Benefacts Analytics

In addition to their searchable website and other free services, Benefacts is currently developing a productised service, Benefacts Analytics. This uses current and historic financial, governance and regulatory data captured since 2013 and stored in the Benefacts database, supplemented by additional disclosures by co-funding public agency partners. When fully developed, it is envisaged that Benefacts Analytics will provide enterprise-specific data governance, data analysis and risk management services to registered users initially in government but potentially also in other sectors including the non-profit and private sectors, and philanthropies.

The 2015-2017 agreements between Benefacts and their funders stipulated that Benefacts would undertake a series of pilot or proof of concept projects, of which Benefacts Analytics Version 1 was one. Following adoption of the outcome report of the V.1 minimum viable product (MVP), it was agreed to undertake a second round of development to meet test users’ concerns and requirements. Benefacts Analytics is intended to provide users with a digital directory of all the non-profits in their scope, a digital analysis grid showing detailed data in comparative and five-year trend analysis of governance, compliance and risk information in 53 fields (where data are available), and a dashboard highlighting key issues for management. These 53 fields are outlined in Table 4.5. The scope of the dataset available to each agency is specific to that agency. Data fields concern regulatory information, governance, voluntary codes, financial statements and financial trends (which includes liquidity tests, profitability and financing ratios).⁵¹

⁵¹ DPER 2017, Benefacts: Review of Pilot Project Plan 2015-2017 and Assessment of Business Plan 2018-2020.

Indecon understands that in the first trial of Benefacts this was created as a single platform to which all registered users had access. This meant that in v.1, a registered user in DPER, for example, could create a portfolio of entities within Benefacts Analytics that included non-profits funded by organisations such as the HSE, Tusla and Pobal. Indecon was informed that the outcome report on this version made clear that this was a solution that would not get much traction with funding agencies for a few reasons:

- (a) Funders wanted a solution customised to show their own analytic frame.
- (b) Funders wanted to be free to share administrative and other data with Benefacts so long as they could control who had access to this.
- (c) Funders wanted to be in a position to develop further functionality e.g. the possibility that non-profits could file materials directly to the service.

There was also a need by some funders to seek a solution that was restricted to their own compliance and audit functions. For this reason, Benefacts have spent some time rebuilding the back-end software on which Benefacts Analytics rests to allow for this degree of customisations.

One issue identified by Indecon is that use of Benefacts Analytics in the future could be less than it would be if Benefacts applies a charge for this service. Currently use is restricted to six trial parties as Indecon understands that this is the number which Benefacts currently has the capacity to engage with trial users. Initial evidence is that individual end-users will require varying degrees of customisation of the three main features of the prototype, available from Benefacts currently:

- a Digital Directory facilitating “tell us once”, including every entity funded by/based in the jurisdiction of the agency, whether or not premium data is available;
- a Digital Analysis grid providing access to detailed data; and
- a Dashboard summarising alerts/matters for escalation.

For the future if a charge is to be applied for use of Benefacts Analytics this could impact on the overall use of the service. As there are externalities from having maximum use of the Benefacts services by all public bodies, Indecon believes that consideration should be given to free provision to public sector users of all of the services. If however, user-specific services are developed these could be paid for directly by users.

The digital fields included in the Benefacts Analytics Service is presented in Table 4.5.

Table 4.5: Data Fields in the Benefacts Analytics Service			
Base Fields			
Benefacts unique ID	The non-profit's legal name/preferred registered trading name		
Regulatory Fields			
The county where the organisation is registered	Company registration number	Companies Registration Office company status	Accounts have been filed within 12 months from the financial year end
Revenue charitable status reference number	Date Revenue charitable status lost (if applicable)	Charities Regulatory Authority registration number	Date registration with Charities Regulator lost (if applicable)
If registered with the Housing Agency as an approved housing body.	Date Housing Agency approved housing body registration lost (if applicable)	Registry of Friendly Societies/Union Registration Number	The entity is funded under the terms of S.38 of the Health Act, 2004 or is a higher education body, where public pay guidelines apply
Governance Fields			
Institution type	Number of Directors or Trustees	Number of Directors that have served for more than 9 years	Percentage of all Directors serving longer than 9 years
Directors do not receive remuneration as Directors	Fewer than 50% of Directors have resigned in the last 6 months	The rate at which directors or trustees are resigning from the board as a percentage of the total number of directors currently	
Voluntary Codes			
Classification code assigned by Benefacts based on principal activity	Classification assigned by Benefacts based on principal activity	Whether or not voluntary Governance Code has been adopted	Whether or not Fundraising Principles have been adopted
Whether or not the Housing Agency Voluntary Regulatory Code has been adopted			
Financial Statement Fields			
Company number	Date of the non-profit's financial year end	Companies Registration Office next annual return date	Type of financial reporting standards adopted (e.g. Charities SORP)
Type of financial statements filed with the Companies Registration Office (e.g. abridged, unaudited)	Audit status of accounts filed with Companies Registration Office	Whether the Auditor has qualified the accounts, including emphasis of matter	Accounts have been filed within 12 months of the financial year end
Financial Trend Fields			
The organisations total revenue in the financial period	Surplus is an excess of income over expenditure and deficit is an excess of expenditure over income	Total assets minus total liabilities	Average number of employees in financial year
Cash at bank/Cash on hand as reported in the financial statements	Short-term debt	Total liabilities divided by total assets	The organisation's liability to pay the employees' pension at a future date is greater than the market value of plan assets.
Amount set aside for a future liability	Financial obligations of an organisation that are due after a year or more.	Assets that can reasonably be converted into cash within one year	Assets which are purchased for long-term use
Restricted assets used to fund pension plan benefits in the future which exceed the pension liability.	Current assets divided by current liabilities	Percentage of total funding that comes from government sources	Number of sources of Government funding
Fixed asset additions in the reporting period	Fixed asset disposals in the reporting period		
Source: Benefacts Analytics pilot project outcome report			

In the original round of development of Benefacts Analytics (MVP1), Benefacts reported to a working-group convened by its stakeholding Project Advisory Group, whose members tested the initial version in their own organisations, without making any payment to Benefacts. Included in the public bodies that trialled the pilot service were:

- The Arts Council – was interested to obtain data for its due diligence process.
- The Health Service Executive – used Benefacts data to clean its list of S.39-funded bodies, explored the value of Benefacts Analytics in developing a dashboard for the use of non-(financial) specialist field staff in reviewing the contents of financial statements.
- The Housing Agency – trialled Benefacts Analytics in examining the processes by which it monitors the compliance performance of the 238 housing bodies regulated by it.
- Tusla – trialled Benefacts Analytics for its grant management and due diligence process.
- The Charities Regulator – used Benefacts Analytics to support its risk and control functions.
- Kildare County Council – explored the potential for Benefacts Analytics to support the financial control process.

These agencies have funding relationships with many non-profits.⁵² During 2018/2019, Benefacts identified six government agencies with an interest in co-funding a 12-month pilot of Version 2 of Benefacts Analytics.⁵³ These government agencies are as follows:

- Department of Health;
- Department of Employment and Social Protection;
- The Department of Foreign Affairs and Trade;
- Tusla/the Child and Family Agency;
- Kildare County Council; and
- Fingal County Council.

⁵² Benefacts 2019, Benefacts Analytics v.2 Functional specification February 2019

⁵³ Benefacts 2019, Benefacts Analytics v.2 Functional specification February 2019

The objectives of the Version 2 development phase as set out in the project plan⁵⁴ were “to allow trial users of Benefacts Analytics to:

- a) understand the full potential of the service.
- b) contribute the features (additional scope, additional functionality) that would make it meaningful in their own institutional context.
- c) explore the value of such a potential service in the context of their own organisation, based on real-time use of live data and analysis customised to meet their requirements.
- d) appraise the value of a future prospective service either for their own exclusive use or as a collaborative initiative where e.g. they are co-funders of a cohort or cohorts of non-profits.
- e) following proof of concept, take whatever steps are required to procure such a governance, compliance and risk analytics a service from Benefacts or some other supplier of such a service in the future.”

The development of these projects and the engagement with these agencies is seen by Benefacts as being preliminary to any wider process that may eventually occur for the Benefacts Analytics service, once it has been fully developed. It is envisaged by Benefacts that some of the trial users will be converted into customers for Benefacts Analytics before the end of 2019. In Benefacts Analytics Version 2, information from agencies for which Benefacts can source data is provided under a series of tabs. An overview of this information and the tabs under which it is provided is demonstrated in Table 4.6.

Benefacts has added to the scope of its database to create a portfolio of organisations to meet the needs of each of these agencies, for example:

- by adding emigrant support organisations based overseas (for the Department of Foreign Affairs and Trade); and
- companies under the control of local authorities which may be incorporated by share (Fingal and Kildare County Councils).

In addition, some of the agencies have provided Benefacts with additional files (full financial statements) and administrative data (registration numbers, regional districts in which funded organisations are grouped for administrative purposes) under the terms of data-sharing/non-disclosure agreements.

Analytics to help users in interpreting data is an area of rapid development and many innovations are likely to emerge. Indecon notes that although the Exchequer is currently the main funder of the Benefacts service, the databases and analytical tools are not owned by the state. Indecon believes this is a mistake in terms of maximising the value of the state’s investment. In the event of continued support, Indecon believes the issue of ownership to any assets or IP developed with state funding should be dealt with.

⁵⁴ Benefacts Analytics trial roll-out 2018/19: Schedule of activities to be undertaken by Benefacts in cooperation with a group of public sector partners in central and local government Q3 2018 to Q2 2019

Table 4.6: Indicative list of Tabs and Information in Benefacts Analytics Version 2

Tab	Information	
Register	Organisation name	Link to listing on www.benefacts.ie
	Eircode/postcode	Classification
	URL	Names of all Regulators/registrars (plus regulatory IDs)
	County/country	Funder(s)
	Benefacts ID	Funding programme
Governance	Organisation name and Benefacts ID	Number of long-serving directors/trustees
	Institution type	Directors remuneration Y/N?
	Copy of constitution (if available)	Number of employees (FTEs)
	Date incorporated	Profile of higher remuneration
	Number of directors/trustees	
Compliance	Organisation name and Benefacts ID	Auditor's qualification/matter of emphasis
	Regulated by/registered with (each case)	Auditor's name and number
	Status of compliance with regulatory standards (each case)	Compliance with regulatory and voluntary codes
	Current financial statements (if available)	Compliance with user-directed standard e.g. TCC (additional data to be provided)
Funding	Organisation name, Benefacts ID, link to www.benefacts.ie listing	Number of reported sources of government funding (from entity accounts)
	Funding from lead agency as reported (where available)	Grant funding and donations from other sources as reported
	Funding from lead agency (each programme) in 2015, 16, 17 – as provided by the agency	Earned revenues
	Funding from other public bodies (as reported by those bodies (trial will include data only from participating agencies)	
Analysis	Organisation name and Benefacts ID	Tangible asset additions and disposals
	Turnover	Cash, debt/asset, current liquidity ratios
	Surplus (deficit)	Self-reported Government funding as proportion of turnover
	Net assets	Other analysis features as specified by user

Source: Benefacts 2019, Benefacts Analytics v.2 Functional specification February 2019

4.3 Source of Data and Nature of Data Processing

Due to the different types of regulatory organisations from which Benefacts obtains data on non-profits, data is obtained in variety of ways. Further details are discussed as follows:

- Companies Registration Office: In dealing with data feeds from the CRO, Benefacts purchases an XML data feed from a data reseller which acquired the data from the CRO under the terms of a data re-use agreement. The data feed contains regulatory information on companies, including dates of incorporation, dates of appointment and retirement of directors, and notification of receipt of the annual returns and company constitution updates. In addition to these, Benefacts purchases image files of financial statements and constitutions of companies directly from the CRO and converts the contents of these into digital assets by re-keying them in whole or in part.
- Registrar of Friendly Societies: Benefacts acquires image files of trades unions and friendly societies directly from the Register of Friendly Societies.
- Standards in Public Office Commission: Benefacts acquires image files of political parties directly from the SIPO Commission. In addition to this Benefacts uses automated processes to retrieve open data files published by the SIPO Commission.
- Charities Regulator: Benefacts uses automated processes to retrieve open data files published by the Charities Regulator.
- Revenue Commissioners: Benefacts uses automated processes to retrieve open data files published by the Revenue Commissioners.
- Department of Education: Benefacts uses automated processes to retrieve open data files published by the Department of Education.

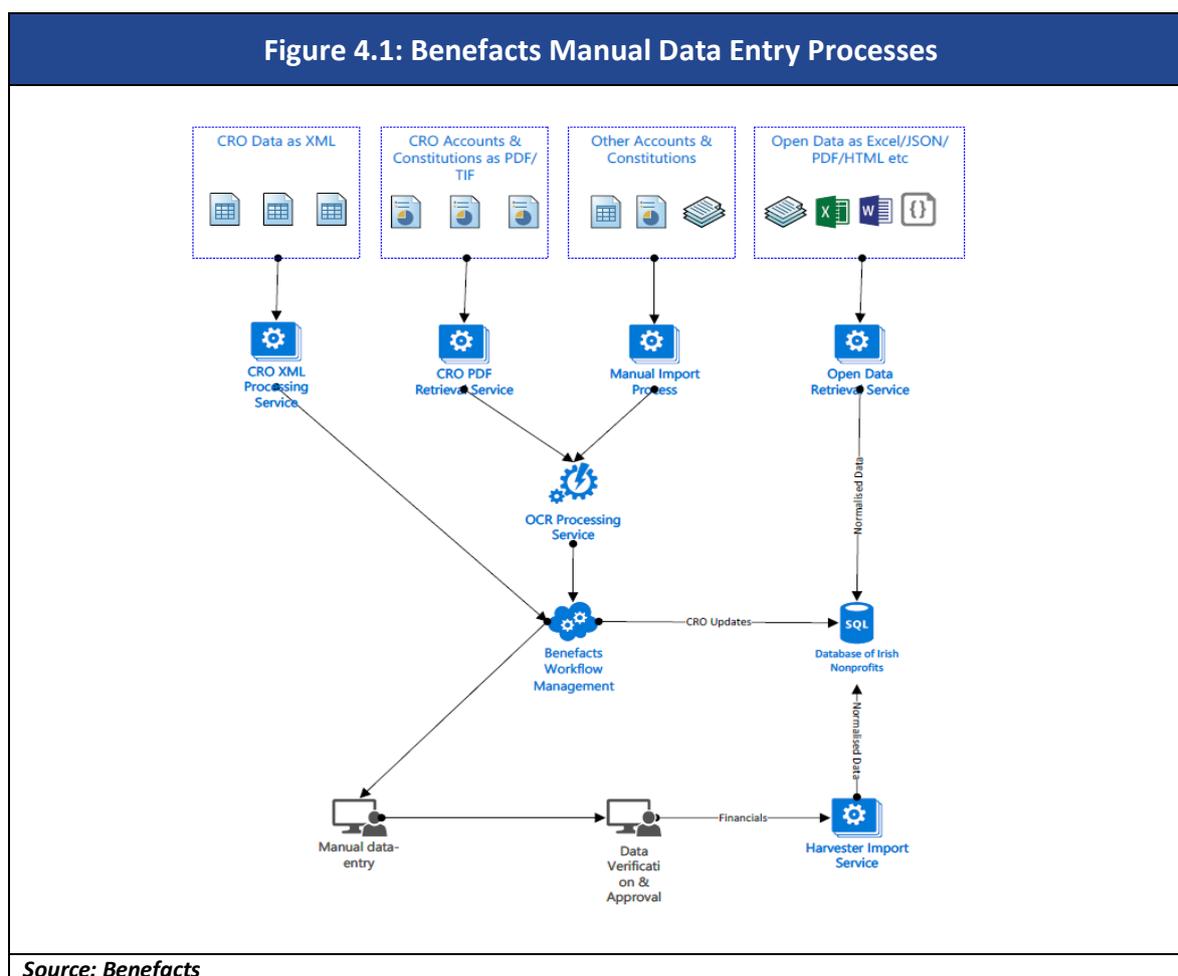
In addition to the above, Benefacts extracts data from public registers such as the public register of charities and the county registers published by 31 local authorities.

In order to process the data obtained from its various regulatory sources, Benefacts employs a variety of methods among them being OCR Processes, text-matching algorithms and manual data entry. The OCR technology highlights key words in the financial statements such as “qualified” or “funding” to identify potential issues. The legal objects of the company are highlighted manually and converted to a digital form by OCR. Images of accounts are also converted to searchable documents to make manual data entry as efficient as possible. However, because financial statements are presented in unstructured and variable formats, it is not possible in the main to use OCR processes to extract data from financial statements and constitutions. This includes obtaining the data from the balance sheet, income and expenditure statement, auditors’ opinions and qualifications, legal objects, bank details, and notes to the accounts (such as whether they are abridged, unaudited, refer to defined benefit pension schemes, etc.). It is intended that as OCR technology improves, Benefacts will make more extensive use of it to help reduce reliance on manual data entry.

Benefacts has proprietary text matching algorithms designed primarily to help match lists of non-profit organisations. Publicly available data frequently provides organisations’ names/key regulatory data in variable formats, and for data quality purposes it is essential that all sources are matched to a single entity (using a Benefacts-assigned unique ID).

Benefacts has developed its own data entry application (or 'data harvester') which ensures that the financial data is entered in a well-defined format, following a consistent set of taxonomies designed specifically to capture data from the financial statements of Irish non-profit organisations. A team of professional data analysts (all with a financial accounting qualification) is responsible for the digitising process. As financial standards change (for example in line with FRS 102/105, and as the Charities Regulator introduces new regulatory standards), the harvester is flexible enough to accommodate the changes.

Benefacts uses a workflow management system to ensure that financial data received from third-party sources is prioritised, keyed in the harvester, reviewed and imported to the Database of Irish Non-profits. The same workflow system is used to ensure that auditors' opinions and legal object extracts are reviewed prior to storage in the database. Figure 4.1 provides an overview of Benefacts' manual data entry processes.



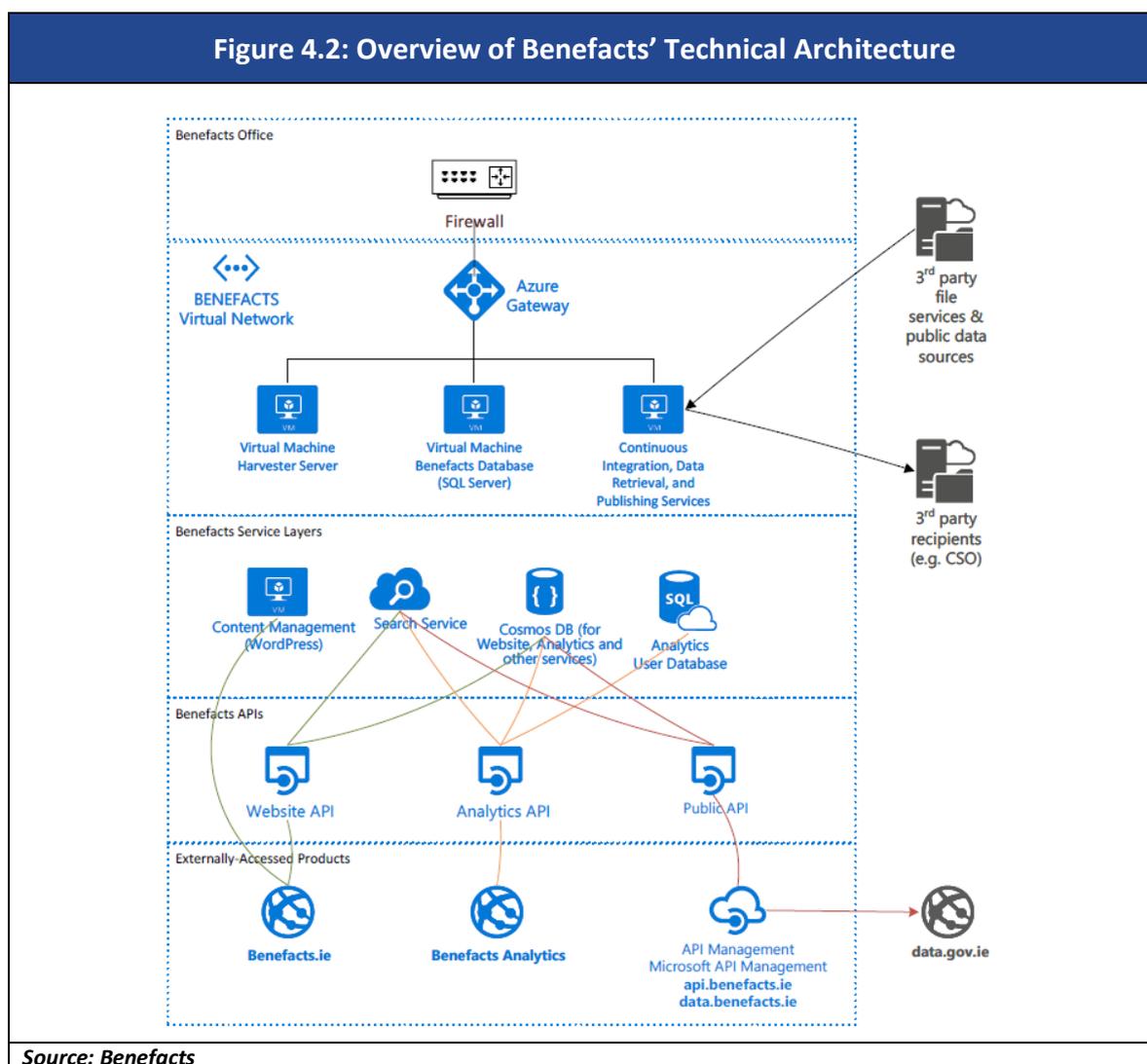
4.4 Technical Architecture of Benefacts and Data Warehousing

Benefacts uses the Microsoft Azure Cloud platform for all its products and services. The current software stack at Benefacts consists broadly of the following:

- The ‘Harvester’ platform is used by our financial analysts to extract information from financial statements. This includes OCR technologies as well as manual data entry.
- The Database of Irish Non-profits.
- The Benefacts Website.
- The Benefacts Sector Analysis websites (2017 and 2018).
- The Benefacts Analytics service.
- The Public API and Open Data services.

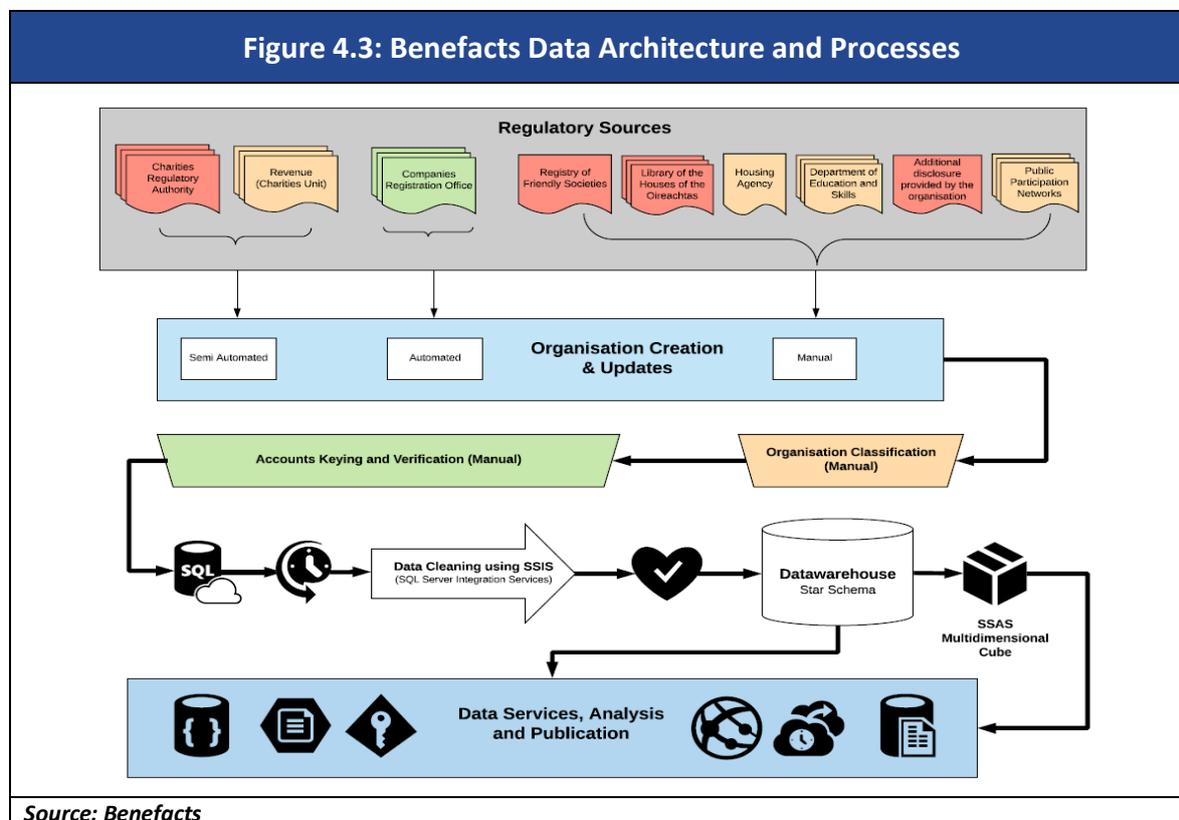
The architecture ensures that, although hosted in the Azure infrastructure, the harvester software and the core database sit in an Azure Virtual Network and are only accessible from within Benefacts’ premises or via a VPN. There is no external connectivity to the core database or its supporting services.

Because Benefacts’ products and services do not access the database directly, subsets of the data are pushed out to NoSQL databases designed to support the specific requirements of each service. This means that the web applications are consuming data in a natural format. It also means that from a security perspective, there is a ‘firebreak’ between the web applications and the database where the data is stored. Figure 4.2 provides an overview of Benefacts’ technical architecture.



Since Benefacts commenced trading in 2015, the Database of Irish Non-profits has been stored in a large Microsoft SQL Server-based database hosted in Azure. Various in-house services are used to extract data and publish it to databases supporting the websites and other services. The services are implemented using C# and the .NET Framework, and TypeScript on Node. Those databases are Microsoft CosmosDB databases (a NoSQL database service), which integrate easily with website technologies.

During 2018, Benefacts commenced the creation of a data warehouse and cube mechanism, to facilitate the extraction of data for a variety of in-house and external analysis purposes. Figure 4.3 illustrates the new capture and storage processes that will be used from 2019 for Benefacts' various web applications. Over time, data and meta data from the 'old' database will be migrated to the new warehouse, as required.



Benefacts hosts several websites as follows:

- www.benefacts.ie and Benefacts Analytics Version 1 are ASP.NET based website utilising AngularJS;
- search.benefacts.ie, analysis.benefacts.ie are Single Page Applications (SPA) using the React Framework and JavaScript;
- en.benefacts.ie is implemented using WordPress;
- Benefacts Analytics Version 2 is split into client and API implementations. The browser client is a SPA built using React and TypeScript; the API is built on TypeScript, Node and GraphQL; and
- www.charitiesregister.ie is the online searchable register of the Charities Regulator. It was developed by Benefacts and went live to the public between July 2017 and 2018 and was provided as an Azure App service.

4.5 Summary of Findings

- ❑ Benefacts uses a number of methodologies to source, adjust and digitise data from a range of public sources, including manual re-keying of financial statements annually. This is supplemented by the provision of non-public files directly supplied to Benefacts by a number of non-profits and public bodies for various purposes.
- ❑ As part of this review Benefacts has indicated it verifies data as part of its quality control process, and that besides small and declining numbers of cases of material misstatement, this process indicates under-reporting of various matters including employee numbers and payroll including pension costs and levels of remuneration.
- ❑ Benefacts has developed a number of analytical tools to facilitate the use of the data. Analytics to help users in interpreting data is an area of rapid development and many innovations are likely to emerge. Indecon notes that although the Exchequer is currently the main funder of the Benefacts service, the databases and analytical tools are not owned by the state. Indecon believes this is a mistake in terms of maximising the value of the state's investment. In the event of continued support. Indecon believes the issue of ownership to any assets or IP developed with state funding should be dealt with.

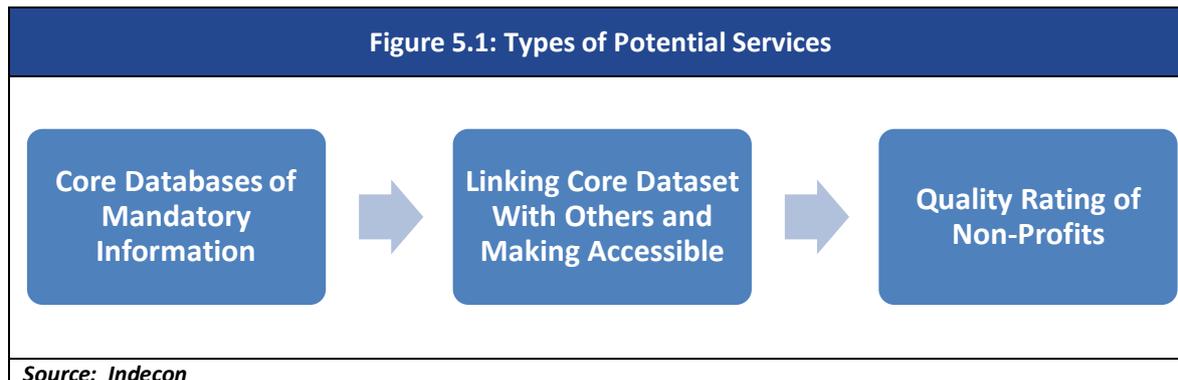
5 Alternative Methodologies

5.1 Introduction

Indecon's review indicates that in many other countries, databases have been developed to increase transparency and trust in the non-profit sector. In general, these approaches apply similar methodologies to those implemented in Ireland which in basic terms involve the sourcing and creation of databases or the aggregation of existing sources of data. Of note is that most of these databases have been either developed by publicly funded regulators or with public funding or philanthropic support. Indecon's assessment is that the development of such services is not commercially viable in Ireland without Exchequer or philanthropic funding.

Indecon recognises that in a number of other countries non-profit organisations are required to directly submit financial reports to be eligible for public funding. This also occurs in Ireland and many public sector funders require up to date financial information. This raises the issue that in a number of cases the timelines of the provision of information is critical.

The provision of data on non-profits in various jurisdictions is contingent on how they are regulated. In considering alternative methodologies one approach would be to make it mandatory for non-profits to supply data on a range of issues to one organisation. This could then be linked with other datasets and make assessable to users. A final element could involve the quality rating of the organisations. The types of potential services are presented in Figure 5.1.



5.2 United States

The United States has a large non-profit sector with many philanthropies, donor administration organisations and non-profit organisations. An analysis of the US indicates that an alternative approach used to the assembly of data on the non-profit sector is based on mandatory requirement to supply data to the Internal Revenue Service.

Most organisations that are registered as tax-exempt organisations in the US must submit detailed financial and administrative information annually via Form 990.⁵⁵ The data in Form 990 is the basis for much data on the sector and is used extensively by GuideStar (see below) amongst others. Form 990 contains relatively detailed information. In Schedules A and B of

⁵⁵ <https://www.irs.gov/charities-non-profits/applying-for-tax-exempt-status> (accessed 30/01/2019).

Form 990, charities submit information on the grants they made and the grants they received. Religious institutions are exempt from filing 990 Forms. However, the data provided in Form 990 is often difficult to access and aggregate. For example, some non-profits submit paper-filed forms, including hand-written forms, to the IRS. In 2016, the IRS made electronically filed data from Form 990 available through a service provided by Amazon Web Services where data can be downloaded in bulk XML format: <https://registry.opendata.aws/irs990/>. Paper-filed forms are not available in data format, but scans of them are available on the IRS website. While the IRS provides a search portal on its website for member of the public to look up tax-exempt organisations' 990 Forms, the result will be a link to its 990 Form which then has to be downloaded in PDF format. As a result, a number of companies have emerged in recent years to collate and present data from the 990 Forms in a way that is usable to the public. The most prominent of these organisations is GuideStar.

GuideStar is a non-profit organisation that was founded in 1994 and was the first to provide comprehensive a database of non-profits in the US when it published the Directory of American Charities in July 1996.⁵⁶ This database contained full reports on the activities of 35,000 public charities and partial reports on another 7,000 charities. The mission of GuideStar is to 'revolutionize philanthropy and non-profit practice by providing information that advances transparency, enables users to make better decisions, and encourages charitable giving.'⁵⁷

The main source of data for GuideStar is the IRS Form 990. However, charities, including those that are exempt from submitting an IRS Form 990, can also supplement their profiles on GuideStar with additional information (concerning governance etc.). GuideStar also includes information on some religious non-profits that are not recorded in the IRS databases. In 1996, GuideStar launched a website that allowed users to search its database.⁵⁸ GuideStar now contains information on more than 2.7 million non-profit organisations.⁵⁹ GuideStar provides a free online portal for searching for information it has in relation to charities (<https://www.guidestar.org/Home.aspx>). Guide star charges users for access to more detailed data from the IRS Form 990. Users can also purchase bulk data. Additionally, users can purchase access to a more developed user interface, GuideStar Pro, which allows users to analyse trends on individual non-profits.⁶⁰ GuideStar Pro services include the ability to use:

- Geographic filters (State, zip code, metropolitan statistical area, city and county);
- Organisation filters (number of employees, cause area, subcause area, IRS subsection, number of employees and IRS form type, among others); and
- Financial filters (Revenue, total contributions, program service revenue, total expenses, accounting/legal fees, total assets and cash and equivalent, among others).⁶¹

⁵⁶ <https://learn.guidestar.org/about-us/history> (accessed 22/01/2019)

⁵⁷ <https://www.guidestar.org/profile/54-1774039> (accessed 22/01/2019)

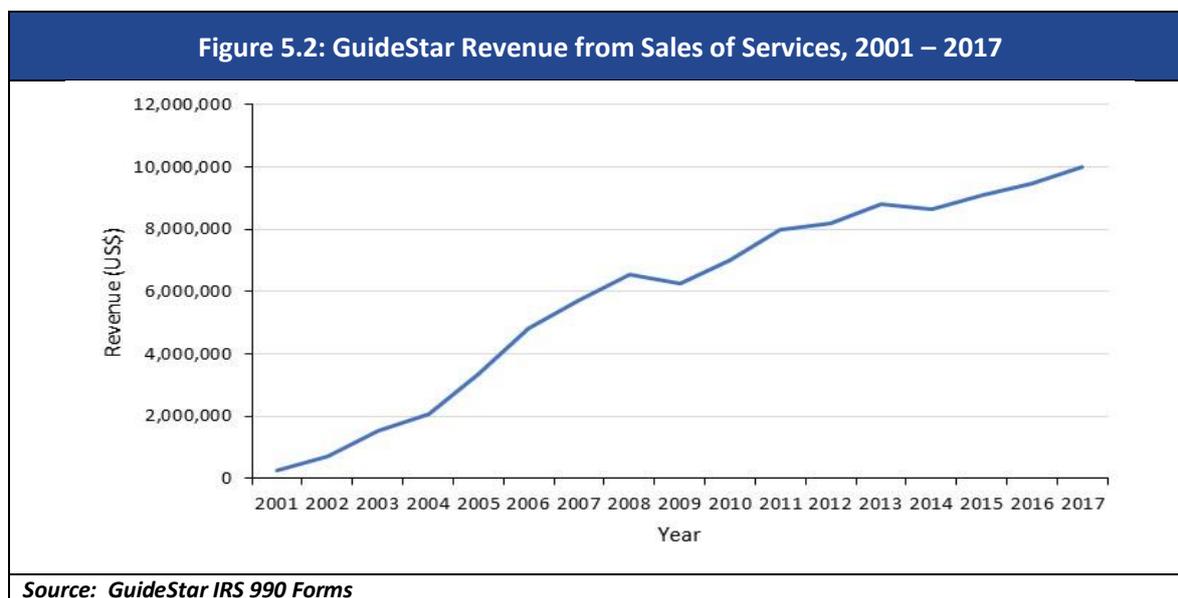
⁵⁸ <https://learn.guidestar.org/about-us/history> (accessed 22/01/2019)

⁵⁹ <https://learn.guidestar.org/news/news-releases/new-research-shows-concrete-benefits-of-nonprofit-transparency> (accessed 22/01/2019)

⁶⁰ <https://learn.guidestar.org/products/guidestar-pro> (accessed 06/02/2019)

⁶¹ <https://learn.guidestar.org/discover-guidestar-pro> (accessed 06/02/2019)

GuideStar Pro allows users to review and download detailed and categorized annual financial data.⁶² Other services enable users to identify officers, trustees and highest paid staff. GuideStar also provides access to bulk downloads of its data to educational institutions and universities for research. Figure 5.2 provides the revenue GuideStar obtained from sales of services, such as GuideStar Pro, between 2001 and 2017. Because of its position in the market and the scale of the US market, GuideStar has been able to generate significant revenues but also has requested philanthropic funding to achieve viability.



In February 2019, GuideStar announced that they were merging with the Foundation Centre, an organisation that keeps information of grantmakers/foundations, to form a new organisation called Candid.^{63,64} It is intended that the dataset of 2.7 million non-profits kept by GuideStar and the datasets of over 13 million grants and 155,000 grant-makers kept by the Foundation Centre will be integrated to generate a combined database/search interface.⁶⁵ Candid will be by far the largest player in the US marketplace for data on non-profits. It has been funded by among others, the Bill and Melinda Gates Foundation, the William and Flora Hewlett Foundation and the Charles Stewart Mott Foundation.⁶⁶ The merger is also intended to expand and accelerate the adoption of data standards across the non-profit sector and to provide a consistent data framework to enable the development of an eventual common grant application and reporting framework for non-profits.⁶⁷

⁶² <https://learn.guidestar.org/discover-guidestar-pro> (accessed 06/02/2019)

⁶³ <https://nonprofitquarterly.org/2019/02/05/candid-foundation-center-guidestar-merger/> (accessed 06/02/2019)

⁶⁴ <http://www.thenonprofittimes.com/news-articles/foundation-center-guidestar-merge-creating-mega-data-portal/> (accessed 06/02/2019)

⁶⁵ <https://nonprofitquarterly.org/2019/02/05/candid-foundation-center-guidestar-merger/> (accessed 06/02/2019)

⁶⁶ <https://www.fastcompany.com/90301678/guidestar-and-the-foundation-center-are-merging-to-form-the-definitive-nonprofit-transparency-organization> (accessed 06/02/2019)

⁶⁷ <https://nonprofitquarterly.org/2019/02/05/candid-foundation-center-guidestar-merger/> (accessed 06/02/2019)

The initial success of GuideStar generated interest in the establishment of similar bodies in other countries. Additionally, GuideStar equivalents have been established in India⁶⁸ and Israel.⁶⁹ Attempts were made to establish GuideStars in other countries (e.g. the Netherlands, Germany and Hungary) however these were unsuccessful.⁷⁰ In Ireland, Benefacts and its predecessor the INKEx were modelled on GuideStar.

In the US, there are also a number of other organisations which collate data on US non-profits. These can be described as Charity Evaluators as they provide rating on charities based on, including others, metrics concerning financial performance, programme effectiveness and transparency. Many are based on GuideStar data, though focus in much more detail on particular segments. In the US, these organisations play a role in helping donors make decisions on which charity to donate to. All of the organisations listed below are themselves non-profits:

- Charity Navigator: This charity ratings organisation was established in 2001 and evaluates over 9000 US charities' financial health and accountability and transparency, using data from the IRS Form 990.⁷¹ As a charity evaluation website, it provides star ratings on charities eligible to receive tax deductible donations.⁷² Their ratings are based on the Charity Navigator's assessment of a charity's financial health and their accountability and transparency. Empirical research has found that positive ratings on Charity Navigator are associated with increased contributions.⁷³ As of 2017, Charity Navigator had over 650,000 registered users.⁷⁴ It depends on donations for approximately 97% of its funding.
- CharityWatch: CharityWatch, founded in 1992, provides financial efficiency ratings on approximately 600 charities based on data from IRS Form 990, financial and annual reports, and other charity information filed at state level. It largely focuses on charities that receive annual donations from the public of €1 million or more, and are operating for at least three years.⁷⁵ CharityWatch has a web search facility allowing users to search for charity profiles that display limited information on financials, governance and performance metrics.⁷⁶ For a membership fee of \$50, users get access to more extensive information. It depends on donations for almost all of its funding.

⁶⁸ <https://guidestarindia.org/default.aspx> (accessed 06/02/2019)

⁶⁹ <https://www.guidestar.org.il/> (accessed 06/02/2019)

⁷⁰ European Center for Not-for-Profit Law, 2009. Study on Recent Public and Self-Regulatory Initiatives Improving Transparency and Accountability of Non-Profit Organisations in the European Union Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/doc_centre/terrorism/docs/initiatives_improving_transparency_accountability_npos_avr09.pdf

⁷¹ <https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=628> (accessed 31/01/2019)

⁷² Anders SB. Charity navigator and guidestar. The CPA Journal. 2015 Jun 1;85(6):72.

⁷³ Gordon TP, Knock CL, Neely DG. The role of rating agencies in the market for charitable contributions: An empirical test. *Journal of accounting and public policy*. 2009 Nov 1;28(6):469-84.

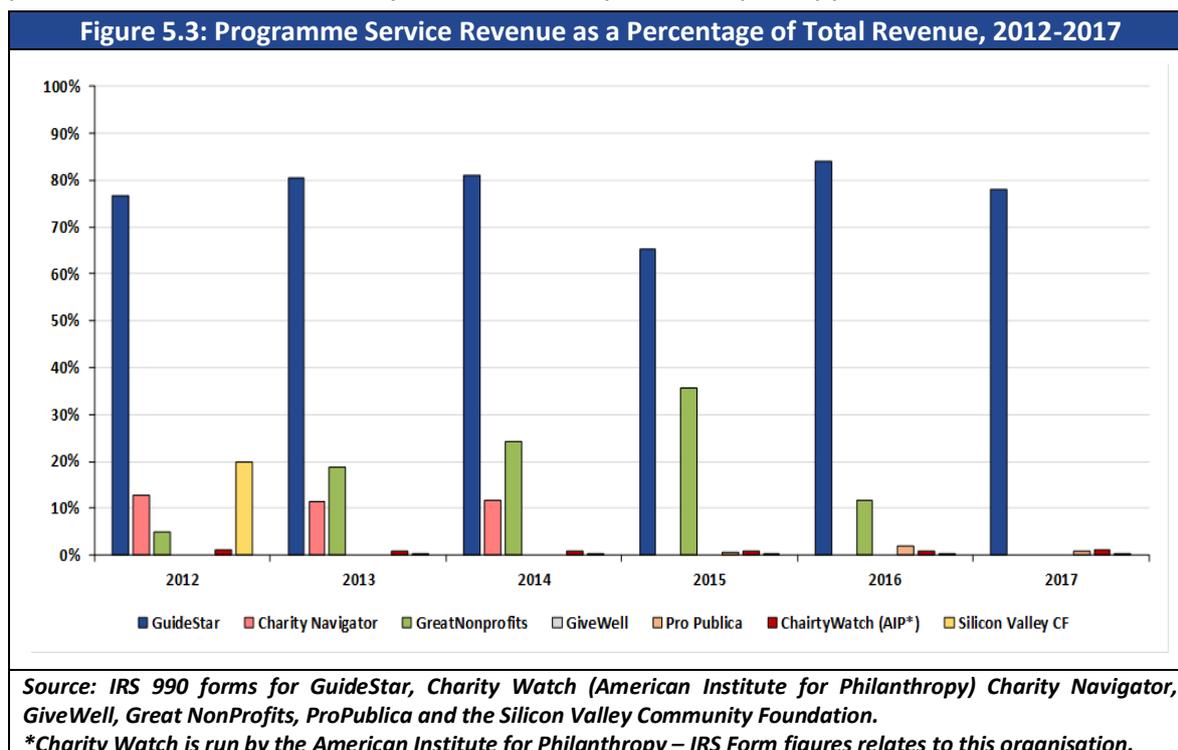
⁷⁴ Thatcher, M. (2018). Charity Navigator: The Past, Present and Future. [Presentation]. Available at: <https://www.rgocpa.com/wp-content/uploads/2017/11/Charity-Navigator-The-Past-Present-and-Future-Michael-Thatcher.pdf> (accessed 08/02/2019)

⁷⁵ <https://www.charitywatch.org/about-charitywatch/faq/3113/3115> (accessed 31/01/2019)

⁷⁶ <https://www.charitywatch.org/about-charitywatch/faq/3113/3115> (accessed 31/01/2019)

- GiveWell: This charity ratings organisation was established in 1997 and focuses on giving ratings to charities in order to assist potential donors in making decisions. In contrast to other charity rating bodies, GiveWell not only focuses on financials and fundraising but also conducts research into how much good was produced by charity-run programmes.⁷⁷ GiveWell then publishes a list of charities that it defines as “top charities” – the criteria for this include a commitment to helping people in low income countries.
- GreatNonprofits: Founded in 2007, GreatNonprofits is a platform to which clients and volunteers submit reviews and star ratings concerning non-profits. It also takes account of reviews of donors and other individuals who have engaged with such charities’ works. Its online website allows users to look up these reviews as and a profile of a non-profit containing information on the programmes, mission and causes of the non-profit they are researching.
- ProPublica: This is a US non-profit news sourcing organisation founded in 2007. It keeps a database of charities containing financial information obtained from non-profits’ IRS 990 Forms.⁷⁸ This is publicly searchable via their website.
- Silicon Valley Community Foundation – Global Charity Database: This organisation is an advisory community foundation founded in 2007. It maintains a list of global charities that passed their due diligence process – this includes tax compliance with the IRS and the submission to the Silicon Valley Community Foundation of governing documents such as by-laws, statutes, articles or organizational constitution.

Figure 5.3 indicates that none of the US providers of data or other information on the non-profit sector are commercially viable without philanthropic support.



⁷⁷ <https://www.givewell.org/about> (accessed 31/01/2019)

⁷⁸ <https://projects.propublica.org/nonprofits/> (accessed 31/01/2019)

5.3 United Kingdom

In the United Kingdom there are separate charities regulators for England and Wales, Scotland, and Northern Ireland. All of these regulators maintain registers of charities which are available to the public.

In order to reduce the data requirements on charities a new form of legal entity was created in 2011, namely the Charitable Incorporated Organisation (CIO) which removes the request to submit information to other businesses regulatory bodies in the UK. The Charity Commission for England and Wales was established under the Charitable Trusts Act of 1853.⁷⁹ Information from their register of charities is publicly available using a search facility on the Commission's website, where Annual reports can be accessed on the register, attached to each company's record.⁸⁰ The Office of the Scottish Charities Regulator, established in 2003 is the charities regulator in Scotland. Information is available to the public via an online search portal on their website. The Charity Commission for Northern Ireland was established in 2009. Prior to this, charities in Northern Ireland were self-regulating.⁸¹

As the Charity Commission is the oldest of these regulators, it is unsurprising that the data they publish on their website is the most detailed of these regulators. In addition to the data provided by the regulators in the UK a number of organisations have developed to assist in presenting data on the sector.

GuideStar UK was established in 2002 with the assistance of a £3m grant from the UK Treasury covering three years.⁸² The remaining funding came from private foundations, with total funding amounting to £4.6 million. The Charity Commission and the Active Communities Directorate of the Home Office were active partners in GuideStar UK.⁸³ One issue which arose concerned the similarity of the data to the Charity Commission of England and Wales' website.⁸⁴

In 2005 GuideStar UK's website with its online search portal including data on 167,000 charities in England and Wales was launched, with the main source of data being the annual and financial reports filed by charities to the Charities Commission for England and Wales.⁸⁵ As with its US counterpart, charities could supplement the information about them directly to the website by adding information on activities.

⁷⁹[https://uk.practicallaw.thomsonreuters.com/8-633-4989?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&comp=pluk&bhcp=1](https://uk.practicallaw.thomsonreuters.com/8-633-4989?transitionType=Default&contextData=(sc.Default)&firstPage=true&comp=pluk&bhcp=1) (accessed 13/02/2019)

⁸⁰ <http://apps.charitycommission.gov.uk/showcharity/registerofcharities/RegisterHomePage.aspx> (accessed 31/01/2019)

⁸¹ <https://www.charteredaccountants.ie/Accountancy-Ireland/Articles2/Technical/Latest-News/Article-item/annual-reporting-by-registered-charities-in-northern-ireland-a-phased-approach>

⁸²<https://www.guidestar.org/Articles.aspx?path=/rxa/news/articles/2003/british-version-of-guidestar-launched.aspx> (accessed 31/01/19)

⁸³<https://fundraising.co.uk/2006/07/10/guidestar-uk-responds-feedback-about-financial-information/#.XFQWJFX7SUK> (accessed 31/01/19)

⁸⁴ <https://www.thirdsector.co.uk/guidestar-negotiations-home-office-future-funding/article/612956> (accessed 31/01/2019)

⁸⁵<https://fundraising.co.uk/2006/07/10/guidestar-uk-responds-feedback-about-financial-information/#.XFQWJFX7SUK> (accessed 31/01/19)

In 2007, the government decided not to renew its funding of GuideStar UK and GuideStar International and GuideStar UK were merged into a single company. In the same year, using a grant from the Rockefeller Foundation a spin-off company, GuideStar Data Services, was launched.⁸⁶ In 2010, GuideStar UK and GuideStar Data Services entered into administration. GuideStar International still run a GuideStar UK search website with information on income and expenditure, activities and beneficiaries relating to charities from 2015 onward.⁸⁷

Charity Choice UK compiles reports on over 10,000 large charities that can be downloaded after an individual search for a charity on its online search facility. Each report includes financial and administrative information including total income, expenditure, staff costs and fixed assets and liabilities.⁸⁸ In addition, Charity Choice/Charity Financials provides ratios such as fundraising resources as a percentage of total expenditure, activities to generate funds as a percentage of total expenditure and support costs as percentage of total expenditure.

To download reports, individuals must enter details and consent to these being shared with the charity that the report pertains to. If a user does not provide/consent to sharing these details they must pay £75 for each report.

5.4 Canada

Charities in Canada are regulated by the revenue authority, namely the Charities Directorate of the Canada Revenue Agency (CRA). All charities in Canada, regardless of size must fill in the 'T3010 Registered Charity Information Return' Form.⁸⁹ Unlike the US, there are no exemptions for religious charities and all organisations pertaining to be a charity must return a T3010 Form.⁹⁰ In addition to this form, Charities must fill out the TF725 Form, with more basic information such as address, programme areas and contact information. The information required on the T3010 Form is less comprehensive than the IRS 990 in the US, however it is extensive and includes detailed information on many areas, including:⁹¹

- Programmes
- Revenue
- Expenditures
- Staff
- Fundraising activities
- Types of non-cash gifts received

⁸⁶ <https://www.thirdsector.co.uk/guidestar-offers-lawyers-service/finance/article/628588> (accessed 01/02/2019)

⁸⁷ <https://guidestar.org.uk/> (accessed 31/01/2019)

⁸⁸ Charity Financials' Sample Report. available at: <https://choice.charityfinancials.com/store/Charity-Financials-Sample-Report.pdf> (accessed 13/02/2019)

⁸⁹ <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/t3010-charity-return-filing-information.html> (accessed 06/02/2019)

⁹⁰ https://www.globalphilanthropy.ca/blog/differences_between_canadian_registered_charity_t3010_and_us_501c3_form_990 (accessed 06/02/2019)

⁹¹ All information here is sourced from the Canada Revenue Agency's T3010 form that can be downloaded at: <https://www.canada.ca/content/dam/cra-arc/formspubs/pbg/t3010/t3010-19e.pdf> (accessed 13/02/2019). For the sake of brevity this report only summarises the information that is provided in the T3010 form – there are a lot more information fields available than those discussed here.

The register of charities in Canada is available on the Canadian Government’s website. Users can search for a charity and each charity profile contains detailed information from the T3010 form, which has been outlined above.

In addition to the data on Canada Revenue Agency a number of other organisations provide information on the non-profit sector. Charity Intelligence Canada is a non-profit organisation established in 2006.⁹² Charity Intelligence Canada uses information from the T3010 form that non-profits in Canada return to the Canada Revenue Agency. The database of T3010 information assembled by Charity Intelligence Canada can be searched through their free-to-use website. On each charity’s profile information is displayed in an accessible format with financial information displayed for three different years.

Table 5.1 displays the type of information that is available on a charity’s profile on the Charity Intelligence website. Charity Intelligence Canada is in receipt of philanthropic funding.

Table 5.1: Charity Information Available on Charity Intelligence Canada’s Website		
Financial Ratios		
Administrative costs as % revenues	Fundraising costs as % donations	Fundraising costs as % donations
Summary Financial Statements		
Donations	Government funding	Investment income
Other income	Total revenues	Administrative costs
Program costs - International	Program costs - Canada	Funding reserves
Fundraising costs	Cash flow from operations	
Staff Information		
Full-time staff	Average Compensation	Top 10 Staff Salary Range
Charity Characteristics		
About (objectives, purpose etc.)	Results and Impact	Executive Director & Board Chair
<i>Source: Charity Intelligence</i>		

Using this information, Charity Intelligence Canada gives an overall star rating to charities.⁹³ These ratings are based on its assessment of Social Results Reporting, Financial Transparency, Program Cost Coverage, Fundraising Costs and Administrative Costs. In addition, Charity Intelligence Canada also gives charities an impact rating of high, good, fair or low, based on an individual charity’s so-called Social Return on Investment.

⁹² <https://www.charityintelligence.ca/about-ci> (accessed 06/02/2019)

⁹³ <https://www.charityintelligence.ca/research/charity-profiles?id=176> (accessed 25/01/2018)

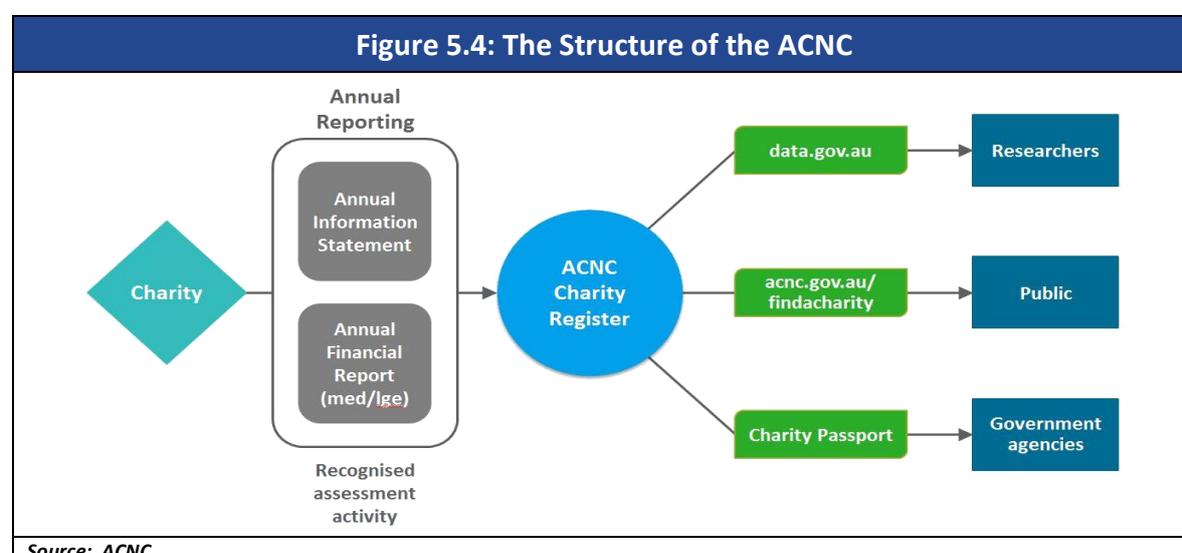
In Canada data is also available for CharityData which is a website that was established in 2016.⁹⁴ Like Charity Intelligence, CharityData uses information from the T3010 form that non-profits in Canada return to the Canada Revenue Agency. CharityData provides an online search portal which displays extensive information for a number of years under the following headings: Assets, Liabilities, Revenue, Expenses, Staff, Fundraising, and Programs. Additionally, information on Gifts Received from Other Registered Charities Over Last 5 Years (Top 100) and Gifts to Qualified Donees Over Last 5 Years are also displayed. The website also displays the names of the trustees/directors of the charity.

5.5 Australia

In Australia charities are regulated by the Australian Charities and Not-for-profits Commission (ACNC), which was established in 2012 to regulate charities at commonwealth (federal) level.⁹⁵ The main objectives of the ACNC are summarised as follows:⁹⁶

- The maintenance, protection and enhancement of public trust and confidence in the non-profit sector using increased transparency and accountability.
- To sustain and support a non-profit sector which is robust, vibrant and independent.
- Promoting the reduction of excessive bureaucracy in the form of unnecessary regulatory obligations on the non-profit sector.

In order to reduce the administrative burden on charities a ‘report once, use often’ policy was initiated which formed the basis for the charity passport. In 2014, the ACNC developed the charity passport service for the use of government departments when assessing whether to make grants to non-profits. Figure 5.4 shows the main dissemination tools used by the ACNC. This information, depending on its confidentiality, is disseminated to researchers via the Government’s data website (www.data.gov.au), while the public can search for information on charities via an online search portal on the ACNC’s website (<https://www.acnc.gov.au/charity>).



⁹⁴ <https://www.charitydata.ca/faq/> (accessed 25/01/2018)

⁹⁵ <https://www.acnc.gov.au/about> (accessed 25/01/2018)

⁹⁶ <https://www.acnc.gov.au/about> (accessed 25/01/2018)

Amendments to legislation in South Australia in 2017 removed the requirement for a charity to register with both the South Australian Authorities and the ACNC, in favour of registration only with the ACNC. From 2018, charities in New South Wales will only have to register with the ACNC as opposed to with the various bodies in that state.

5.6 Israel

Charities in Israel have to register with the Corporations Authority, the body which is also responsible for regulating for-profit companies. There are two main types of non-profit organisations in Israel – *Amutot* and Public Benefit Companies (PBCs).⁹⁷ Both of these are prohibited from distributing profits to shareholders or members and are entitled to (after receiving Certificates of Proper Management from the relevant regulatory authority) tax concessions concerning their income and donations.⁹⁸ Additionally *Amutot* and PBCs have to appoint an audit committee by law. The differences between these two legal forms are outlined in Table 5.2. *Amutot* register with the Register of *Amutot* whereas PBCs register with the Register of Companies. PBCs can either be charitable companies or charitable funds.⁹⁹ In addition to these legal forms, non-profits in Israel can also take the form of public endowments.¹⁰⁰ These register with the register of endowments.¹⁰¹

	<i>Amutot</i> (Hebrew for 'Non-Profit')	Public Benefit Companies
Registration	Registrar of <i>Amutot</i>	Registrar of Companies
Regulatory authority	Registrar of <i>Amutot</i>	Registrar of Endowments
Applicable legislation	The Non-Profit Organizations (' <i>Amutot</i> ') Law	The Companies Law
Objects	Non-profit; and for any legal purpose	Non-profit; and for public purposes, pursuant to a closed list specified in the Companies Law (or according to a specific approval from the relevant minister)
Proprietary interest	No proprietary interest; solely membership, which is personal and not transferrable or bequeathable	Shares held are not deemed an asset having economic value, but rather reflect membership in the PBC; shares are not transferable or bequeathable
Corporate institutions	General assembly of the <i>amutah</i> members, executive board and audit committee	General assembly of the company shareholders, board of directors, and audit committee
Number of directors / executive board members	At least two executive board members	At least one director
Independent management	Only a member of the <i>amutah</i> is eligible to be elected to serve as a member of the executive board (and of the audit committee)	An external person (other than a shareholder) is also eligible to be elected to serve as a member of the board of directors (and of the audit committee)
Interested-party transactions	The <i>Amutot</i> Law does not address this issue (except in relation to remuneration of members for participation in board and audit committee meetings and in relation to reimbursement of expenses)	Court approval is required for an interested-party transaction, in addition to all other requisite approvals in this regard pursuant to the Companies Law
Appointment of a CPA	Compulsory above a particular annual turnover	Compulsory in any case

Source: <https://www.lexology.com/library/detail.aspx?g=f689012a-1bd8-437e-9e14-f55bdaf092c4> (Accessed 24/01/2019)

Both the Register of *Amutot* and the Register of Companies publish limited information on the charities that are registered with them. In 2009, GuideStar Israel was established as a

⁹⁷<https://neo-project.github.io/global-blockchain-compliance-hub//israel/israel-registry-requirements.html> (Accessed 24/01/2019)

⁹⁸<https://www.barlaw.co.il/blog/israeli-non-profit-organizations-amutot-public-benefit-companies-and-everything-in-between/> (accessed 02/02/2019)

⁹⁹ <https://neo-project.github.io/global-blockchain-compliance-hub//israel/israel-registry-requirements.html> (Accessed 24/01/2019)

¹⁰⁰[https://uk.practicallaw.thomsonreuters.com/5-633-3670?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&comp=pluk&bhcp=1](https://uk.practicallaw.thomsonreuters.com/5-633-3670?transitionType=Default&contextData=(sc.Default)&firstPage=true&comp=pluk&bhcp=1) (Accessed 24/01/2019)

¹⁰¹ <https://neo-project.github.io/global-blockchain-compliance-hub//israel/israel-registry-requirements.html> (Accessed 24/01/2019)

joint initiative of the Israeli Ministry of Justice, Yad Hanadiv (a philanthropy), and The American Jewish Joint Distribution Committee Israel (JCD) with the cooperation of GuideStar International.¹⁰² The initial funding for the project was on the basis that for five years, 50% of the funding would be provided by the Israeli Ministry of Justice with the other 50% being provided by Yad Hanadiv.¹⁰³ JCD was tasked with the operation of the project. The actual technological elements of assembling the GuideStar Israel database are conducted by a company set up for that purpose, namely NPTech Technologies for Nonprofit Organizations LTD (PBC). On 3rd August 2010 the database went live online through a search facility.^{104, 105}

5.7 Other Countries

Charities in Norway are regulated by “The Foundation Authority”, a government agency which keeps a database (the “Foundation Register” or “Stiftelsesregisteret”) of all charities. This can be searched by the public through their website. Members of the board of the charity (Addresses and DOB) and basic capital are listed. However, detailed financial (current assets/liabilities, sources of funding) and administrative (number of employees) information are not available on the public version of the register.

In addition to the Foundation Register, charities also have to register with other relevant state business and employment bodies. Therefore, other information on charities is available in the following registers: Register of Business Enterprises (Business Register); NAV State Register of Employers and Employees (individuals have to apply for public access); The VAT Register; The Volunteer Register and Entities Register.

Charities in New Zealand are regulated by “Charities Services” an arm of the Department of Internal Affairs in New Zealand.¹⁰⁶ Charities Services keeps a register of over 27,000 charities in New Zealand. Information is collected from charities in the form of annual returns, financial reports and performance reports. Data are accessible to the public through the “Charities Services” website. As well as financial information, board members are listed. Information on staffing, paid work (people employed full-time, people employed part-time, average hours per week) and voluntary work (total number of volunteers and the average hours per year they provide) are also collected.

Since 2015, Croatian charities have had to supply details to a register of charities kept by the Croatian Ministry for Finance. Charities have to submit detailed financial information via reports. Additionally, they have to provide details of the location of the organisation and

¹⁰² <http://www.yadhanadiv.org.il/project/guidestar> (Accessed 24/01/2019)

¹⁰³ GuideStar 2009, Agreement on the Establishment of an Israeli GuideStar Site Signed: <http://www.guidestarinternational.org/documents/Agreement%20on%20the%20Establishment%20of%20an%20Israeli%20GuideStar%20Signed.pdf> (Accessed 24/01/2019)

¹⁰⁴ <http://www.yadhanadiv.org.il/project/guidestar> (Accessed 24/01/2019)

¹⁰⁵ or N. and N. Brindt, "The Regulation and Self-Regulation of Civil Sector Organizations in Israel", in Breen, B., Dunn N., and Sidel, M. Regulatory Waves, Available at: https://books.google.ie/books?id=QbaSDQAAQBAJ&pg=PA123&lpg=PA123&dq=israeli+guidestar+nptech&source=bl&ots=4PSDZvTlPv&sig=ACfU3U3zEx69BLIdQ-EFT-BmsrqSGxz9_Ww&hl=en&sa=X&ved=2ahUKewitmpXMmYbgAhXkShUIHSMfCQYQ6AEwCXoECAEQAQ#v=onepage&q=israeli%20guidestar%20nptech&f=false (Accessed 24/01/2019)

¹⁰⁶ <https://www.charities.govt.nz/apply-for-registration/considering-registering-as-a-charity/> (accessed 29/01/2019)

the person responsible for making the return. However, information on named members of the board and WTE staff numbers are not required. The database can be accessed by the public through a service provided on the Croatian Ministry for Finance's Website.

Charities in Singapore are regulated by the Commissioner for Charities. Organisations that register with the Commissioner for Charities have to return an annual and financial report, which include information on the charity's purpose, objectives, board members, total current assets and liabilities, funds, numbers and costs of employees. The register of charities is publicly available via their website. The public profile of these charities on the Commissioner for Charities' website contains attachments of the complete annual and financial reports that have been submitted by it. These can be accessed by citizens through the SingPass electronic system. Also included in the register entry for each charity is a code compliance checklist which lists whether the charity in question complied with a particular aspect of Singapore's tax code.

5.8 Summary of Findings

- ❑ Indecon's review indicates that in many other countries, databases have been developed to increase transparency and trust in the non-profit sector. In general, these approaches apply similar methodologies to those implemented in Ireland which in basic terms involve either the creation of new data sources or the aggregation of existing sources of data. Of note is that most of these databases have been either developed by publicly funded regulators or with public funding or philanthropic support. Indecon's assessment is that the development of such services is not commercially viable in Ireland without Exchequer or philanthropic funding.
- ❑ Indecon recognises that in a number of other countries, non-profit organisations are required to directly submit financial reports to be eligible for public funding. This also occurs in Ireland and many public sector funders require up-to-date financial information. In a number of cases the timelines of the provision of information is critical and depending on data from the aggregation of information from other databases is not sufficient.

6 Existing and Potential Demand

6.1 Introduction

Indecon's assessment of existing and potential demand has indicated that accurate data on the non-profit sector is required by a number of public sector bodies. This is needed for effective governance and to enhance evidence-based policymaking. This reflects the need of government departments, local authorities and other agencies who provide funding to, or develop policy concerning, the non-profit sector. This was evident from our interactions with a range of organisations, including the Department of Rural and Community Development; Fingal County Council; Central Statistics Office; and the Houses of the Oireachtas Library Service. This is particularly required where more than one funder is assisting a non-profit organisation. It is however important to recognise that while there is a demand for the provision of information on the non-profit sector, this does not in itself ensure appropriate governance and the use of the information is critical.

There are currently a number of different types of users of Benefacts services. These services can be categorised as per the table below. Benefacts also occasionally publishes analysis to promote better understanding of the non-profit sector. One benefit of the Benefacts database is that it collates information on funding sources, which enables users of the data to find out whether organisations are being funded by multiple government agencies.¹⁰⁷

Table 6.1: Overview of Non-Profit Organisations and Registration/Regulatory Bodies	
Service	Description
Database of Non-profits	Database of Non-profit organisations
Public Website	Public access to database via online searchable portal
Open Data	Access to data via Government's Open Data Portal
Bespoke Solutions	Specific solutions designed for large public organisations
Benefacts Analytics	Web-based tool to facilitate analysis
<i>Source: Indecon</i>	

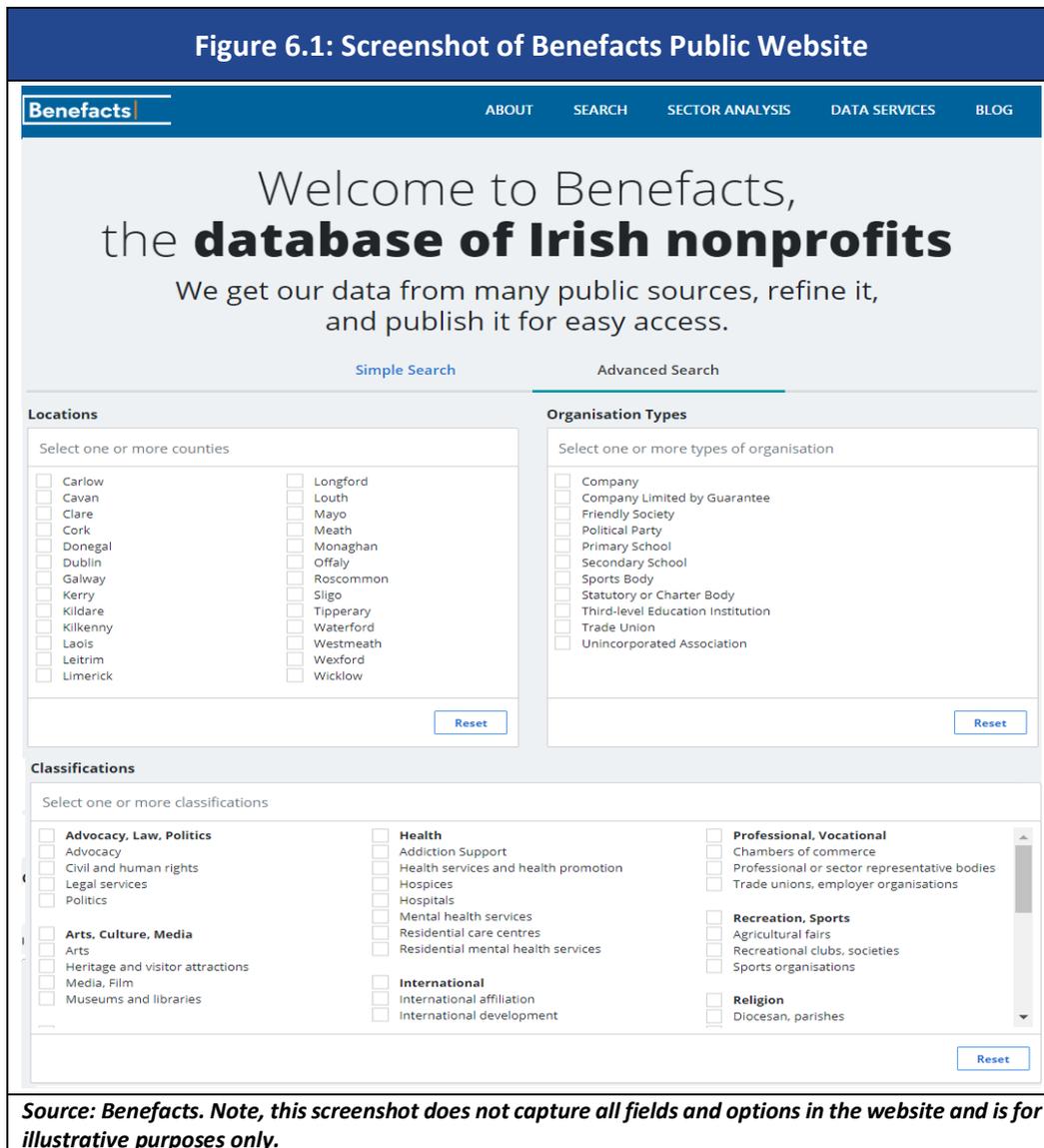
Benefacts provides a free use website which can be accessed by members of the public and by public sector bodies or other interested parties. The functionality allows users to search the database based on:

- Location;
- Organisation type;
- Classification based on objectives and charitable purpose;
- Status of financial statements on the database (no accounts; abridged accounts or full accounts);

¹⁰⁷ DPER 2017, Benefacts: Review of Pilot Project Plan 2015-2017 and Assessment of Business Plan 2018-2020.

- Regulatory status; and
- Standards compliance.

A screenshot of the Benefacts web interface is shown in the Figure 6.1.



In March 2018, Benefacts surveyed users of its online website benefacts.ie. While the response rate was low, this survey provides some insight into who uses Benefacts' website. Figure 6.2 provides a profile of who uses benefacts.ie and it can be seen that around 58% of respondents stated that they were employees/volunteers in a non-profit organisation or charity.

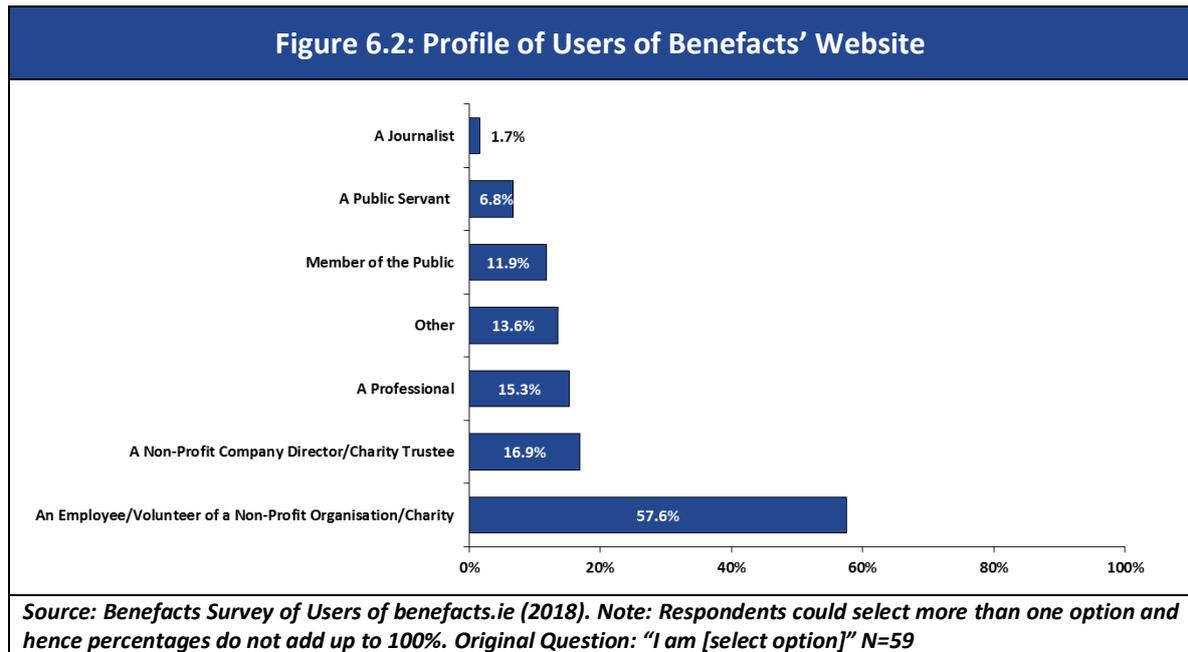
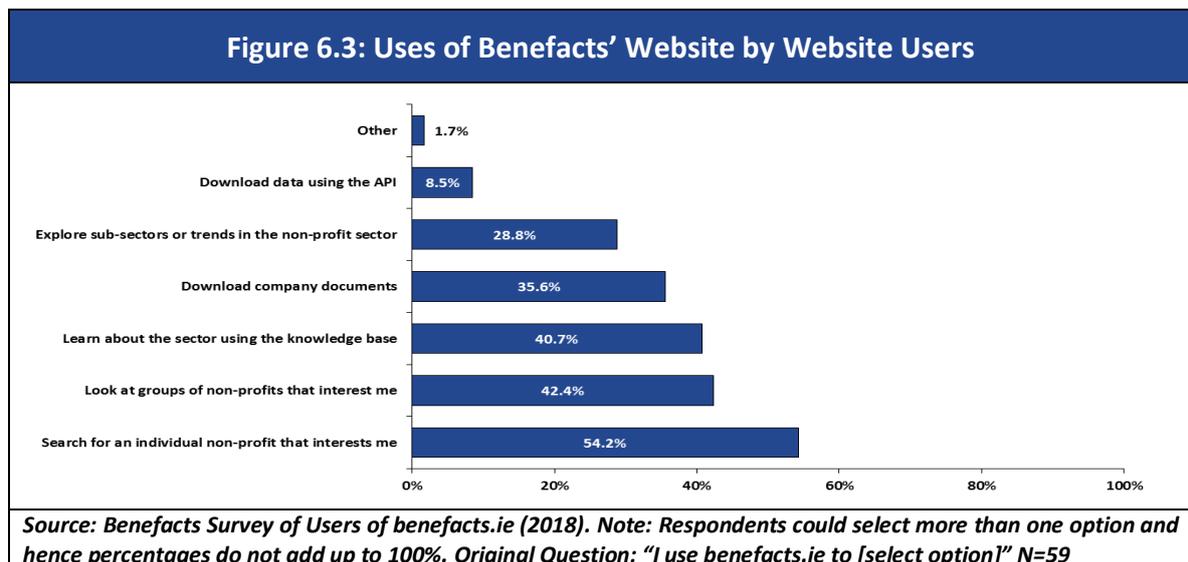
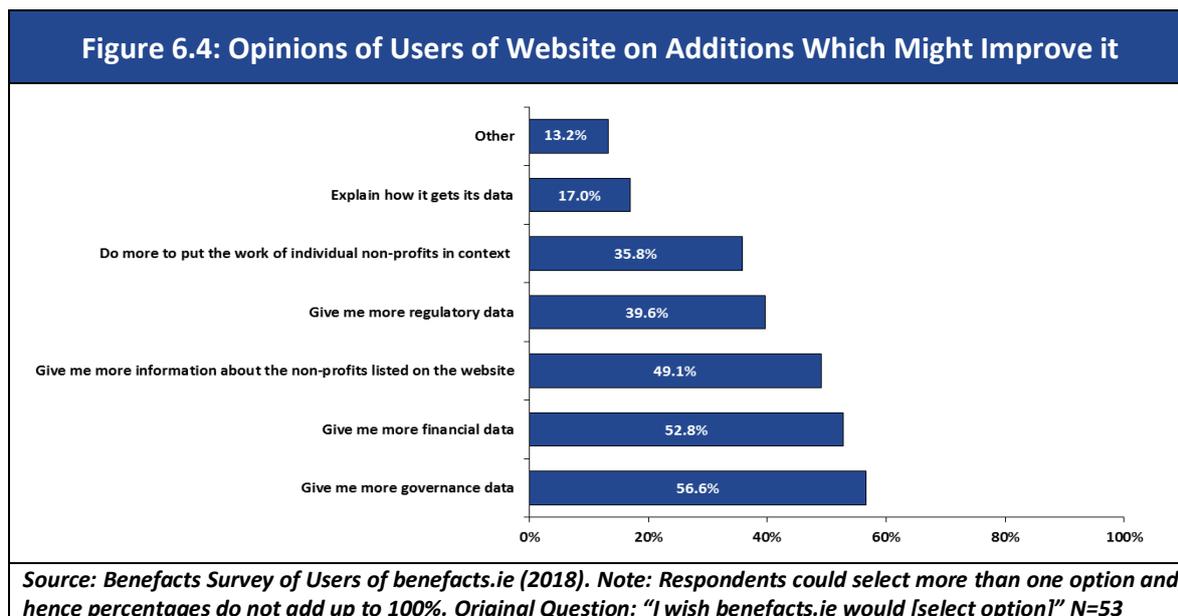


Figure 6.3 provides an overview, based on the survey of users of benefacts.ie, as to what users use the website for. Over 54% of surveyed respondent users stated that they use the website to search for an individual non-profit that interests them.



One of the areas where users suggested the website could be improved related to the provision of more governance data. The evidence from the survey of users of benefacts.ie suggests that Benefacts is seen as a reliable provider of information. 86% of respondents stated that they trust the information provided by Benefacts on its website. The survey results also indicated that Benefacts' website was user friendly and was very easy or extremely easy to use. Over two-thirds of respondents also indicated that benefacts.ie was useful for seeing information about many organisations presented in one place.



6.2 Requirements of Public Bodies

Indecon's analysis of existing and potential demand for information on the non-profit sector has been informed by our consultation process and by our review of the formal agreements between Benefacts and a number of organisations including:

- Funding agreement with the Department of Public Expenditure and Reform (December 2017);
- Memorandum of Understanding with Central Statistics Office (March 2017);
- Funding Agreement with the Department of Foreign Affairs and Trade (November 2018); and
- Heads of a Memorandum of Understanding with Department of Employment Affairs and Social Protection.

We have also examined the demand for the Benefacts Analytics service. This was analysed in Chapter 4 where the requirements of organisations such as the Arts Council, the Housing Agency as well as requirements of local authorities and central government departments were reviewed.

In some cases, the requirements for information on the non-profit sector are not currently met by Benefacts. This is due to a range of factors including the need of some funders to obtain very detailed performance information or a requirement for more up to date financial information. There are however specific user requirements which are met by Benefacts. These include tailored information on the non-profit required by the Central Statistics Office, and from other local authorities and government departments and a number of other public bodies.

One important organisation which requires tailored information which is currently met by Benefacts is the CSO. The CSO, as Ireland's constituted National Statistical Institute (NSI), is

responsible for the programme of national accounts data delivery legally required by all EU Member States.

The national accounts results are calculated within the framework of the European System of National and Regional Accounts (ESA 2010). The Benefacts dataset which has been developed for the CSO allows the CSO to meet a requirement of Eurostat for Ireland to separately quantify the value added of the NPISH (non-profit institutions serving householders) in the core National Accounts aggregates. From the perspective of the government financial statistics division of CSO, some of these non-profit entities are, in fact, considered government for National Accounts institutional sector classification purposes, such as the voluntary hospitals. The Benefacts work enables CSO to obtain data on these entities in a stream-lined way instead of the existing practice of collecting and manually processing published accounts. It also assists the development of the CSO's Register of Public Bodies, a twice-yearly publication, required by the European Commission.

In addition to the NPIs that have already been classified into government, the CSO undertakes reviews of other bodies, either upon request of Eurostat (e.g. Approved Housing Bodies, or 'AHBs') or on its own initiative, to ensure the correct application of the ESA 2010 manual. The Benefacts database pulls together much of the information (sources of funding, memorandum and articles of associations, websites) that the CSO needs to undertake such classification work. There are existing legal requirements in relation to social protection accounts and forthcoming requirements on health accounts for which Ireland estimates in relation to the NPISH sector have been incomplete. There is a reputational risk if Ireland is seen to understate the contribution of this sector. As a pilot project, Benefacts supplied CSO's government accounts division with extracts from their original database compiled in 2010/2011 to assist CSO in the initial publication of the System of Health Accounts (SHA).

In addition to the CSO there are a wide range of other specific user requirements for information on the non-profit sector. For example, these include information on charities and non-profit organisations for the Department of Justice concerning the Financial Action Task Force (FATF) inspectorate. This involves measures to combat money laundering and the financing of terrorism and proliferation. Indecon understands that an initial extremely specific piece of work in this area was undertaken by Benefacts but the outcome was inconclusive and further work is needed in this area to meet FATF requirements.

Local authorities and other users also have existing and potential demands for information on the non-profit sector which can be met by Benefacts. This particularly refers to structured data regarding the financial and governance position of non-profit organisations which they fund. This is needed to fulfil obligations when signing off on Appendix VIII of the Annual Financial Statistics which provides financial information in relation to companies, whether for profit or non-profit, in which the local authority have interest in (controlled, jointly controlled and associated).

Within government departments and other public sector bodies, information is needed on many aspects of non-profit organisations. One specific example of this relates to the Public Sector Duty requirements. The Public Sector Duty requires public sector bodies to take into account the relevant human rights and equality considerations as part of their decision-making processes. The announcement of Section 42 of the Irish Human Rights and Equality

Commission Act 2014, places a positive duty on public sector bodies to have regard to eliminate discrimination, promote equality and protect human rights in their daily work. Commitments were made in “A Programme For A Partnership Government” May 2016 to develop the process of budget and policy proofing as a means of advancing equality, reducing poverty and strengthening economic and social rights. Arising from these areas there are various EU reporting templates relating to Gender and Discrimination and information on these areas is required concerning the non-profit and other sectors. In terms of potential demand of public bodies, this would likely include data on the gender, age, race and other distinguishing characteristics of individuals employed by, or assisted by, the non-profit organisations, including data on the number of individuals with disabilities or membership of the travelling community or other groups. Currently Benefacts provides some partial information relevant to area. This includes detailed sectoral data on the age and gender profile of directors/trustees. The Benefacts data is also used by government departments and the Houses of the Oireachtas to inform evidence-based policies on the nature, scale and impact of the non-profit sector and aspects of its governance.

6.3 Quantification of Value of Benefacts Services

Our analysis suggest that there is strong existing demand by a number of major public bodies for the services provided by Benefacts. An analysis of a number of case studies, suggests that the benefits are likely to be in excess of the costs involved. A review of two significant users suggests that the alternative costs for just these two organisations alone would amount to over one third of the total annual costs of the Benefacts services. Our evaluation suggests that while it is difficult for public sector users to estimate the costs of obtaining the same data directly, access to a centralised database is likely to be more cost effective. The benefit of a centralised database arises from the economies which result from an aggregation of the data already available on existing data sites. Indecon would note that these costs do not account for any cost savings involved by the non-profit sector arising from not having to incur additional reporting costs ion providing information to a number of users of Benefacts’ database.¹⁰⁸ The estimates also do not include the reputational cost for Ireland if accurate data on the non-profit sector is not available. There are also likely to be wider benefits not reflected in the costs as a result of the greater transparency on the sector from use of the data. For example, one local authority consulted suggested the need to incorporate the potential benefits of increased transparency to support public trust in the charity and non-profit sector as well as cost savings metrics.

¹⁰⁸ This point was highlighted to Indecon by the CSO.

Table 6.2: Case Study Estimates of Alternative Costs Impacts if Benefacts was Not Available

Table 6.2: Case Study Estimates of Alternative Costs Impacts if Benefacts was Not Available	
Total	€471,463
<i>Source: Indecon Analysis Based on Estimates of Salary Costs Provided by Two Organisations. Other inputs based on Indecon's review of The Public Spending Code E. Technical references on the calculation of Staff Costs</i>	

6.4 Demand for Information not Currently Met by Benefacts

In addition to cases where Benefacts is meeting the needs of public agencies, there are also demands for information on the non-profit sector which are currently not met by the information provided by Benefacts. This particularly relates to performance measures needed by major funding organisations. Examples of the type of information required by funders in the health, education and community sectors¹⁰⁹ show that these are much wider than the scope of the information collected by Benefacts.

One example of specialised information needed on non-profits is in the health sector and that the HSE *inter alia* requires the data specified in what is known as HIPE (Hospital In-Patient Enquiry) which is maintained by the Healthcare Pricing Office (HPO). The information entered into HIPE impacts on funding for hospitals and the monitoring of their performance. Since 2014, some of the largest charitable organisations which run hospitals (as well as other actuate hospitals) submit very detailed data on their activity and targets set by the HPO. The next table outlines the types of variables that are returned by acute hospitals for each patient who goes through an episode of care. Also outlined are examples of the variables which are submitted. In total, information on 260 variables are returned, depending on what occurs in relation to the patient during their episode of care. This information is important for the evaluation of performance and the effectiveness of public expenditure and for the monitoring of patient safety.

¹⁰⁹ These sectoral requirements were examined in detail by Indecon as part of a report for the Charities Regulator into the Potential for a 'Charity Passport' Scheme in Ireland.

Table 6.3: Types of Variable in HIPE	
Variable Type	Examples of Variables/Information
Patient Specific Background	Sex, Age, Date of Birth, Area of Residence, Nationality, Marital Status, Medical Card Status etc.
Admission Related Variables	Mode of Admission (emergency etc.), Source of Admission (home, other hospital etc.), Admission Type (the type of admission (whether it was elective, maternity etc.)) Admission Date, the hospital from which a patient was transferred from (if applicable), The Admitting Ward, The Admitting Consultant, the Admission Weight (the weight of the patient at admission if they are an infant)
Discharge Related Variables	Date of Discharge, the hospital to which a patient was transferred to (if applicable, Day-case (if the patient was a day-case), Discharge Status (whether the patient was public or private), Discharge Code (where the patient was discharged to) etc., the health insurer of the patient, a waiting list indicator to capture if the case funded by the National Treatment Purchase Fund etc.
Diagnosis Related Variables	Up to 30 Diagnoses fields can be recorded for each patient. These are coded according to the Australian Refined Diagnoses Related Group System.
Procedure Related Variables	Up to 20 Procedures fields can be recorded for each patient. These are coded according to the Australian Refined Diagnoses Related Group System.
Consultant Related Variables	Hospitals record the principal consultant who treated the patient and their speciality and any consultant who attended to any subsequent diagnosis that was made in the hospital during the patient's stay. Also recorded are the consultants who was responsible for anaesthetics in each procedure that occurred during the patient's stay.
Hospital Code	The hospital's own HIPE code
Hospital Acquired Diagnosis	A field to capture if the any of the patient's diagnoses were acquired in Hospital

Source: Indecon Analysis of Reporting Requirements of Voluntary Hospitals

Another example of information on non-profit which is not met by Benefacts can be seen from the information requirements. Each of the Irish universities are required to make annual reports to the Higher Education Authority (HEA) under the annual statistical return process. These returns contain a range of data on a large number of indicators aimed at assessing progress towards key policy objectives. The HEA data returns template requests data under six broad objectives:

- ❑ Objective 1: Providing a strong talent pipeline combining knowledge, skills and employability which responds effectively to the needs of our enterprise, public service and community sectors, both nationally and regionally, and maintains Irish leadership in Europe for skills availability;
- ❑ Objective 2: Creating rich opportunities for national and international engagement which enhances the learning environment and delivers a strong bridge to enterprise and the wider community;
- ❑ Objective 3: Excellent research, development and innovation that has relevance, growing engagement with external partners and impact for the economy and society and strengthens our standing to become an Innovation Leader in Europe;
- ❑ Objective 4: Demonstrates consistent improvement in the quality of the learning environment with a close eye to international best practice through a strong focus on quality and academic excellence;

- ❑ Objective 5: Significantly improves the equality of opportunity through Education and Training and recruits a student body that reflects the diversity and social mix of Ireland’s population; and
- ❑ Objective 6: Demonstrates consistent improvement in governance, leadership and operational excellence.

A further example of demand for information on the non-profit sector can be seen in the context of the Community Services Programme (CSP) which is operated by Pobal on behalf of the Department of Rural and Community Development. The CSP supports community companies and co-operatives to locally deliver social, economic and environmental services that tackle disadvantage by providing a co-funding contribution towards the cost of employing a manager and full-time equivalent positions.

Continued funding of an organisation through the CSP requires the submission of a three-year business plan. Table 6.4 outlines the types of variables that are required by Pobal as part of this business plan. In addition to information in relation to the facilities and services operated, detailed information is also required on the specific duties of supported staff.

Table 6.4: Types of Information Required in a CSP Business Case Application	
Variable Type	Examples of Information
Physical facilities	Description of the physical hall/building/centre the CSP service resides in and what it is comprised of (if applicable). Include the size of the facility, the number of rooms and their function (e.g. 1 sports hall, 2 meeting rooms, 1 games room, 2 astro pitches), and whether it has a kitchen, parking etc.
Services and Activities to be provided	Examples of services might include meals on wheels service, transport services, meeting rooms for community groups, local information office or day centre for older people. Examples of activities might include evening classes, fitness programmes etc. Organisations have to outline, where appropriate, how they propose to support and aid the progression of CSP funded staff.
Social Benefits	In addition to the local community in general, organisations have to identify particular sections of the community and how they benefit from the facility (e.g. young people, older people, people with a disability etc.)
Significant Changes Planned	Organisations have to set out details of any upgrade of facilities either by refurbishment or renovations or change the nature of the services or activities available. This is to include a description of what the planned changes are, and when it is envisaged that they will happen and when they will be completed. They must also state whether any of these changes are conditional on other factors (e.g. planning permission, successful application for LEADER funding etc.).
<i>Source: Indecon Analysis of CSP Business Plan Template and supporting guidance documentation</i>	

The examples shown in the health, education and community spheres highlight the diversity of the information required from non-profit sector and the fact that Benefacts data does not meet all the needs of the sector.

6.5 Summary of Findings

- ❑ Indecon's assessment of existing and potential demand has indicated that accurate data on the non-profit sector is required by a number of public sector bodies. This is needed for effective governance and to enhance evidence based policymaking. This is particularly required where more than one funder is assisting a non-profit organisation. It is however important to recognise that while there is a demand for the provision of information on the non-profit sector, this does not in itself ensure appropriate governance and the use of the information is critical.
- ❑ In addition to the demand for general information on the non-profit sector there are specific user requirements. These include tailored information on the non-profit required by the Central Statistics Office, the Department of Justice concerning the Financial Action Task Force, and from local authorities and government departments and a number of other public bodies.
- ❑ Indecon's analysis has also found that some major funders require specialised information which is not currently provided by Benefacts. Public Sector organisations in areas such as health, education and community development require detailed information including performance measures which is provided directly by individual non-profit organisations.
- ❑ An analysis of a number of case studies suggests that the benefits of the information provided by Benefacts are likely to be in excess of the costs involved. A review of two significant users suggests that the alternative costs for these organisations alone would amount to over one third of the total annual costs of the Benefacts services. Our evaluation suggests that while it is difficult to estimate the costs of obtaining the same data directly, access to a centralised database is likely to be very cost effective.

7 Potential Market Interest in Open Tender

7.1 Introduction

One of the issues of relevance to this project is an assessment of the likelihood that an open procurement process would attract bids from a number of companies. This is an important issue as competitive tendering is a process which has the potential to deliver value for money and to enhance innovation.

7.2 Analysis of Services Provided

A key issue in considering the merits of a tendering process is whether the Government would be in a position to specify its requirements clearly in a way to which tenders could respond. In order to assess the likelihood that a tendering procurement process would attract interest, Indecon considered the nature of the services required. Our review of Benefacts indicated that the main service provided is the assembly of a database on metrics on the non-profit sector and the provision of analytical tools to facilitate the interpretation and use of the information provided. Benefacts identifies the entities in its scope and purchases files and digital feeds for the company dataset from a re-seller licensed by the Companies Registration Office. Other files are acquired from different sources including the Standards in Public Office Commission. On receipt, Benefacts converts these from analogue (image file) into digital assets by re-keying their content. Benefacts also checks, cleans and normalises the data. The services specifically included a database of non-profits, a searchable website, open data files, and the provision of quarterly statistics to the CSO to allow it to meet Eurostat obligations on data for NPISH.

Indecon believes that given the developments which have been made by Benefacts since its establishment, it is now feasible to specify the requirements for an information/database service concerning the non-profit sector. In this context, we note that there are a number of specialised practices which develop and maintain databases. In addition, a number of professional practices have strong competencies in this area. The provision of such services is also subject to significant technological developments which may assist in securing cost-effective ways to source and assemble data from a range of information providers. While there may have been uncertainty at the time of the establishment of Benefacts of the nature of the services required which may have constrained an effective tendering process, this is no longer the case. The joint funding model which was originally proposed may also have added complexities to any tendering decision. Indecon's assessment is that we see no reason why a well-managed open procurement process would not attract bids from a number of companies. Such a process has the potential to enhance cost effectiveness of the service provision and potentially could open up the opportunity for new innovations including in the associated analytical tools, regardless of whether Benefacts or other bidders were to win such a competition.

One issue which the Department should consider if they were to continue to fund such a service and if a procurement process was pursued, is whether it would be necessary to tender via the Official Journal of the EU or whether existing framework panel members would be sufficient. The detailed evaluation of this is outside the scope of our terms of reference but Indecon believes the use of a number of the existing framework panels would attract a number of bidders. This would have the advantage of reducing the timescale for a tender process. In order to ensure that the process would be likely to deliver value for money and that the existing assets are protected, Indecon would recommend that a mechanism is found to enable Benefacts to be a bidder in the process or for the existing assets, experience and knowledge to be maintained. In this context depending on the timescales involved and whether an OJ process was required, there may be a need for the Government to consider transitional arrangements to ensure that the service is maintained until a bidding process is completed. Our evaluation suggests that public bodies would be in a position to specify their data needs, and there is a merit in a centralised provision of the service to secure economies of scale. If a tendering process was proposed, the inputs from key bodies should be sought and the establishment of a steering committee for any tender process may be appropriate.

7.4 Procurement

In evaluating potential market interest, it is necessary to ensure consistency with procurement rules. For the procurement of goods and services, government departments and agencies must abide by public procurement guidelines as set out by DPER. These guidelines are based on an Irish translation of EU directives into Irish Law.¹¹¹ Different rules apply for public service contracts that are under and over the thresholds set by the EU. The current (effective from 1st January 2018) EU thresholds are outlined in Table 7.2. Contracts that exceed the values set in these thresholds (exclusive of VAT) must be advertised in the Official Journal of the EU. For example, such rules apply to contracts for supplies and services from government departments and offices of over €144,000.

Table 7.2: EU Public Procurement Thresholds (Exclusive of VAT)			
Category	Type	Value	Threshold Applies to:
Works	Contract Notice	€5,548,000	Threshold applies to Government Departments and Offices, Local and Regional Authorities and public bodies
Supplies and Services	Contract Notice	€144,000	Threshold applies to Government Departments and Offices
	Contract Notice	€221,000	Threshold applies to Local and Regional Authorities and public bodies outside the Utilities sector
Utilities	Works Contracts / Prior Indicative Notice	€5,548,000	For entities in Utilities sector covered by GPA
	Supplies and Services	€443,000	For entities in Utilities sector covered by GPA
<p><i>Source: Office of Government Procurement (https://ogp.gov.ie/859-2/)</i> <i>Note: EU Thresholds Effective from 1st January 2018</i></p>			

¹¹¹ DPER, Public Spending Code

The public procurement rules for contracts that are below EU thresholds are outlined in Figure 7.1.¹¹² All public contracts over €25,000 must be advertised on www.etenders.gov.ie – this portal being administered by the National Procurement Service that was established in 2002.¹¹³ The aforementioned website also allows full access to the Official Journal of the EU. However, this lower threshold not relevant to the existing service because of the size of the likely costs of providing the services currently offered by Benefacts. There may, however, be components of the services provided which could be provided on a more discreet basis. Indecon, however, notes that OGP has already advertised in the OJ for framework members and that tenders to these members do not require retendering via the OJ process.

Figure 7.1: Tendering Below EU Thresholds		
Procurement Procedure	Estimated Value of Procurement (exclusive of VAT)	Contract Type
Works	Less than €50,000	Direct Invitation Seek a minimum of 5 Written Tenders from interested and competent contractors.
	€50,000 – €250,000	Open Procedure Publish Contract Notice on eTenders
	€250,000 – EU Threshold	Open or Restricted Procedure Publish Contract Notice on eTenders
Works Related Services	Less than €50,000	Direct Invitation Seek a minimum of 5 Written Tenders from interested and competent consultants.
	€50,000 – EU Threshold	Open Procedure Publish Contract Notice on eTenders
Supplies or General Services	Less than €5,000	Seek Verbal Quotes from one or more interested and competent suppliers/service providers. (Best Practice – Seek a minimum of 3 written quotes)
	€5,000 – €25,000	Direct Invitation Seek a minimum of 3 Written Tenders from interested and competent suppliers/service providers)
	€25,000 – EU Threshold	Open Procedure Publish Contract Notice on eTenders

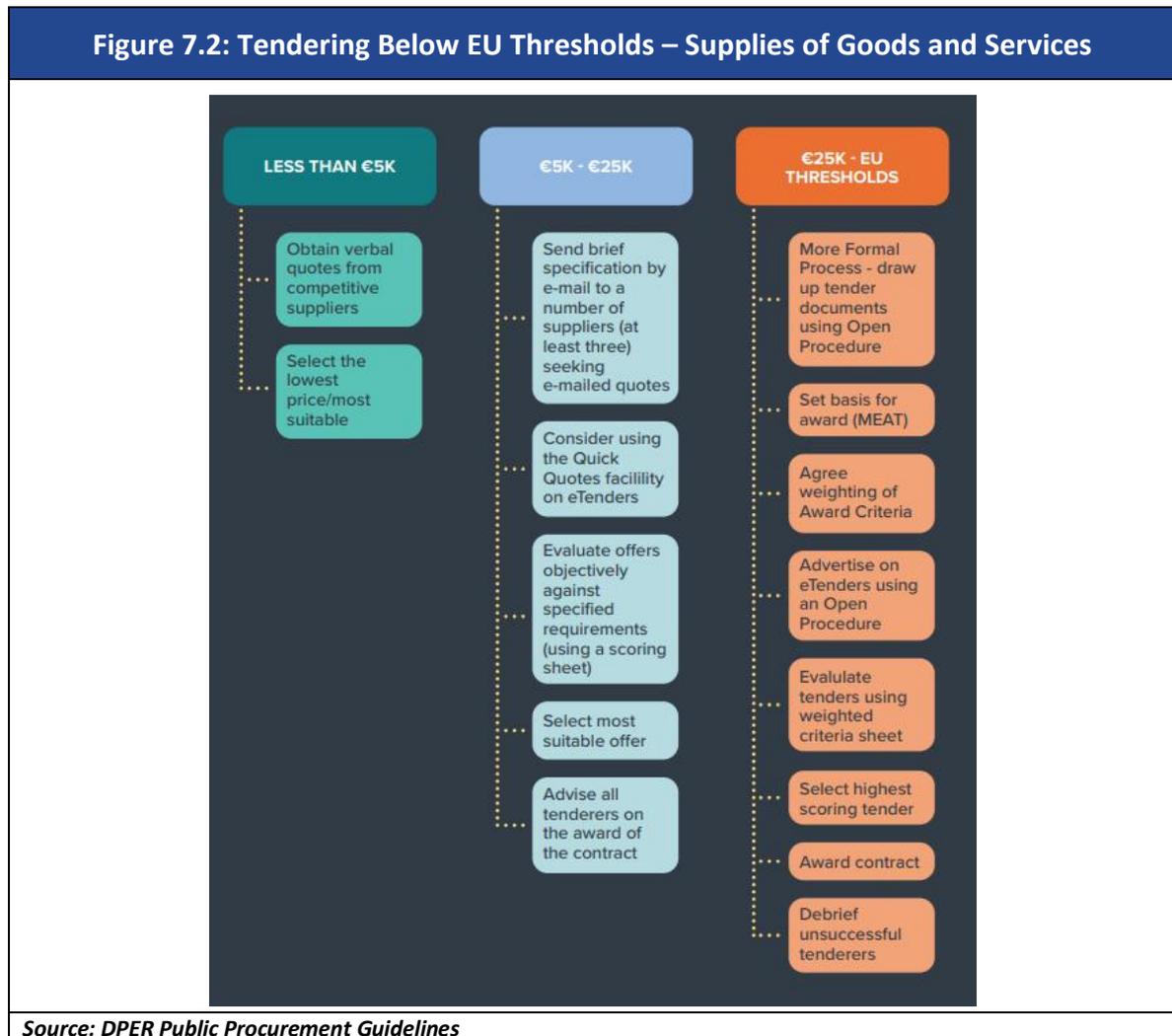
Source: DPER Public Procurement Guidelines

The procurement framework for goods and services contracts that are below EU thresholds are outlined in Figure 7.2.¹¹⁴

¹¹² DPER Public Procurement Guidelines

¹¹³ DPER, Public Spending Code

¹¹⁴ DPER Public Procurement Guidelines



DPER have had two Funding Agreements with Benefacts:

- The 2015 Funding Agreement which granted Benefacts a grant of €1.95 million for three years (2015-2017).
- The 2017 Funding Agreement which granted Benefacts a grant of €2.85 million for three years (2018-2020) - a grant of €950 thousand per year.

7.5 Issue of TUPE¹¹⁵

One issue which Indecon believes may be relevant in considering any procurement process is whether a tender for the services provided by Benefacts would constitute a “transfer of undertakings” and whether it comes within the scope of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003. This could impact on the likely level of interest of bids in any procurement process.

The current Irish law in the area of “transfer of undertakings” is the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 – S.I. No. 131 of 2003. The Regulations implement the EU Transfer of Undertakings Directive (EU Directive 2001/23/EC) which is aimed at safeguarding the rights of employees in the event of a transfer of an undertaking, business or part of a business to another employer as a result of a legal transfer (including the assignment or forfeiture of a lease) or merger. Also, Section 21 of the Employees (Provision of Information and Consultation) Act 2006 transposed a further provision of the Transfer of Undertakings Directive in relation to the information to be provided by the original employer to the new employer.

The main provisions of the Regulations provide that all the rights and obligations of an employer under a contract of employment (including terms inserted by collective agreements), other than pension rights (see below), are transferred to the new employer on the transfer of the business or part thereof. The new employer must also continue to observe the terms and conditions of any collective agreements until they expire or are replaced. Also, an employee may not be dismissed by reason of the transfer alone. However, dismissals may take place for economic, technical or organisational reasons involving changes in the workforce. Both the outgoing and incoming employers are obliged to inform their respective employees’ representatives of, inter alia, the reasons for the transfer and the legal, social and economic implications of the transfer. Where there are no representatives, the employers must arrange for the employees to choose representatives for this purpose.

The TUPE Regulations require the transferor and the transferee to inform representatives of their respective employees of the following:

- The date or proposed date of the transfer;
- The reasons for the transfer;
- The legal implications of the transfer for the employees and a summary of any relevant, economic and social implications of the transfer for them; and
- Any measures envisaged in relation to the employees.

¹¹⁵ Indecon are very appreciative of advice provided by the Department of Employment and Social Protection. However Indecon recommends that the Department seek legal advice on this issue.

The affected employees must be given the above information, where practicable, not later than 30 days before, and in any event, in good time before, the transfer (or, in the case of the transferee, before its employees will be affected by the transfer). In the absence of a trade union or staff association, the employer is obliged to put an arrangement in place whereby the employees elect employee representatives to consult with their employer in relation to the transfer. Where there are measures envisaged as a result of the transfer which will have an effect on the employees, for example redundancies, changes in work practices etc., the transferor must consult with the employee representatives with a view to reaching agreement. Where an employee considers that a breach of the Regulations has occurred, a complaint may be made to an Adjudication Officer of the Workplace Relations Commission (WRC) and appeals therefrom to the Labour Court. Any such case should be taken within six months of the date on which an employee considers that there has been a contravention of the Regulations.

Of relevance to consideration of whether TUPE would apply to Benefacts is that the Court of Justice of the European Union (CJEU) has found that the EU Directive on Transfer of Undertakings **does not** apply to certain outsourcing or contracting-out situations. The CJEU rulings in this area have made a distinction between “assets-based” and “services-based” (or labour-intensive) transfers. For example, the CJEU has found that in a situation where a services contract for a labour-intensive service such as office cleaning or security services (as distinct from an assets-based service such as public transport or an in-house canteen where other CJEU rulings apply) has been outsourced and where the contract subsequently moves to a new contractor, it may be considered a “transfer of undertakings” for the purposes of the Transfer of Undertakings Directive in certain circumstances only. This would be predicated on the new employer having taken over a major part, in terms of their numbers and skills, of the employees specially assigned by the previous contractor to the provision of the services in question.

Regulation 3 of S.I. No. 131 of 2003 provides that the regulations “shall apply to any transfer of an undertaking, business, or part of an undertaking or business from one employer to another employer as a result of a legal transfer (including the assignment of forfeiture of a lease) or merger.” It also provides that “transfer” means “the transfer of an economic entity which retains its identity”, and “economic identity” is defined as “an organised grouping of resources which has the objective of pursuing an economic activity whether or not that activity is for profit or whether it is central or ancillary to another economic or administrative entity.” The regulations apply to public undertakings engaged in economic activities whether or not they are operating for gain.

TUPE cases are normally complex and it is not easy to predict how this particular case involving DPER would be viewed by the adjudicative bodies. Indecon would advise the Department to obtain legal advice on this issue. While some bidders may wish to obtain the skills and expertise of Benefact employees if TUPE applied this would, as noted earlier, be likely to impact on the number of bidders. The relatively small number of staff, however, is relevant.

7.6 Summary of Conclusions

A summary of the conclusions of the study are as follows:

- ❑ Indecon believes that given the developments which have been made by Benefacts since its establishment, it is now feasible to specify the requirements for an information/database service concerning the non-profit sector. In this context, we note that there are a number of specialised practices which develop and maintain databases. In addition, a number of professional practices have strong competencies in this area.
- ❑ A well-managed open procurement process would be likely to attract bids from a number of companies. Such a process has the potential to enhance cost effectiveness and potentially could open up the opportunity for new innovations including in the associated analytical tools. Whether a tender for the services provided by Benefacts would constitute a “transfer of undertakings” could impact on the likely level of interest of bids in any procurement.
- ❑ In order to ensure that the process would be likely to deliver value for money and that the existing assets are protected, Indecon would recommend that a mechanism is found to enable Benefacts to be a bidder in the process or for the existing assets, experience and knowledge to be maintained. In this context depending on the timescales involved, there may be a need for the Government to consider transitional arrangements to ensure that the service is maintained until a bidding process is completed.

8 Conclusions and Potential Options

8.1 Conclusions

A summary of conclusions is presented in the table below.

Summary Conclusions	
1.	There is a demand and a requirement for data on the non-profit sector by a number of public bodies which is currently met by Benefacts.
2.	Indecon's analysis suggests that the overall benefits of the Benefacts service are likely to be in excess of the costs.
3.	There is also a need for more specialised data which is required by the major funding organisations which is not currently met by Benefacts.
4.	Indecon's assessment suggests that the methodologies used by Benefacts are appropriate and are in line with the approaches used in other countries. Some enhancement of the services would be useful and there is an alternative option for more centralised public service provision.
5.	An open procurement process would be likely to attract bids from a number of companies.

Potential Options for Benefacts

Based on the analysis undertaken, Indecon has outlined below our assessment of the main options which could be considered by the Government in relation to the services provided by Benefacts.

1. Cease Funding of Benefacts or Alternative Service

In order to ensure the best use of scarce public expenditure, it is appropriate to consider the continued relevance of all areas of expenditure. Indecon therefore believes that the option of ceasing funding should be the counterfactual against which all programmes should be evaluated. Our analysis suggests that ceasing funding of Benefacts or an alternative service would reduce information which is needed for effective governance. In a previous review by the Comptroller and Auditor General, the importance of adequate oversight arrangement where public funding is provided to a range of organisations was highlighted.

2. Pursue open Procurement for All or Part of the Services Provided by Benefacts

Indecon believes that subject to TUPE clarification an effective public procurement process would attract bids from a number of companies. Such a process would potentially facilitate innovative solutions to the service requirements. If it was decided by the state to continue to fund the Benefact services, then this approach would have merit. There would also be an option to fund part of the services provided by Benefacts, for example, the collection, checking and refinement of the data and the maintenance of the website. Other added value services or user specification applications could be supplied on a separate contract for services basis.

3. Develop Alternative State Provision

The provision of centralised information on the non-profit sector could also be provided directly by a government department or agency. Such an approach would have advantages in terms of facilitating the sharing of information between statutory agencies which may not be feasible with a private organisation. If this was part of a wider initiative to facilitate information for all of the public bodies who have requirements in this area, there could be advantages in terms of increased economies of scale. This, however, would be a long-term project and the priorities of this, vis a vis other government IT requirements, would need further evaluation.

4. Continue to Fund Benefacts Directly

Indecon believes that such an option would not be consistent with procurement rules. In addition, it is unlikely to be the most effective way to generate value for money or innovation in service provision.