

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

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

by

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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

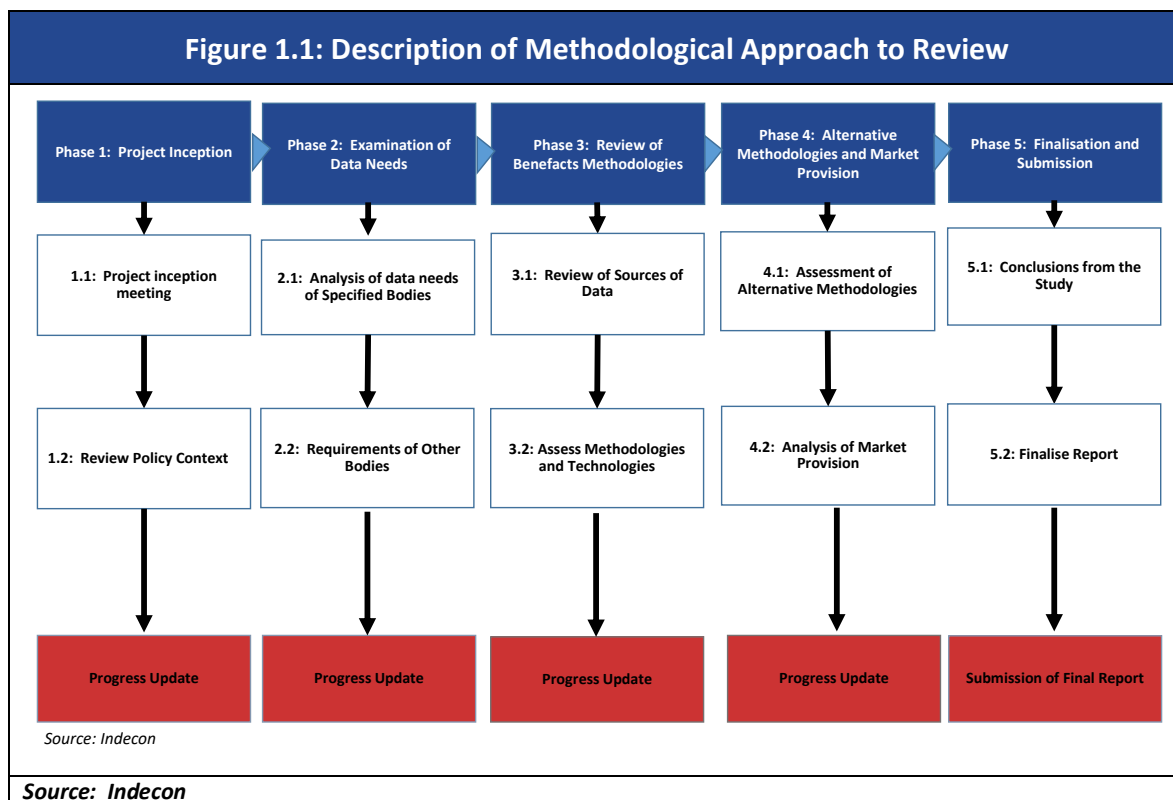
Non-profit organisations in Ireland play an important role in the delivery of social services in Ireland. Non-profit organisations range from very small community-based organisations to major providers of public services, particularly in the health and education sectors.

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.

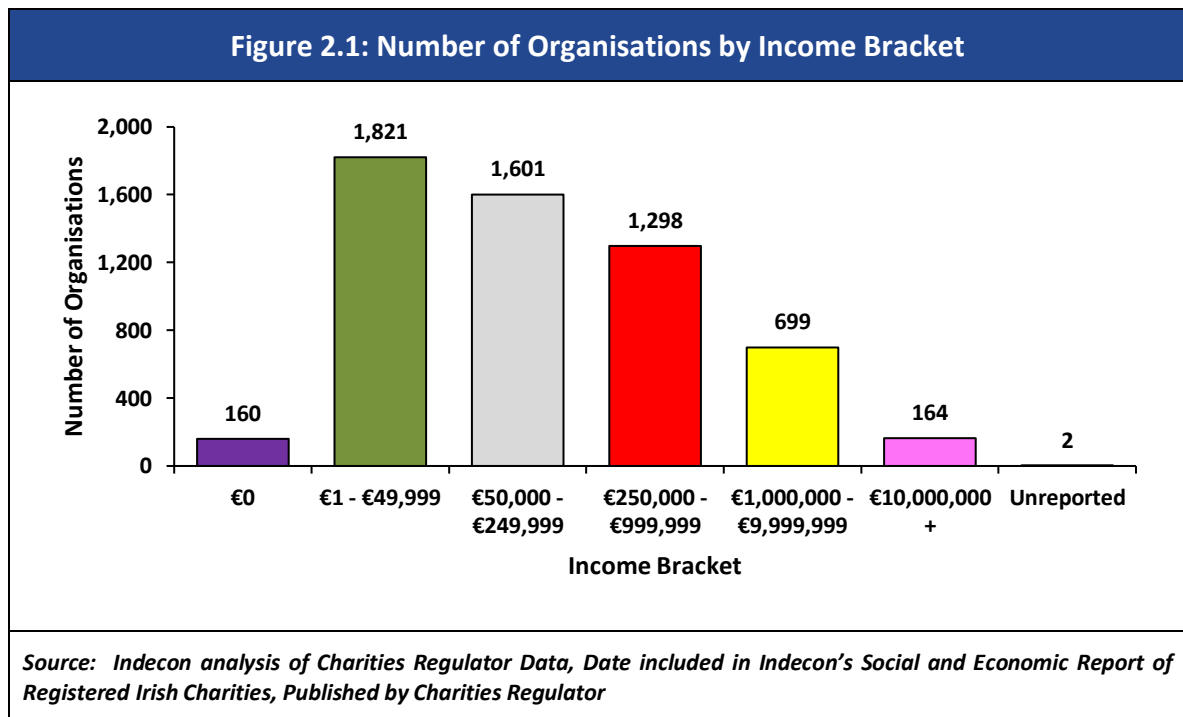
Non-profit organisations in Ireland include a diverse range of organisations. ‘Non-profit’ has been defined by the UN as being: a) organizations; b) not-for-profit and non-profit-distributing; c) institutionally separate from government; d) self-governing; and e) non-compulsory.¹ Indecon’s analysis indicates 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

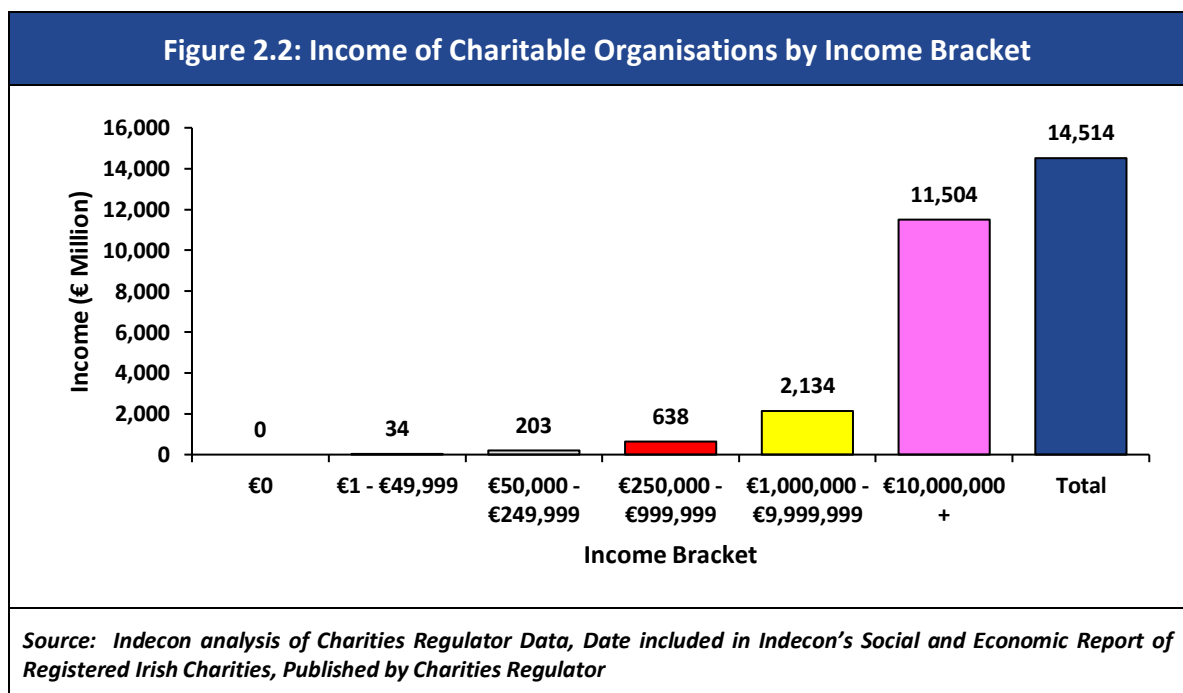
Source: Benefacts Public Database as of 31 January 2019
Note: Excludes those still included in the database but listed as having been deregistered by the Charities Regulator

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

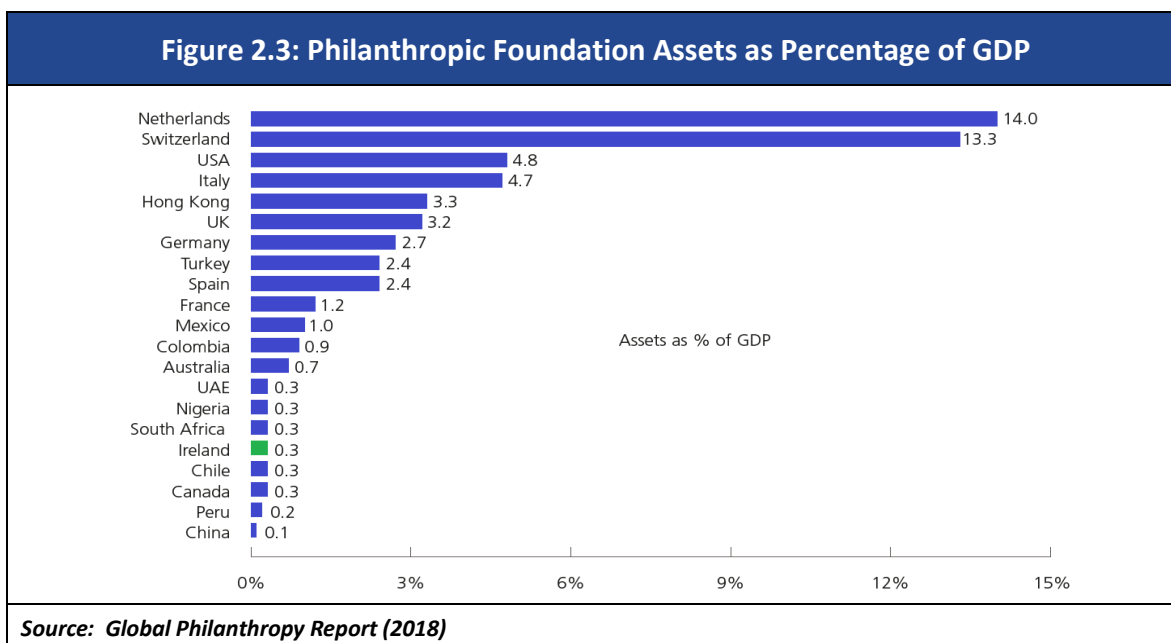
While non-profit organisations include registered charities and many other organisations, it is useful to consider the size profile of the charities regulated by the Charities Regulator.



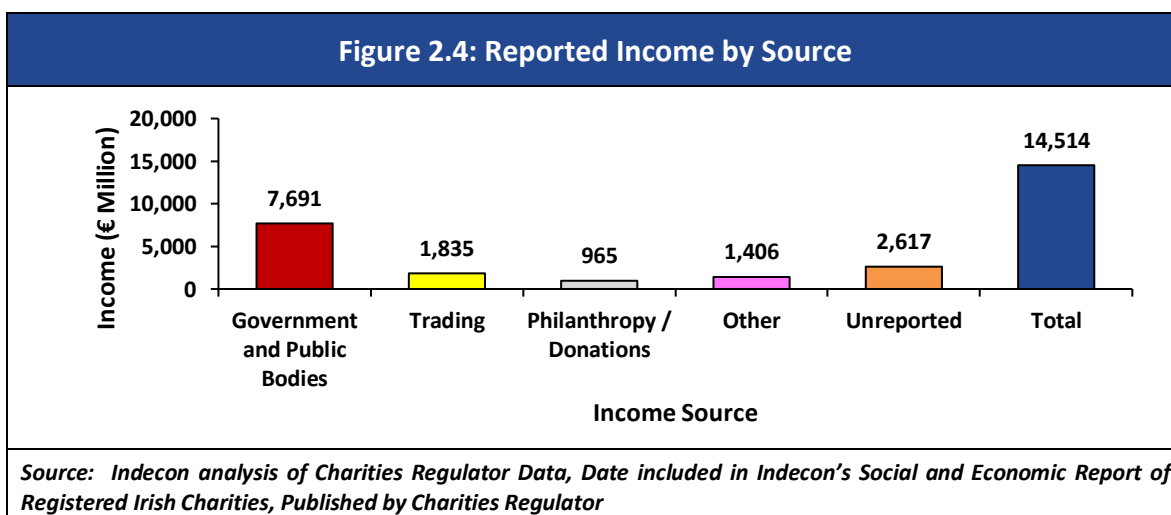
A small number of charities constitute a large portion of total income for the sector. However, even small charities and small non-profit organisations can impact on the reputation of the sector. Having access to accurate information on these smaller organisations is therefore important.



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.

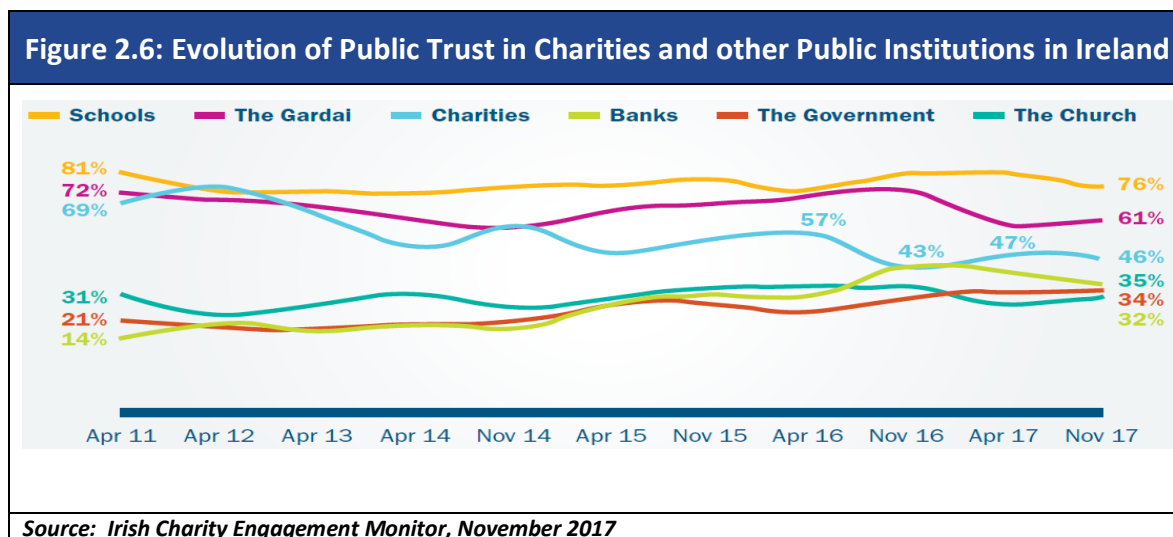
<https://trust.guidestar.org/impact-auditing-for-smarter-giving> (accessed 24/01/2019) - in the original Akerlof paper the "bad charity" was the lemon, an American term for a poor quality second hand car.

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
	Activities 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.

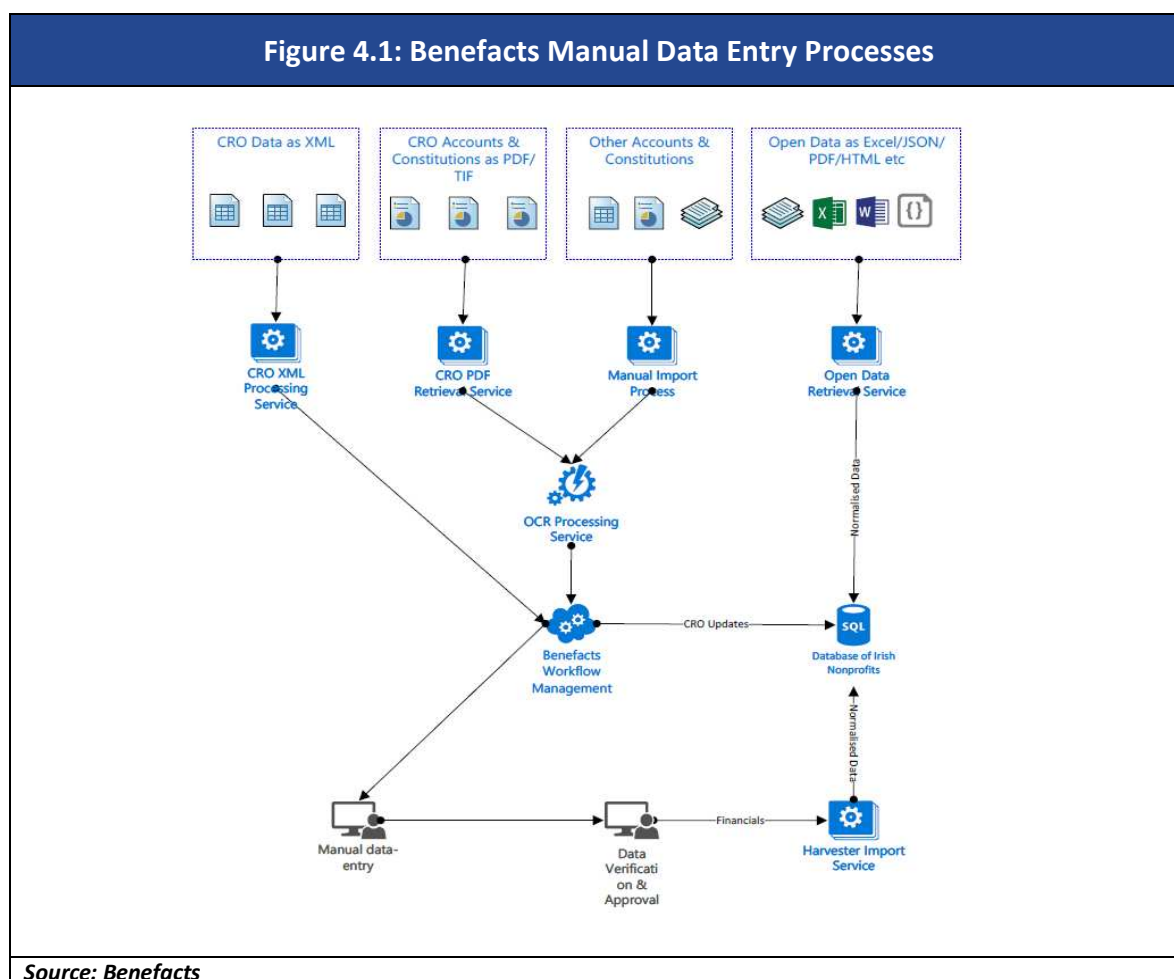
In addition to the above, Benefacts extracts data from public registers such as the public register of charities and the county registers published by 31 local authorities.

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.



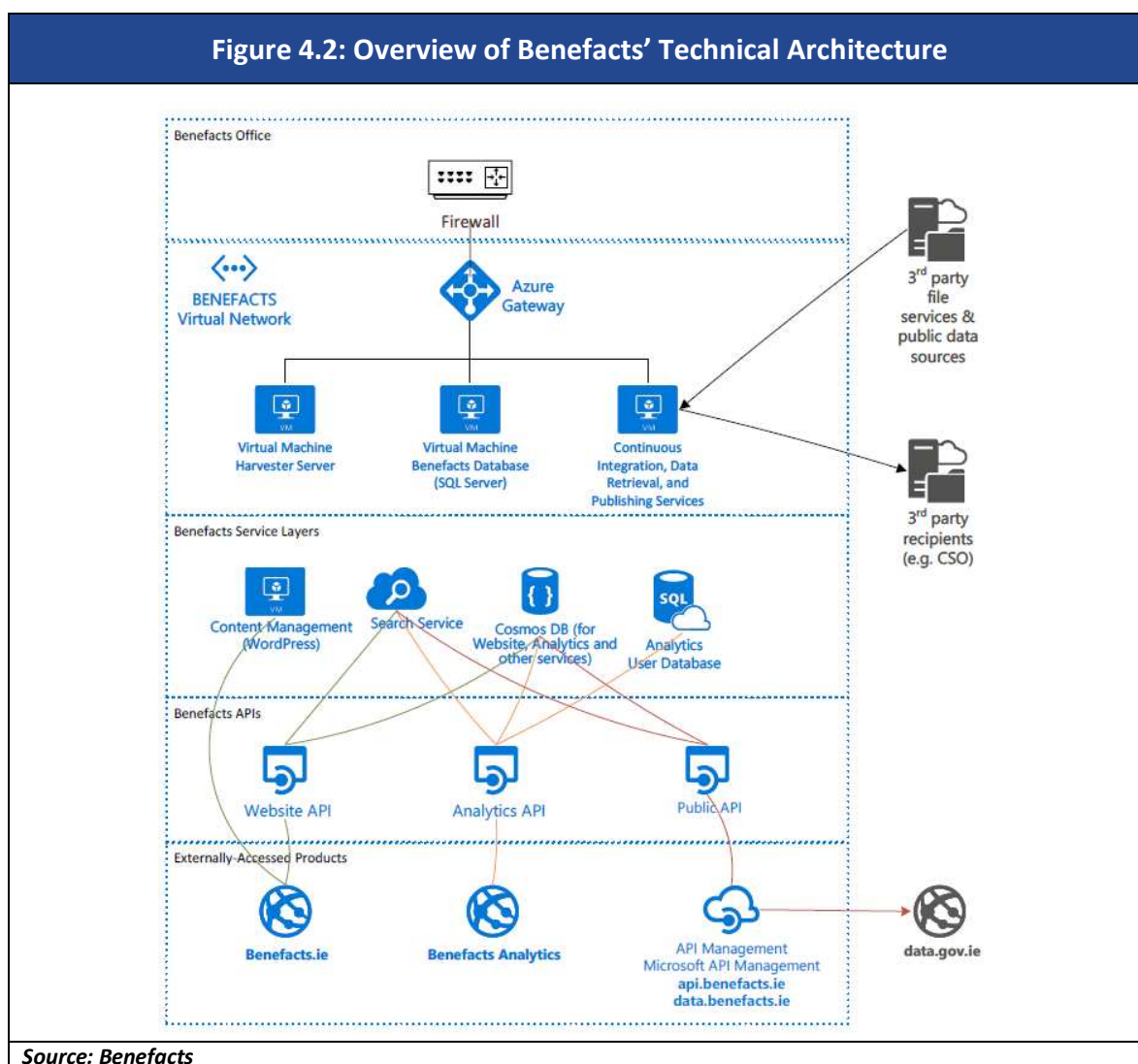
4.4 Technical Architecture of Benefacts and Data Warehousing

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.

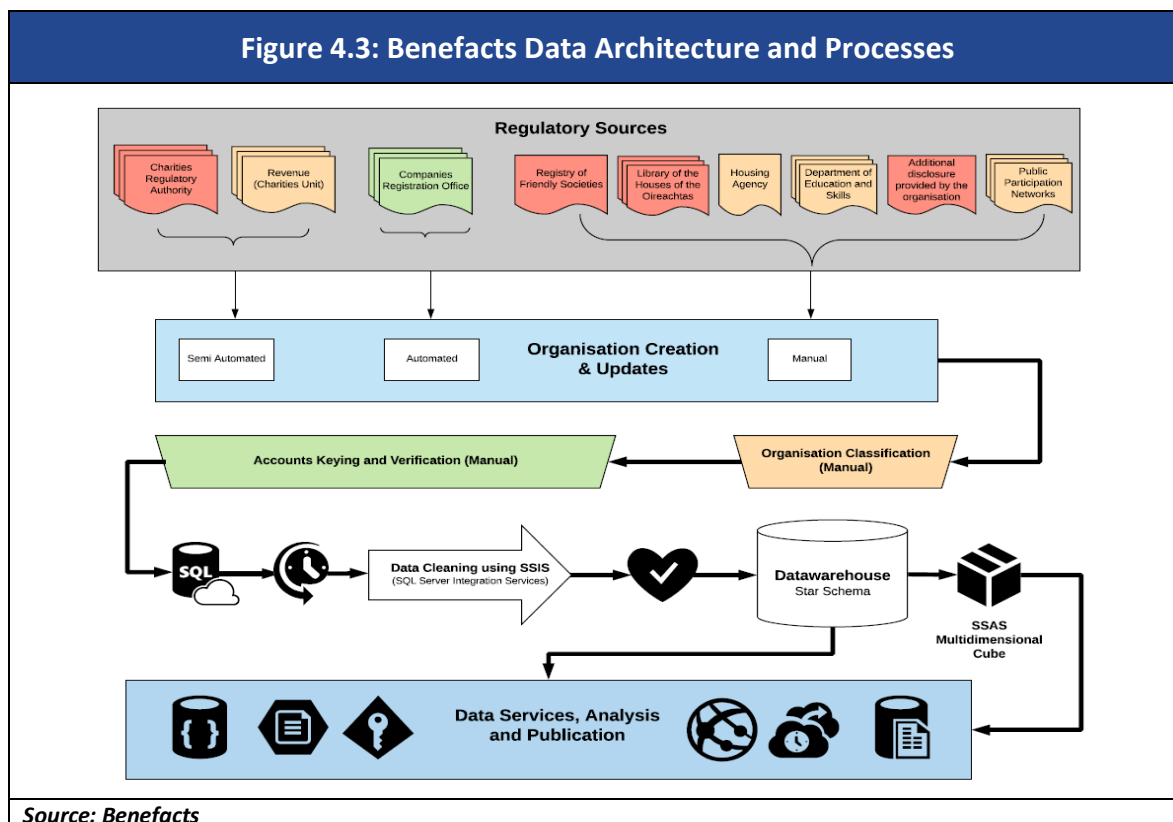
The architecture ensures that, although hosted in the Azure infrastructure, the harvester software and the core database sit in an Azure Virtual Network and are only accessible from within Benefacts’ premises or via a VPN. There is no external connectivity to the core database or its supporting services.

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.

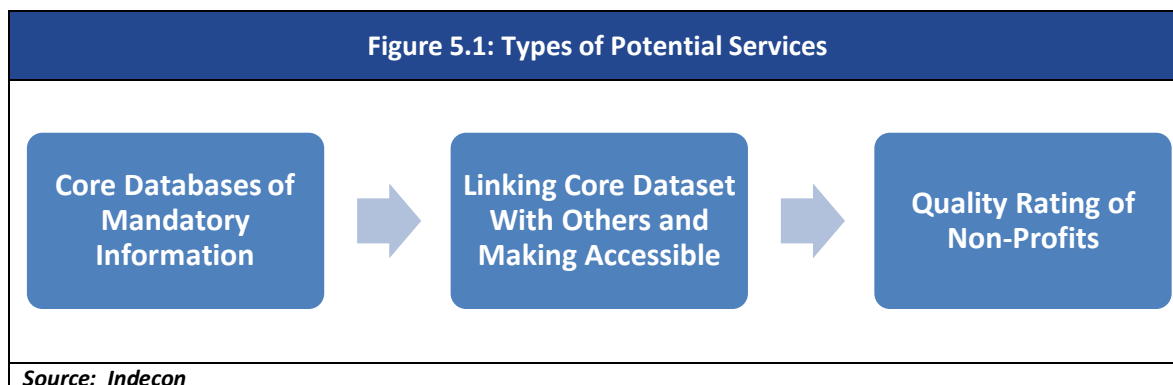
5 Alternative Methodologies

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)

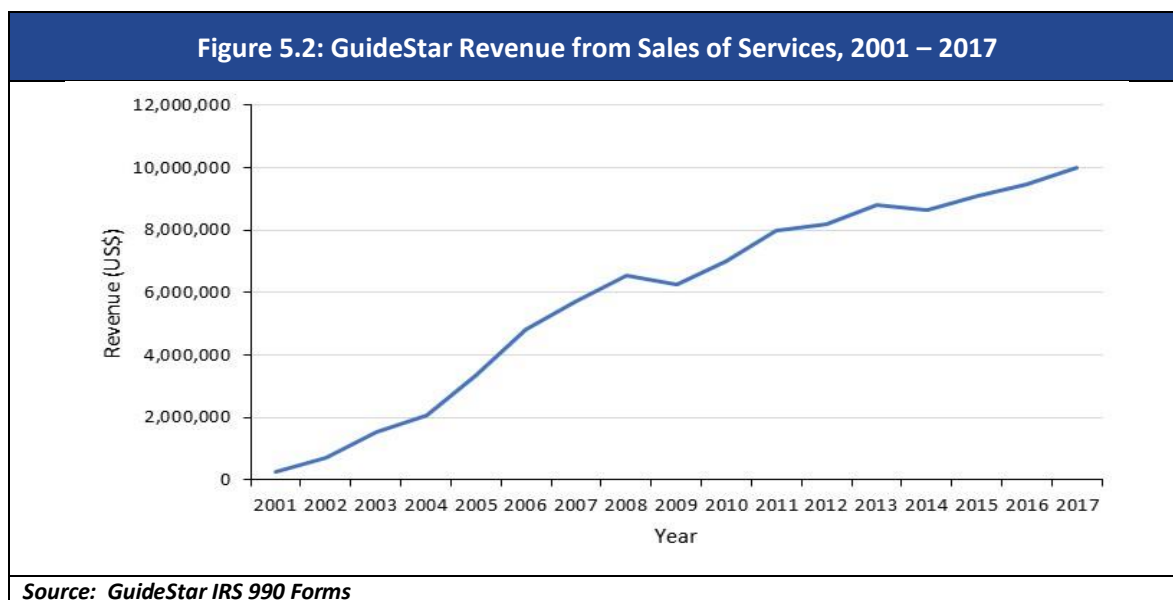
⁵⁸ <https://learn.guidestar.org/about-us/history> (accessed 22/01/2019)

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.

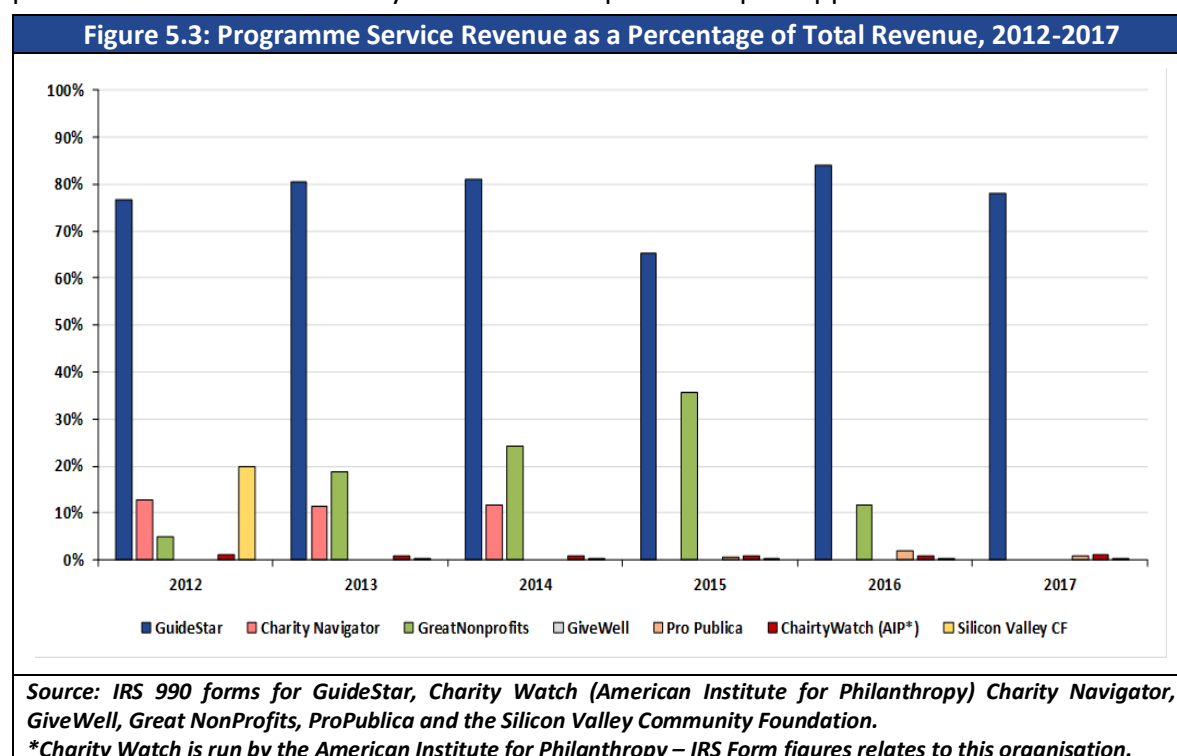
⁷⁴ Thatcher, M. (2018). Charity Navigator: The Past, Present and Future. [Presentation]. Available at: <https://www.rgocpa.com/wp-content/uploads/2017/11/Charity-Navigator-The-Past-Present-and-Future-Michael-Thatcher.pdf> (accessed 08/02/2019)

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)

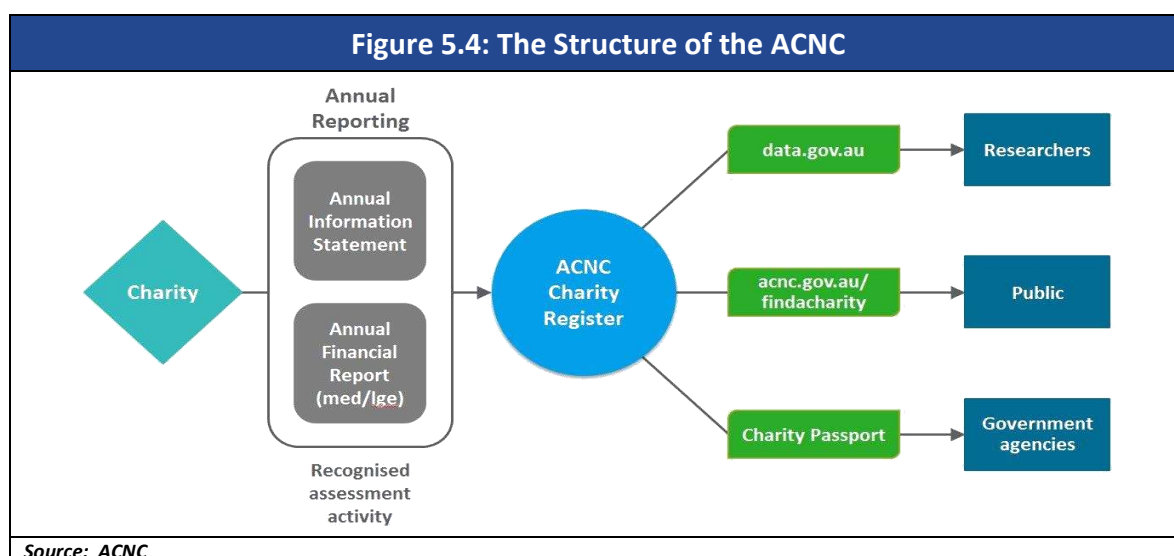
In Canada data is also available for CharityData which is a website that was established in 2016.⁹⁴ Like Charity Intelligence, CharityData uses information from the T3010 form that non-profits in Canada return to the Canada Revenue Agency. CharityData provides an online search portal which displays extensive 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=is-raeli+guidestar+nptech&source=bl&ots=4PSDZvTlPv&sig=ACfU3U3zEx69BLIdQ-EFT-BmsrqSGxz9_Ww&hl=en&sa=X&ved=2ahUKewitmpXMmYbgAhXkShUIHSMfCQYQ6AEwCXoECAEQAQ#v=onepage&q=is-raeli%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>	

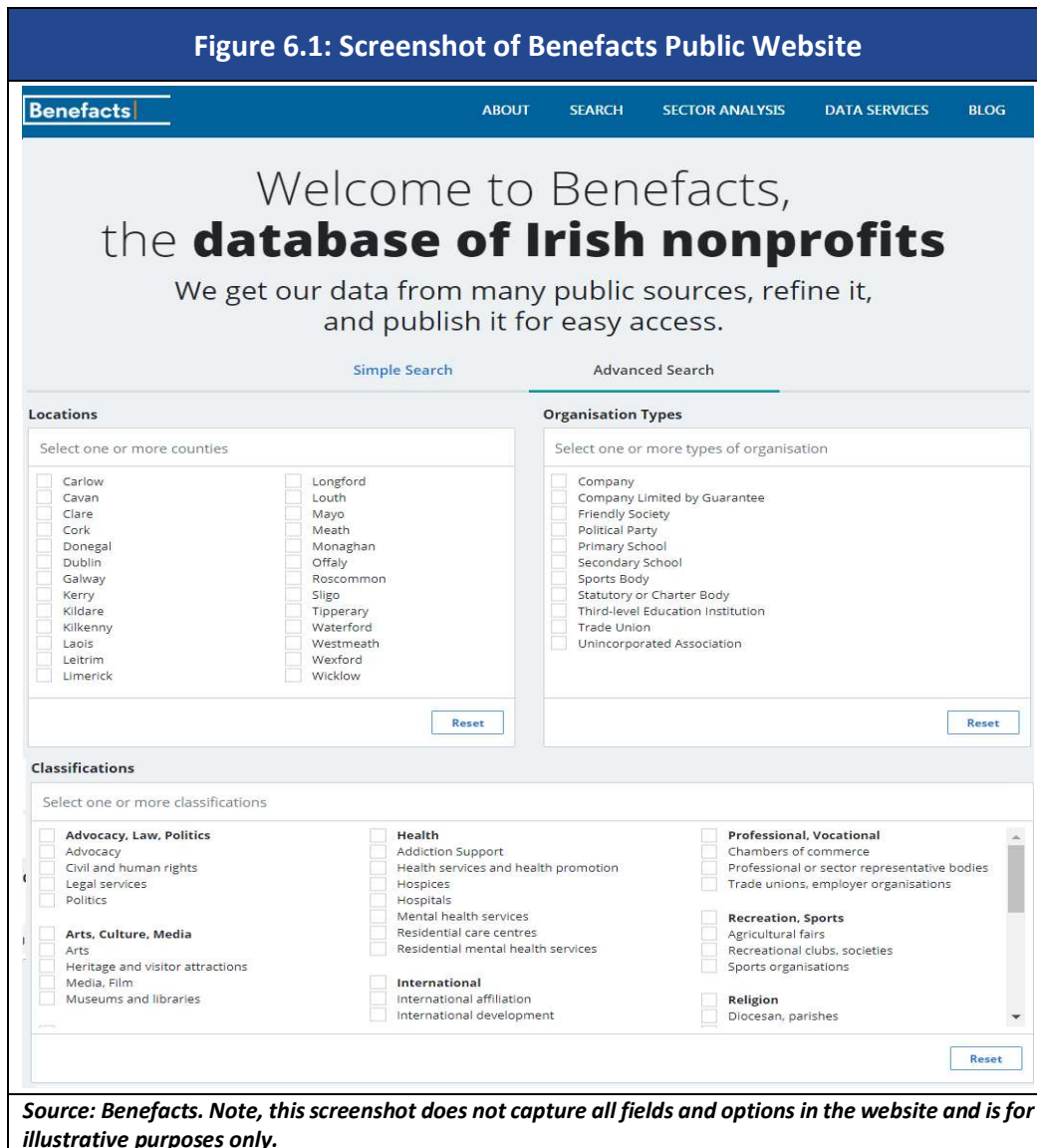
Benefacts provides a free use website which can be accessed by members of the public and by public sector bodies or other interested parties. The functionality allows users to search the database based on:

- 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.

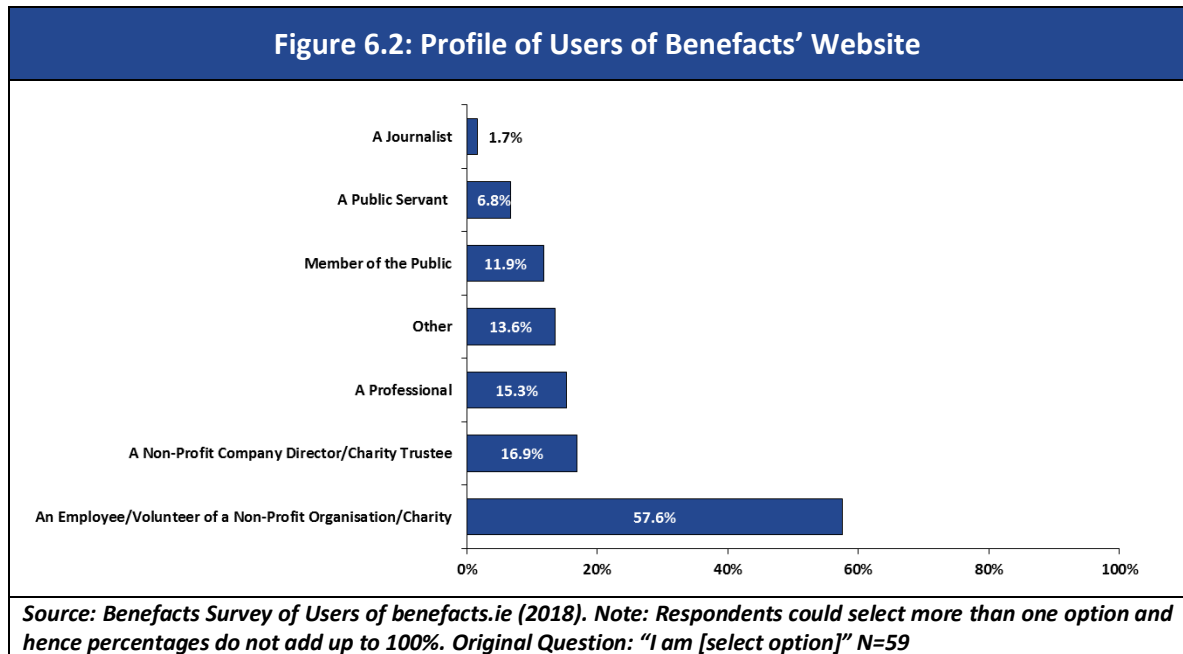
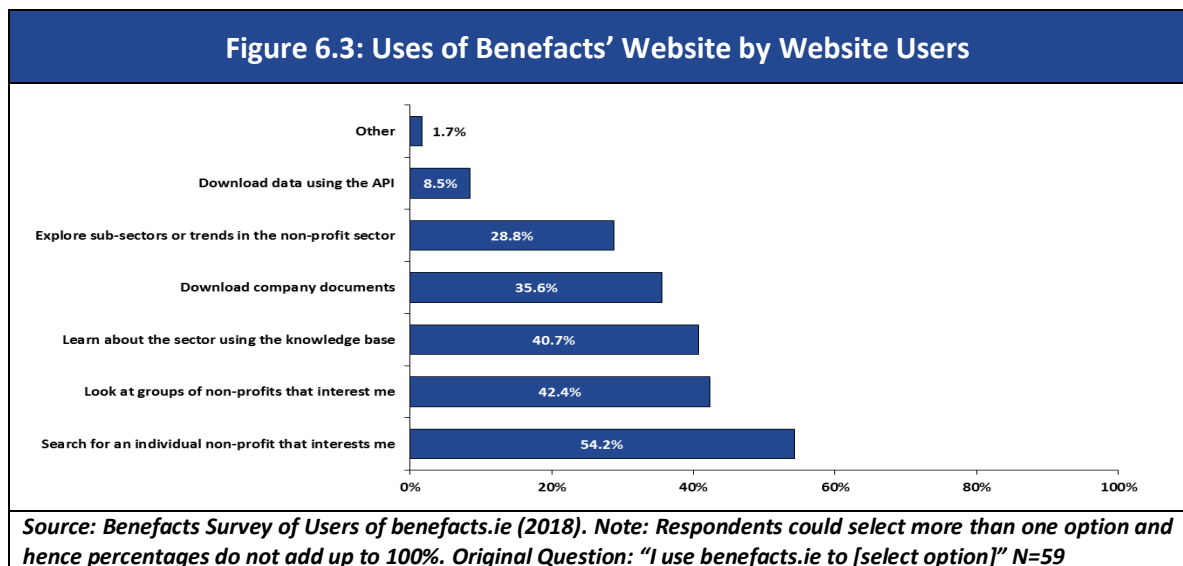
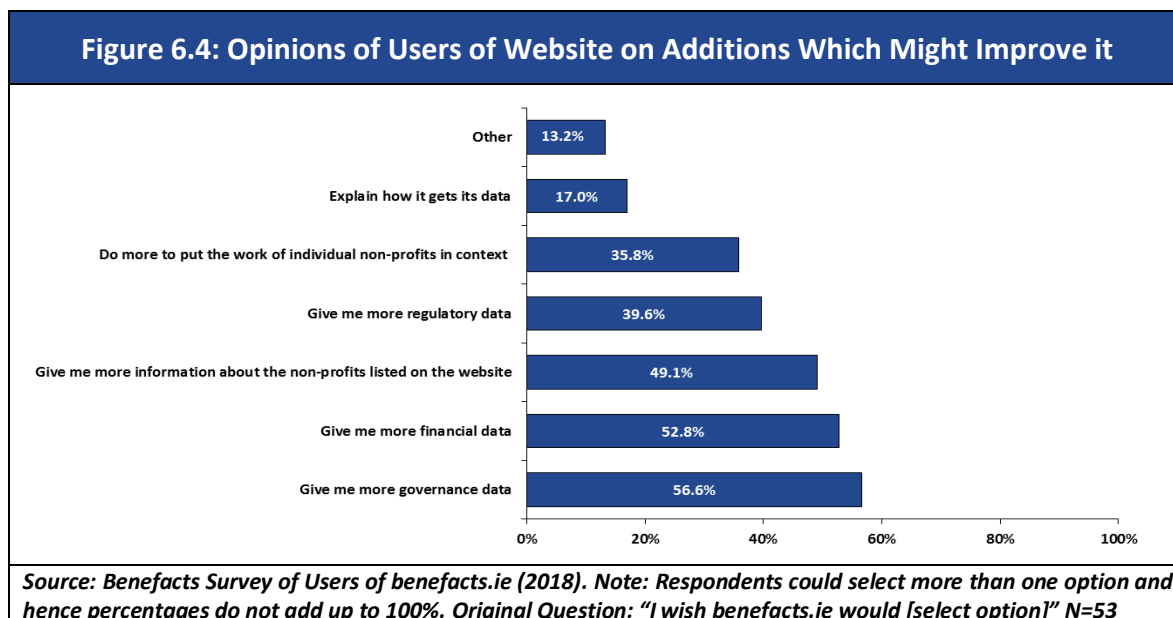


Figure 6.3 provides an overview, based on the survey of users of benefacts.ie, as to what users use the website for. Over 54% of surveyed respondent users stated that they use the website to search for an individual non-profit that interests them.



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

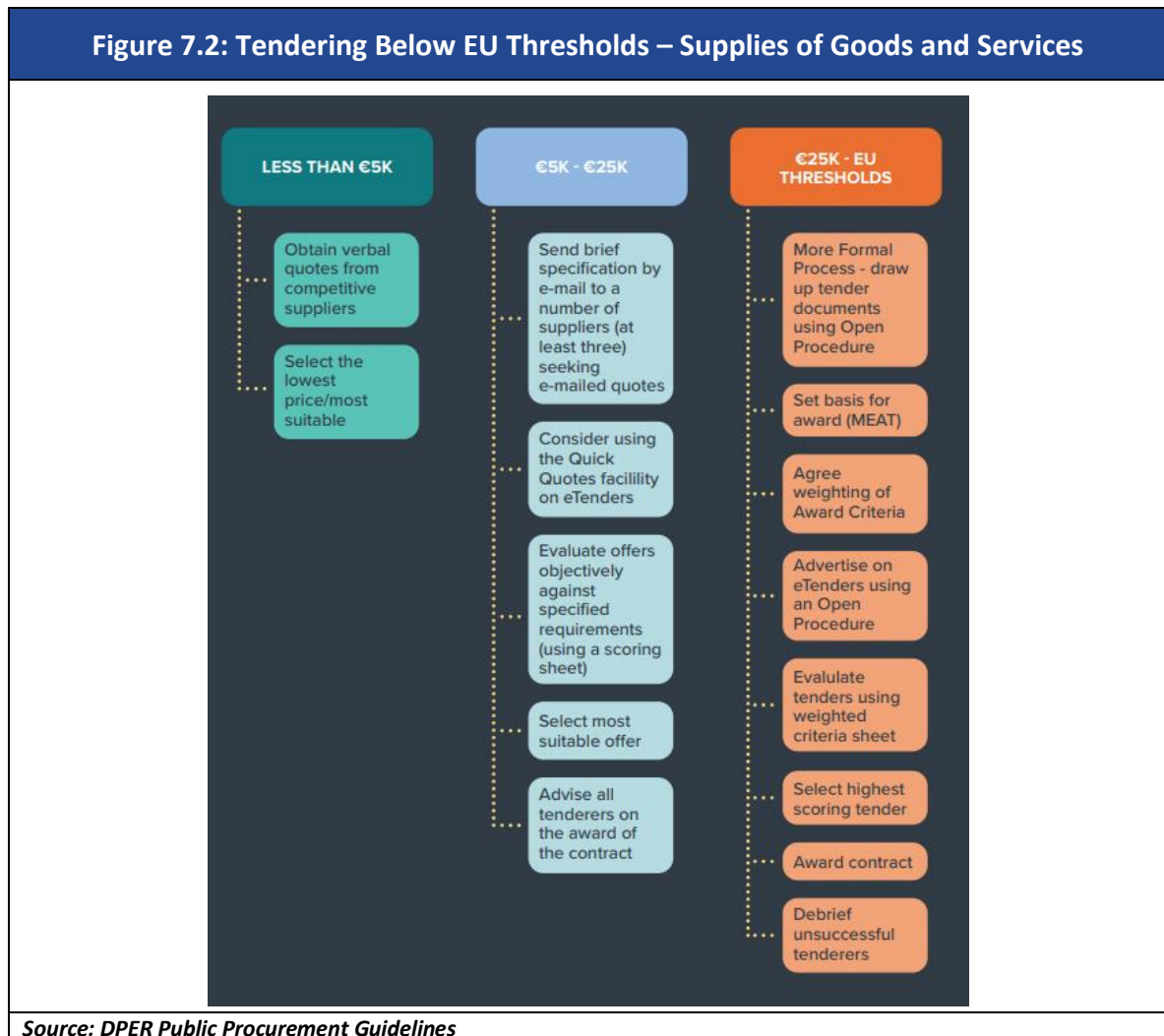
Source: DPER Public Procurement Guidelines

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 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.