



House of Commons  
Public Administration Select  
Committee

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# The role of the Charity Commission and “public benefit”: Post- legislative scrutiny of the Charities Act 2006

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Third Report of Session 2013–14

*Volume II*

*Additional written evidence*

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## The Public Administration Select Committee (PASC)

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The current staff of the Committee are Emily Commander and Catherine Tyack (Joint Clerks), Rebecca Short (Second Clerk), Alexandra Meakin (Committee Specialist), Paul Simpkin (Senior Committee Assistant) and Su Panchanathan (Committee Assistant).

### Contacts

All correspondence should be addressed to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, House of Commons, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5730; the Committee's e-mail address is [pasc@parliament.uk](mailto:pasc@parliament.uk).

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# Written evidence

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## Written evidence submitted by Rachel Wellman (CH 01)

1. *To what extent has the Charities Act 2006 achieved its intended effects of:*

(b). *improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?*

It would be more useful if it introduced a *de minimis* threshold into the definition of “commercial participator”. Currently small businesses that wish to raise a few hundred pounds for charities cannot legally do so as the amount they raise is too small for it to be worth the charity’s time in preparing an agreement with them. Alternatively the requirement to have a written signed agreement could be replaced by the requirement to have the charity’s written consent (which could be by email). Then charities could choose whether to require a written agreement or just grant consent conditional on complying with terms that are sent or set out on their website.

Charities should be permitted to develop a “Raising Money for X Charity” logo that they can let any supporters use for free so that they do not have to charge their commercial participator VAT on their donations.

The rules on charity raffles should be changed so that all lotteries below a certain size where all profits go to charity can be held without a licence, rather than just those raffles that are held at a non-commercial event.

(c). *providing a clear definition of charity, with an emphasis on public benefit?*

The requirement for trustees to state in their report that a charity acts for the public benefit and they have had regard to the charity commission’s guidance should be dropped as it leads to charities whose public benefit is obvious e.g. cancer research adding a pointless section to their report.

2. *What should be the key functions of the Charity Commission?*

Providing guidance on best practice without fettering trustees’ discretion. For example, the length of time a trustee can serve should not be limited by law—this proposal would put off people setting up family foundations that are funded entirely from their private income as after less than a decade they could not carry on running them. Such rules assume that all charities are the same and what is right for one is necessarily right for another. No-one has told Richard Branson to stop running Virgin because he has been doing it for more than nine years—yet Lord Hodgson suggests limiting trustees’ terms to nine years. Instead the Commission should continue to offer advice and guidance on succession planning etc.

Provided they are using their resources for charitable purposes and are transparent and accountable, trustees should have freedom to run the charity as they think fit.

3. *How should the Charity Commission be funded?*

4. *Is the current threshold for registration with the Charity Commission set at an appropriate level?*

Small charities should be entitled to register if they wish to—many rely on such registration as a sign they are a legitimate charity. Alternatively, HMRC registration of charities should be made more widely known and publicised so that when a small charity registers with HMRC they can use their HMRC reference number to demonstrate they are a legitimate charity.

5. *How valid are concerns that there are too many charities?*

Not valid—the number of charities is dependent on the number of people and organisations wanting to do something for the greater good—the more people that want to do that the better. The “free market” of donor support will determine which charities continue.

August 2012

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## Written evidence submitted by Simon Cramp (CH 02)

Please see below my submission on this important inquiry.

My name is Simon Cramp and I have three disabilities principally a learning disability and I have served on a board and gone to conferences that change the rules between 1998 to 2010 and for Mencap was a key player in changing the rules on involving people with a learning disability in the decision making process. And I hope within this submission I can give life experience of some of the issues trustees or company directors have to understand to act within the law.

Now I will address the questions you have asked.

Question 1 *To what extent has the Charities Act 2006 achieved its intended effects of:*  
(a) *enabling charities to administer themselves more efficiently and be more effective?*

But your first question is interesting but what does the charity commission offer. If things are going to be online only there are issues that not everyone has a computer with the country finances and people's income being very tight then it could become a problem. As people with learning disabilities and dyslexia and dyspraxia find it difficult to read stuff online as I have found it difficult in the 15 years I served as a trustee/company director. The other area I like to say apart from the first time you register with the charity commission no one really asked or get in touch with the charity and company if it also comes under the Companies Act 1992 1993 where incorporated is a must because it ran as business where it over.

Question 2. *What should be the key functions of the Charity Commission?*

Question 3. *How should the Charity Commission be funded?*

The state and the Home Office should give more money to it if the present government policy the big society is to work. Personally I think the big society is half baked and unworkable.

Question 4. *Is the current threshold for registration with the Charity Commission set at an appropriate level?*

No for the reason I give in question 1.

Question 5. *How valid are concerns that there are too many charities?*

It depends how you define too many charities may yes if you didn't have a school or hospital as a charity without much look over the books or it raise to government say a hospital is not function because it has no money. Then the Hodgson Review comes into play.

Question 6. *Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

No should not be exempt charities government or educational authority should not be allowed or department of education should not allow another wish washy policy by the Tories to allow schools to opt out local authority control so if there is a problem there is no comeback. Sorry I am someone who believes the state should provide schooling, hospitals and other things that Bevan provided for the country with the NHS in 1948.

Finally, I am not against change but I do worry that things are being stretched lays for this like a school becoming a sixth form college and other things what happen to the simple thing. That charity begins at home.

August 2012

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### **Written evidence submitted by Action on Smoking and Health (ASH) (CH 03)**

1. ASH is submitting this note in response to the call for evidence by the Public Administration Select Committee as part of its inquiry into the impact and implementation of the 2006 Charities Act.

2. We wish to respond to two important questions posed by the Committee, specifically:

Q.1(c) *To what extent has the Charities Act 2006 achieved its intended effect(s) of providing a clear definition of charity, with an emphasis on public benefit?*

Q10. *Are the rules around political activity by charities reasonable and proportionate?*

3. We also note that the Committee's questions and issues paper quotes a report from the Institute of Economic Affairs (IEA), published in 2012, which "*criticised campaigning by charities receiving income from the state*".<sup>1</sup> This report claims that "*the use of state-funded activist groups to mould policy has been taken to an almost pathological degree by the Department of Health*" and it focuses on ASH as a primary example.

#### **ASH CHARITABLE STATUS, PURPOSE AND FUNDING**

4. ASH was established in 1971 by the Royal College of Physicians (RCP). We are a campaigning public health charity that works to eliminate the harm caused by tobacco.<sup>2</sup> In addition to ASH in England, there are related ASH organisations in Scotland and Wales, which are independent and also have charitable status. ASH is also part of the Framework Convention Alliance, a confederation of over 350 civil society organisations from more than 100 countries, supporting the development, ratification and implementation of the UN Framework Convention on Tobacco Control (FCTC), to which the UK is a party. ASH's contribution to tobacco control has been recognised in awards from, amongst others, the World Health Organisation (WHO).<sup>3</sup>

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<sup>1</sup> Institute for Economic Affairs, "Sock Puppets: How the Government lobbies itself and why", discussion paper no 39, by Christopher Snowdon.

<sup>2</sup> Action on Smoking and Health is a company limited by guarantee, registered in England No. 998971 and is a registered charity no. 262067.

<sup>3</sup> Most recently in 2011, ASH was a recipient of the WHO World No Tobacco Day Award



5. Our work has two primary elements:

- Through information and networking to develop opinion and awareness about the tobacco epidemic.
- Through advocacy and campaigning to press for evidence-based policy measures that will reduce the burden of addiction, disease and premature death attributable to tobacco.

6. For the financial year 2011–12, ASH received income of £732,349. We had three principal sources of funds:

- Cancer Research UK,
- the British Heart Foundation,
- the Department of Health (DH).

7. The financial statement form 2011–12 has yet to be approved by the Board of Trustees, but will shortly be published on the ASH website [www.ash.org.uk](http://www.ash.org.uk). The financial statements for previous years are available on the website. ASH has a policy of transparency in relation both to its sources of funds, and the uses to which they are put, which meets both statutory requirements for charities and best practice standards for the voluntary sector.

8. DH funding for 2011–12 (1 April 2011 to 31 March 2012) totalled £150,000 and was provided through the General Scheme of Grants under Section 64 of the Health Services and Public Health Act 1968.

9. DH funding was used to support implementation of the Department’s Tobacco Control Plan for England, and of the FCTC. It *was not* and has never been used for campaigning purposes, it *was* used to advance the first element of our work identified in paragraph 5 above—working through information and networking to develop opinion and awareness about the tobacco epidemic.

10. Specifically, the grant funding for 2011–12 enabled ASH to:

- Provide factual information to the public, professionals, local policy makers and the media in the form of fact sheets, briefings and reports.
- Support health commissioners, tobacco control alliances and Council Health and Wellbeing Boards by: working with relevant bodies such as the Faculty of Public Health and the LG Group to support to local authorities on the development of their local comprehensive tobacco strategies; providing local opinion formers with the data and evidence base on the need for local tobacco control interventions; providing resources and materials to support local tobacco control alliances; and supporting effective local implementation of legislation on vending machines, point of sale display and niche tobacco products.
- Support research on plain packaging of tobacco products.
- Support a dialogue between the health sector and the entertainment industry on representations of smoking in the entertainment media.
- Work on smoking in pregnancy to support delivery of the ambition to reduce smoking in pregnancy from 14% to 11%.
- Provide advice and support for continued and effective government action on tobacco taxation and smuggling by engaging the public health community with HM Treasury and HMRC.
- Provide DH with information to support the development and implementation of the FCTC. ASH is an observer on the working group on guidelines on Article 9 and 10 (product regulation and disclosure) which is developing guidelines on Reduced Ignition Propensity cigarettes and disclosure of information on ingredients. ASH is also engaged in the development of guidelines on Article 6 (taxation), and in the development of the Illicit Trade Protocol.
- Provide DH with information on EU policy which impacts on tobacco for example the revision of the Tobacco Product Directive and the EU tax directive.

11. In practice, we have not found that DH funding has in any way compromised our independence. Indeed we have frequently been robustly critical of Governments: members of the PASC who were in the Commons during the debate on smoke-free legislation in 2006 may recall that ASH was frequently reported in the media criticising DH and other ministers.<sup>4</sup> ASH has been part-funded by DH during successive Governments of different parties; this has nothing to do with party politics and everything to do with the continuing and entirely appropriate engagement of the Department in work on public health and tobacco control.

#### TOBACCO USE AND PUBLIC POLICY

12. The need for evidence-based policy measures as an essential part of a health strategy to tackle the tobacco epidemic has been understood for more than fifty years. In 1962, the RCP published “Smoking and Health”, reviewing the accumulating evidence of the extensive health damage caused by smoking and recommending seven key elements of public policy:

- Public education on the dangers of smoking.

<sup>4</sup> For one example from many, see <http://www.ash.org.uk/media-room/press-releases/pubs-bodge-in-smokefree-law-disastrous-for-health-equality-and-government-alcohol-strategy>

- Restrictions on sale of tobacco products to children.
- Restriction of tobacco advertising.
- Restriction of smoking in public places.
- Increasing tax on tobacco products.
- Informing purchasers of tobacco products of their key ingredients including tar and nicotine.
- Provision of services to assist smokers who wish to quit.

13. It should be noted that these policy elements have been the foundation of tobacco control work since the RCP report, and have contributed greatly to the reduction in smoking prevalence rates in the UK, from 70% for men and 40% for women in 1962 to 21% for men and 20% for women in 2011.

14. However, across the UK some ten million people still smoke. Six million people in the UK have died from smoking related disease since 1962. Half of all lifetime smokers will die from smoking-related disease, and the RCP estimates that current smokers will lose a total of about one hundred million years of life.<sup>5</sup> Smoking and tobacco use is still the biggest single cause of preventable deaths in the UK. Globally, the death rate from tobacco use continues to rise, and the WHO estimates that this could reach more than eight million a year by 2030.<sup>6</sup>

15. Work to reduce tobacco use therefore has an important and demonstrable impact, and fits very well within the concept of “*public benefit*”, as developed in case law and referenced in Section 3 of the Charities Act 2006. In relation to tobacco use, improving public health cannot be separated from developing and advocating public policy measures, or from the collection and dissemination of information, evidence and advice. It should be evident that policies that encourage people to quit smoking are likely to be of much greater overall benefit than individual health interventions to treat tobacco-related disease (vitally necessary as these are).

#### WHY WAS ASH AN IEA CASE STUDY?

16. The public benefit of tobacco control is so evident that the question arises: why should the IEA have chosen ASH as an example of what it claims to be misuse of Government funding?

17. The author of the IEA report, Christopher Snowdon, is a prominent opponent of tobacco control who also writes for the Adam Smith Institute (ASI) and other “think tanks”. Unlike ASH and other charities, neither the IEA nor the ASI disclose their sources of funds. They have therefore been given a “transparency rating” of D and E respectively by the research group “Who Funds You?”<sup>7</sup>

18. However, documents from the tobacco industry, disclosed as part of the 1998 US master settlement following state litigation against the industry, show that IEA was funded by British American Tobacco from 1963 until 1999 (the last year for which evidence is available).<sup>8</sup> Much of this money was routed through the Charities Aid Foundation. The documents also show that the IEA and ASI were both identified by the tobacco major Philip Morris (now Altria) as likely to help with “*policy outreach*”, for example by attempting to undermine scientific evidence on the dangers of second-hand smoke (by characterising it as “*junk science*”).<sup>9</sup> The Financial Times has reported that in 2011, ASI received around £9,000 from the tobacco industry.<sup>10</sup>

19. Mr Snowdon’s personal website<sup>11</sup> also shares links (and much of its information, rhetoric and opinions) with FOREST, the anti-tobacco control pressure group which receives virtually all its funding from the tobacco industry.<sup>12</sup>

20. The reasons that the tobacco industry uses front groups (or perhaps “*sock puppets*”) to promote its political agenda are obvious.

21. First, the industry received a devastating blow to its own credibility when it was shown to have lied about its own internal knowledge of the health damage caused by smoking<sup>13</sup>, and this has only been reinforced by subsequent disclosures for example as a result of the master settlement. Therefore, it has no good public standing when participating in policy debates.

22. Secondly, the industry is specifically precluded from influencing tobacco policy by the provisions of the FCTC. Article 5.3 of the treaty states that “*In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.*” WHO guidance on implementation of Article 5.3 states that: “*Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable*

<sup>5</sup> <http://www.rcplondon.ac.uk/press-releases/one-hundred-million-years-life-will-be-lost-those-smoking-now>

<sup>6</sup> <http://www.who.int/mediacentre/factsheets/fs339/en/index.html>

<sup>7</sup> <http://whofundyou.org/org/adam-smith-institute> and <http://whofundyou.org/org/institute-of-economic-affairs>

<sup>8</sup> <http://www.tobaccoarchives.com>

<sup>9</sup> See <http://www.tobaccotactics.org>, a project of the Department for Health at the University of Bath

<sup>10</sup> FT.com “Big Tobacco campaigns on freedom”, by Christopher Thompson, April 6 2012

<sup>11</sup> <http://velvetgloveironfist.blogspot.co.uk/> and the FOREST Director’s blog <http://taking-liberties.squarespace.com/>

<sup>12</sup> <http://www.forestonline.org/about/faq/>

<sup>13</sup> “Trust Us We’re The Tobacco Industry”: [http://www.ash.org.uk/files/documents/ASH\\_135.pdf](http://www.ash.org.uk/files/documents/ASH_135.pdf)

them to effectively regulate the tobacco industry and tobacco products” and that “the tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health.”<sup>14</sup>

## CONCLUSIONS

23. Our answers to the two questions from the Committee identified in paragraph 2 above would therefore be:

- (Q1.c) We support the common law concept of “*public benefit*” in defining what is a charity, as referenced in Section 3 of the Charities Act 2006. Given the great range and variety of charities in the UK, we believe it would be extremely difficult to find an acceptable statutory definition. Any attempt to do so would probably exclude some organisations whose activities in common sense terms produce public benefits. It might also make charities vulnerable to politically inspired attack, from those whose interests are threatened by a charity’s activities or who simply disapprove of its work for ideological reasons.
- (Q.10) We do not believe that the current rules around political activities by charities require significant change. In the area of public health, it is impossible to separate the need for population-based policy initiatives from the need for individual medical and health interventions. This necessarily means that charities in this field will and should engage in campaigning and lobbying.
- It would not however be appropriate for us to use Government funds directly for this purpose, and ASH does not and will not do so.

24. Attempts by the tobacco industry and its allies to undermine tobacco control organisations such as ASH, of which the IEA report is a prominent example, are intended to protect its market and frustrate efforts to reduce consumption of a product that kills millions of its consumers every year. We are confident that PASC members will not wish to give these attempts any credibility whatsoever.

25. We would be happy to answer any further questions the Committee may have, or to supply further information as required.

September 2012

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## Written evidence submitted by Sheila McKechnie Foundation (CH 04)

Response from the Sheila McKechnie Foundation to Q10:

*Are the rules around political activity by charities reasonable and proportionate?*

### 1. SUMMARY

The Sheila McKechnie Foundation (SMK) believes that the rules around political activity by charities are currently reasonable and proportionate. We think that there should be no change to these rules.

Furthermore, we believe that charities’ independence and right to campaign on behalf of their beneficiaries must be maintained. Receipt of Government funding must not under any circumstances neuter the voice of charities, whose primary responsibility must be to deliver their charitable objectives, which in some circumstances might necessitate speaking out.

### 2. ABOUT THE SHEILA MCKECHNIE FOUNDATION

The Sheila McKechnie Foundation (SMK) was established as a charity in 2005 to help develop a new generation of campaigners who are tackling the root causes of injustice. We exist to connect, inform and support campaigners. You can find out more about us at [www.smk.org.uk](http://www.smk.org.uk).

### 3. THE SCOPE OF OUR CONSULTATION RESPONSE

SMK is a registered charity that supports campaigners, many of whom work within the charity sector, and we support the right to campaign.

For this reason our response focuses on just one question from the Public Administration Select Committee’s “Issues and Questions” paper, namely question 10:

*“Are the rules around political activity by charities reasonable and proportionate?”*

Our response explores the issue of political activity, but also the wider issues related to independence of voice.

### 4. THE VOLUNTARY SECTOR’S RIGHT TO CAMPAIGN

The voluntary sector is distinct from the public and private sector, and therefore it is vital that it retains a fundamental right to have its own distinct voice in public debate.

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<sup>14</sup> [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf)

We agree with the Charity Commission's comments that:

*"The experience of charities means that it is right that they should have a strong and assertive voice. Often they speak for those who are powerless, and cannot make their case themselves. Sometimes charities confront extreme social injustice, which they will want to tackle head-on."*<sup>15</sup>

The Compact, the agreement between the Government and the voluntary sector that outlines how the two sectors should work together, includes a Government commitment to:

*"...respect and uphold the independence of civil society organisations to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist".*<sup>16</sup>

The right of charities to campaign can be an essential part of achieving their charitable aims. Many charities feel they do not need to campaign to deliver their charitable objectives, but others believe that they *must* campaign in order to do so.

While charities play an increasingly important role in delivering public services, receipt of Government funding must not diminish or compromise their fundamental right to have a voice (see also section 12, "Fear of speaking out"). Attaching such conditions to funding represents a serious encroachment of this fundamental right, in effect potentially "buying silence".

## 5. TRANSPARENCY AND REGULATION

It should be noted that the private sector is able to lobby Government with few restrictions or regulations (although we are aware of plans to introduce a register of lobbyists by 2015). Just as the private sector is able to lobby Government, the voluntary sector must retain the same right.

Unlike the private sector:

- The voluntary sector's work, including its campaigning work, is regulated (by the Charity Commission).
- There is also specific regulatory guidance, CC9 (see next section, "Charity Commission guidance"), which sets out clear rules for charity campaigning.
- All charities must prepare accounts and make them available on request. All registered charities whose gross income exceeds £25,000 have a duty to file accounts with the Charity Commission.
- Charities' accounts are published online and are searchable on the Charity Commission website, ensuring transparency and probity.

In the rare cases where charities "overstep the mark" and compromise their political neutrality, it is right that such impropriety should be dealt with (see section 7, "Abuses").

## 6. CHARITY COMMISSION GUIDANCE: "SPEAKING OUT: GUIDANCE ON CAMPAIGNING AND POLITICAL ACTIVITY BY CHARITIES (CC9)"

The most recent iteration of the Charity Commission's guidance on campaigning and political activity, commonly known as CC9, was published in March 2008<sup>17</sup>.

We believe that CC9 sets out clear, sensible and balanced rules about campaigning and political activity, and that the guidance in its current form should remain in place.

The guidance is clear that charities CAN:

- undertake campaigning and political activity as a positive way of furthering or supporting their purposes;
- undertake political campaigning, or political activity, only in the context of supporting the delivery of their charitable purposes;
- choose to focus most, or all, of their resources on political activity for a period but cannot do so on a permanent basis.

We think that these measures provide the right framework for enabling charities to campaign, but to prevent them acting like or becoming political bodies.

The guidance is also clear that charities CANNOT:

- exist for a political purpose;
- give their support to a political party;
- engage in any party political activity;

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<sup>15</sup> <http://www.charity-commission.gov.uk/Publications/cc9.aspx>, accessed on 16 August 2012.

<sup>16</sup> "The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England", Cabinet office December 2010 (<http://www.cabinetoffice.gov.uk/sites/default/files/resources/The%20Compact.pdf>).

<sup>17</sup> "Speaking Out: Guidance on Campaigning and Political Activity by Charities (CC9)", Charity Commission, March 2008, available at <http://www.charity-commission.gov.uk/Publications/cc9.aspx>

- undertake political activity;
- give support or funding to a political party, nor to a candidate or politician;
- be used as a vehicle for the expression of the political views of any individual trustee or staff member.

The restrictions set out above not only rightly prevent charities becoming too close to politics, they also rightly *protect and insulate* charities from party politics. CC9 has brought a good level of clarity to charities about their rights and responsibilities around campaigning and there is no clear justification for altering regulatory guidance that is working so effectively.

## 7. ABUSES

In 2010–11 the Charity Commission completed 1,912 assessment cases. Concerns about a charity’s campaigning and/or political activities arose in only 2% of these cases—about three dozen in all.<sup>18</sup>

Certainly, there are rare occurrences of charities being overtly political, or inadvertently straying into political territory. But the extensive scrutiny that the public, the press, bodies such as the Advertising Standards Authority (ASA), and the Charity Commission itself provide is wholly adequate in identifying and addressing any such impropriety.

There is no evidence of an endemic problem of charities being political. The existing regulatory framework is fit for purpose in ensuring that charities remain charitable.

## 8. LORD HODGSON’S REVIEW OF THE CHARITIES ACT 2006

Lord Hodgson recently published his review of the Charities Act 2006<sup>19</sup>. The detailed review found no area of concern in terms of campaigning by charities. Indeed, Lord Hodgson states:

*“...the independence of the sector must remain paramount. Although it is part of the existing common law that charities must be, and be seen to be, free from the influence of Government or any other group, no more formal protection of that status exists. The sector must continue to be seen as more than an outlier to local or national government. How independence can best be promoted and safeguarded must be an important feature of any debate on the future of the sector.”*

This is further indication that the current rules around political activity are reasonable and proportionate, and that there are no compelling reasons for any change.

## 9. PUBLIC ATTITUDES TO CHARITIES CAMPAIGNING

The public support the right of charities to campaign. According to research by nfpSynergy, 56% of the public identify “lobbying government and other organisations” as a worthwhile activity for charities, whereas only 16% think it is wasteful (which is still not to say that they do not think charities should have the right)<sup>20</sup>. 67% of respondents agree that “...charities should be able to campaign to change laws and government policies relevant to their work”. Only 2% identified campaigning as a barrier to giving to charity (*ibid*).

Far from opposing charity campaigning, the public consistently support it, through both engaging with charity campaigns and continuing to donate to charities that campaign.

## 10. MPs’ ATTITUDE TO CAMPAIGNING

NfpSynergy’s research also indicates that most MPs are also supportive of charity campaigning. Eighty-six% (86%) of MPs surveyed agreed with the statement “I think charities should be able to campaign to change laws and government policies relevant to their work”<sup>21</sup>.

## 11. ARE CAMPAIGNING CHARITIES “SOCK PUPPETS”?

The PASC consultation document makes reference to the Institute for Economic Affairs’ Sock Puppets research<sup>22</sup>, so while we would not normally give it prominence it does not warrant, we do want to briefly respond to the key assertion of that report.

The report argues against what it perceives as “state funded campaigning”, where politicians and bureaucrats who wish to pursue unpopular—or even popular—political causes create “astroturf” support through funding charity campaigning. It makes strong, strident claims but presents little evidence.

<sup>18</sup> “Charities Back on Track 2010–2011”, Charity Commission, 2011, [http://www.charity-commission.gov.uk/Library/track\\_11.pdf](http://www.charity-commission.gov.uk/Library/track_11.pdf)

<sup>19</sup> “Trusted and Independent: Giving charity back to charities”, The Cabinet Office, July 2012.

<sup>20</sup> 1,000 adults 16+, Britain, Charity Awareness Monitor, Sep 08, nfpSynergy.

<sup>21</sup> 150 MPs, Charity Parliamentary Monitor, Nov 07, nfpSynergy.

<sup>22</sup> “Sock Puppets: How the Government lobbies itself and why, Institute of Economic Affairs”, June 2012, available at <http://www.iea.org.uk/sites/default/files/publications/files/Sock%20Puppets.pdf>

The report puts considerable focus on Action on Smoking and Health (ASH) as an example of such “state funded activism”<sup>23</sup>.

But according to ASH’s audited accounts:

“Cancer Research UK and the British Heart Foundation provided the charity with core funding for our entire programme of work.

*The Department of Health section 64 General Scheme project grant did not, and never has, funded ASH’s campaigning work”*<sup>24</sup>

The report makes similar claims about other charities, but does not present *any evidence* to back up their assertion that Government funding is being channelled into charity campaigning.

The funding charities receive from Government, either in the shape of grants or contracts, is invariably restricted to service delivery. Charity campaigning is funded through other sources, such as public donations and grant-making trusts. To reiterate an earlier point, in furtherance of their objectives charities must be able to speak out on behalf of their beneficiaries, and they must be continued to allowed to use their own funding to do so.

## 12. FEAR OF SPEAKING OUT

Far from there being a cosy relationship between Government and charities, there is a range of research which identifies charities’ fear of speaking out.

According to research by the Charity Commission “*only 26% of charities that deliver public services agree that they are free to make decisions without pressure to conform to the wishes of funders.*”<sup>25</sup>

The Panel on the Independence of the Voluntary Sector’s “Protecting independence” report recently noted that “some organisations that rely on state funding are fearful of challenging government or local authorities, in case this could lead to reprisals, even though voluntary organisations that are in touch with, and can give voice to the concerns of those they serve are a legitimate part of a vibrant democracy.”<sup>26</sup>

Because many charities exist to support vulnerable and marginalised groups there will always be a degree of connection to the political sphere—addressing poverty, exclusion, stigma, discrimination, and working with those who are poor and vulnerable are political issues. As long as they do not become (party) political, it is vital that charities do not feel fearful of speaking out on behalf of their beneficiaries. We need more voices in public debate, not fewer.

September 2012

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### Written evidence submitted by CIFAS (CH 05)

Thank you for the opportunity to respond to your inquiry into the impact and implementation of the 2006 Charities Act.

As you will be aware, CIFAS is a not-for-profit membership association representing both the private and public sectors. We are dedicated to the prevention of fraud, including staff fraud, and the identification of financial and related crime. For more than 20 years CIFAS has brought together a range of private sector organisations to limit fraud losses and protect consumers. We have over 260 Members with five public sector organisations having joined since 2010, namely the BIG Lottery Fund, Financial Services Authority, Legal Services Commission, Student Loans Company and the UK Border Agency. The National Audit Office is an Affiliate Member.

CIFAS welcomes Lord Hodgson’s review of the Charities Act 2006 and the recommendations which he makes within. In responding to this inquiry, CIFAS has only offered comments on the areas in which we have experience.

#### SUMMARY

- CIFAS supports the work and objectives of the Charity Commission.
- Public trust and confidence are key to the fostering of a strong charity sector.
- Any instances of fraud or mismanagement will dent this public trust. Therefore the charity sector must be robust in tackling both fraud and fraudsters:

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<sup>23</sup> “*Science and policy: The case of postwar British smoking policy*”, (Berridge, V. (1998), in S. Lock, L. Reynolds, E. M. Tansey (eds), *Ashes to Ashes: The History of Smoking and Health*.

<sup>24</sup> “*Action on Smoking and Health, Financial Statements for the year ended 31 March 2012*”, available online at <http://www.ash.org.uk/about-ash/ash-publications/accounts>

<sup>25</sup> “*Stand and deliver: The future for charities providing public services*”, Charity Commission, February 2007.

<sup>26</sup> “*Protecting independence: The Voluntary Sector in 2012*”, Panel on the Independence of the Voluntary Sector, 2012 (<http://www.independencepanel.org.uk/wp-content/uploads/2012/01/Protecting-Independence-final.pdf>).

- Checks against previous fraudulent behaviour must be made in respect of the leadership teams and trustees of charities.
- Audit trails must be available for all grants, gifts and donations made by charities.
- The Charity Commission must have the appropriate powers to ensure that it can investigate and tackle fraudulent behaviour effectively.

*What should be the key functions of the Charity Commission?*

1.1 CIFAS supports the objectives, general functions and general duties of the Charity Commission.

1.2 We note that these include promoting compliance and enhancing accountability while also “identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct of mismanagement therein.”

1.3 As the independent registrar and regulator of charities in the UK, the Charity Commission must have the public’s trust in ensuring that UK charities have the advice and information they need in order to carry out their duties.

1.4 No actions must be taken which would either reduce the number of charities on the register or disincentivise new or currently unregistered charities from joining. Therefore, there must be a careful balance taken between any new regulatory burden imposed by the Commission and benefits accrued through registration.

1.5 The Charity Commission has an important role in ensuring that a high level of public trust is maintained in the charity sector. It is essential therefore that the Commission is rigorous in its role as regulator and has the appropriate powers to investigate and deal with financial irregularities and fraud.

1.6 CIFAS supports entirely Lord Hodgson’s recommendation that the Commission should “be more proactive in deterring, identifying, disrupting and tackling abuse of charitable status”.

1.7 CIFAS agrees that the Charity Commission should be able to make spot checks on both charities’ accounts and their staff in order to help maintain a robust attitude to fraud risk in the sector.

1.8 Charities, like any other organisation, are the targets of fraudsters. Charities should be compelled to share an up-to-date list of all patrons, trustees and leadership teams with the Charity Commission so that the Commission is able to perform staff fraud checks on those who register with it.

1.9 We note that section 178 of the Charities Act provides disqualification rules for charity trustees which include disqualification as a company director, bankruptcy and conviction for certain criminal offences. However, CIFAS believes that the Act should be extended to those cases where individuals may admit guilt and accept a police caution for an offence involving dishonesty or deception, which count as a conviction even though not dealt with by the courts.

1.10 Registered charities should, for their own benefit, be compelled to share data on confirmed frauds with the Commission so that this data can be used to ensure that repeat frauds, and even the same fraudsters, are unable to attack other registered charities.

1.11 Similarly, those charities that register with the Commission should be obliged to keep an audit trail for all grants, donations and charitable giving in order that the Commission can measure and prevent fraud. Too often, these records are incomplete, or inconsistently held, which makes the detection and investigation of fraud extremely difficult.

1.12 Finally, as Lord Hodgson suggests, charities that are unregistered should be legally required to disclose this fact on their correspondence materials and cheques. The Charity Commission should be a kite mark for best practice and good regulation—those who choose to deal with charities, be it as a donor, partner or supplier, should understand the need for the benefits of a charity being thus “accredited”.

*Is the current threshold for registration with the Charity Commission set at an appropriate level?*

2.1 While CIFAS has no set view on the actual threshold for registration with the Commission, we are of the view that it should be at a level to ensure the maximum registration in order to improve protection for the sector’s revenues and reputation.

2.2 Certainly the risk of fraud in the sector could increase if fewer charities were to register, or to leave the register, so there is a need for a sensible balance to be struck.

2.3 Compulsory registration should be in place for any charity claiming tax relief, and all charities below the threshold should be able to register with the Commission voluntarily.

2.4 Reiterating the points in 1.11, registration with the Charity Commission needs to be seen as a benefit which would, amongst other things, act as a deterrent to fraudsters and protect the reputation of charities.

*How successful is the self-regulation of fundraising through the Fundraising Standards Board?*

3.1 CIFAS considers it essential that the regulation of fundraising bodies should be robust. Those individuals who represent charities when fundraising act as its advocates, and any failure to vet or account for those persons' actions could have a detrimental effect on the public's faith in the sector's ability to invest, manage and disperse the funds entrusted to it.

3.2 Therefore, CIFAS recommends that all charities should be obliged to join a self-regulatory scheme which places upon them a duty to ensure that their fundraising staff are vetted to a high standard and that any incidence of proven financial mismanagement or fraud is logged for law enforcement purposes.

If you have any questions on the points raised in the responses above please do not hesitate to come back to me.

September 2012

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**Written evidence submitted by Sussex Village Halls Advisory Group (CH 06)**

GENERAL

The Sussex Village Halls Advisory Group is part of the charity Action in rural Sussex.

The Group contributed comments to the Hodgson Review and discussed recommendations likely to affect small charities such as village halls and similar charitable community buildings on 10 September 2012. Several recommendations are so impracticable that they indicate the Hodgson Review was lacking people with experience of small charities.

The five issues of concern are:

- Amending constitutions to limit trusteeship to three years.
- Re-naming the Charity Commission.
- Raising the threshold for compulsory registration.
- Disclosure of non—registration.
- Loss of the Commission's advice making role and transfer to Umbrella bodies.

LIMITING TRUSTEESHIP TO 3 YEARS

This is simply impractical for many small charities and will create unnecessary bureaucracy at a time when the Government is trying to reduce red tape.

Charities serving rural areas or specialisms (e.g. raising funds for unusual diseases) or which need service users on their trustee board have a limited pool of volunteers to draw on. In the case of village halls they are both rural *and* draw on service users. It is the fundamental principle of committees running village halls that trustees represent the small, local charities and voluntary organisations that use the hall and a few elected members of the public, but this means, for example, that the nominee of a senior citizens club is usually one of the younger members who organise the club for the benefit of mainly older, more frail, less mobile people. A youth club may have a leader and a handful of working parents, whose main focus is running the club. It allows no time for people to change role, working their way to becoming an officer.

While it is desirable to encourage change, many local charities benefit hugely from the commitment given by long standing volunteers with a close association with the organisation (e.g. founders, donors or relatives of beneficiaries). Serving as a trustee provides huge fulfilment, and is good for people, avoiding isolation and creating lasting friendships. State interference with such altruism is a step too far: Good practice guidance is perfectly adequate, especially if backed up by locally available trustee training.

This is not congruent with the public sector: there is no limit for councillors and the recommendation for members of National Parks Authorities is six years, nine for a chair. These limits are more practical.

RE-NAMING THE CHARITY COMMISSION

At a time of financial stringency when the Commission's budget has been cut by a third the cost, requiring a new logo etc. cannot be justified. The name Charity Commission is well understood. It does not need changing.

RAISING THE THRESHOLD FOR COMPULSORY REGISTRATION.

Members of SVHAG firmly oppose this idea. Most of the 9,000 village halls and similar community buildings in England (see ACRE National Village Halls Survey report 2009) fall in the income range £5,000—£25,000, so would come under the limit, yet with 75% owning the freehold of their property their combined assets total some £3 billion. The average capital reinstatement value of individual halls is £345,000, with almost 5% over £1 million. The wisdom of taking such a large national network of public assets out of the scope of registration is highly questionable.



Registration is a huge asset to smaller charities, especially when fundraising or applying for grants. Funders and advisers often check the register as part of their own checks. While many would choose to remain registered voluntarily there have been occasional instances of small scale charity fraud involving small charities, including village halls, which lead us to suggest that the current limit is correct. Were it to be raised, charities with the use or ownership of property should be required to remain registered, so that the Commission can continue to exercise protection of assets, ensuring they are used for the purposes intended by the original donors or funders. Without such protection there is the danger of donors and funders withdrawing and unscrupulous people taking over charities that are not required to register.

#### DISCLOSURE OF UNREGISTERED CHARITIES

This is impossible to put into effect without creating a huge administrative burden, in particular for the Commission, or a drain on charity funds in legal fees: organisations would have to apply to the Commission in order to know for certain whether they are charitable or not, unless they have adopted without alteration a constitution which is published as not charitable. Would it encourage volunteering if trustees could be prosecuted because their little organisation has not declared on its paperwork it is not a charity?

#### WITHDRAWAL OF ADVICE SERVICES

This is of serious concern to trustees of small charities. While larger charities can afford to employ professional advice most small charities have no or part time staff, and do not have the income to pay for professional advice. With financial constraints on local authorities and charity funders tending to focus on “delivery” it is difficult to obtain funding for such advice. They only turn to the Charity Commission when there is a situation which needs expert charity advice, which may not be available from a local solicitor with other specialisms. (One Sussex village hall was recommended by a solicitor to seek Counsel’s advice, when a ruling from the Charity Commission as to whether they could proceed with a certain course was more appropriate. The funds saved by obtaining formal advice from the Commission were then directly available for the delivery of the charity’s objects.)

It has been suggested that through partnership with Umbrella bodies etc. some of the Commission’s advice—giving role could be delegated or dispensed with. This is, of course, only possible if suitable Umbrella bodies are available with sufficient and appropriately trained staff, which requires resourcing. Delegation of the Commission’s formal, quasi-legal advice role around key decisions to be taken by trustees would be to the detriment of smaller charities, as explained above. The provision of guidance can be delegated to suitable umbrella bodies, providing suitable resourcing is provided.

For example, there is a network of Community Buildings Advisers based in the Rural Community Councils (which belong to the Rural Community Action Network), with training and resource materials provided by Action with Communities in Rural England (ACRE). However, the withdrawal firstly of Defra funding and now local authority funding means that a number of counties have no Village Halls Adviser, and others, like Sussex, have substantially reduced hours.

The consequence is that the wealth of resources available to support hall trustees is becoming less accessible. Services are becoming basically web and Email based, with charges for publications and in some areas charges for visits to advise on more complex problems (where trained staff are available). Websites require resourcing and are not the only answer because older trustees are not necessarily computer literate. Networking and training events are being cut, and together with the loss of knowledgeable local staff, this means the potential to share experience between trustees is being lost.

A new financing model would need to be arranged, covering the whole country, to resource the delivery of the Charity Commission’s work in order to avoid undermining delivery of the Big Society at the local level by small charities, particularly in rural areas.

*September 2012*

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### **Written evidence submitted by Hospital Broadcasting Association (HBA) (CH 07)**

#### ABOUT THE HBA

HBA is a membership organisation, registered as a charity with the Charity Commission for England and Wales. It supports and promotes hospital broadcasting across the whole of the UK. Our members are independent hospital broadcasting organisations providing services to patients in their local hospitals and old people’s homes. Most of our members are registered charities, although a minority are unregistered. We currently have 196 members based in England and Wales, and another 29 members based in Scotland, Northern Ireland and the Channel Islands.

The majority of our member stations have an annual income below £10,000 per annum and almost all are below the £25,000 threshold. Many have an income well below £10,000 most years. To the best of our knowledge, all of our member stations are reliant entirely on volunteers, with no paid staff.

#### SUMMARY OF EVIDENCE

- Any charity should be able to register with the Charity Commission, irrespective of its level of income.
- Registration should be required for any organisation wishing to call itself a charity.
- All registered charities should be required to provide the Commission with copies of its governing document and its Trustees' Annual Report and Accounts; and the Commission should be required to publish these documents on its website. This requirement should extend to charities removed from the register.
- Registration should remain free of charge.
- There should be more joined-up working and data sharing between the Charity Commission, HMRC and Companies House.
- Payment of Gift Aid and other tax reliefs to a charity should be suspended for the duration of the time that the charity has not filed all the information it is obliged to do so with the Commission.
- Any fines for late filing should be payable by the Trustees of a charity personally, not from charitable funds.
- Accounting requirements should be standardised according to income level, irrespective of the legal form of a charity.
- The Register of Charities should include information relating to the period when a charity existed in a different legal form, or relating to the constituent charities of a merged charity.

#### CHARITY REGISTRATION THRESHOLDS

1. Most of HBA's members which are registered charities greatly value the benefit that this status brings them—primarily the ability to prove their legitimacy and access funds from a wider variety of sources—and would not wish to lose this status.

2. In HBA's experience, those running small hospital radio stations which are not registered as charities fall into one of two groups:

- those who wish to register as a charity despite their income being below the registration threshold; and
- those who are not interested in registering as a charity, and see little or no benefit in doing so.

3. Most of those in the latter group, and many of those in the former group, do not realise that the organisation they are heading is, in fact, a charity, despite the lack of registration. They are thus unaware of their obligations, responsibilities and liabilities as charity trustees. Over the past 10 years, HBA has done much to try and educate all those running member hospital radio stations, irrespective of their registration status, of the legal position and requirements, and best practice, but it is sometimes difficult to interest people in this subject when it is clear that the Charity Commission takes little interest in registered charities with an income of less than £25,000, and even less interest in unregistered charities despite, officially at least, being their regulator.

4. HBA welcomes Lord Hodgson's recommendation that charities be allowed to voluntarily register with the Commission whatever their level of income; this would address the aspirations of a number of our members. However, HBA disagrees with his recommendation to increase the mandatory threshold to £25,000. This would mean that more than half of the charities in England and Wales would not have to register with the Commission, making it nigh on impossible for the Commission to do its job of regulating the sector—how can it effectively regulate organisations it knows nothing about?

5. Instead, HBA has a rather more radical suggestion: that the registration threshold be removed altogether, with registration being required by all charities. This is already the case in Scotland and will also be the case in Northern Ireland once the Charities Act (NI) 2008 is fully in force. Not only would this remove the lack of understanding of their position by those running small, unregistered charities, it would greatly improve both:

- the ability of the Charity Commission to regulate the sector; and
- the accessibility to information about these organisations, and thus their accountability.

Ultimately, this would improve the public's perception of the charity "brand".

6. All charities are legally obliged to produce a Trustees' Annual Report and Annual Accounts (although it is likely that many of those charities that are not obliged to submit copies to the Commission do not produce suitable reports). Given this existing legal requirement, and the simplicity of submitting these reports electronically using the Commission's online service, the additional burden on even small charities (that already meet their legal obligations) of having to submit these documents is *de minimis*, and surely outweighed by the benefit to the charity "brand" of the transparency afforded by the publication by the Commission as part of its Register of Charities.

7. To address any remaining concerns about unnecessary additional administrative burden on those running small charities, HBA would recommend a system akin to that adopted by Scotland, whereby organisations whose purposes are charitable can decide whether they wish to be a charity or not; if they do, they register

and can call themselves a charity, but have to submit annual returns; if not, they don't register (and, in which case, they cannot call themselves a charity).

8. On the basis that the vast majority of annual returns are made electronically, and given that the Commission already has the online services in place to receive and publish such submissions, the ongoing cost to the Commission is no more than the cost of hard disk storage which today is, by any measure, negligible.

9. Whilst HBA does not agree with the introduction of annual registration fees for charities, optional registration would make it more acceptable for the Charity Commission to introduce both fines for late filing of returns, and to address any funding constraints it may have by imposing annual registration fees—those organisations that felt that they were not gaining sufficient benefit from registration could de-register and not pay the fee.

#### JOINED-UP WORKING BETWEEN REGULATORS

10. HBA is constituted as a company limited by guarantee, as well as being registered as a charity. It is, thus, subject to dual regulation by both Companies House and the Charity Commission. As it is not in a position to claim Gift Aid or other tax relief, it is not subject to additional oversight by HMRC. Most of HBA's members (although not all), being small, local charities are unincorporated associations rather than companies, and thus do not have to deal with Companies House, although many of our members are registered with HMRC in order to recover Gift Aid.

11. This co-regulation of the charitable sector by three Government departments creates unnecessary administrative overhead, both for charities and the civil service. HBA welcomes the recommendation from Lord Hodgson that “[w]ork by Companies House and the Charity Commission to create a single reporting system for charitable companies [...] should continue as a matter of urgency”, as it was unaware of any such initiative. However, the work urgently needs to be extended to include HMRC, which recent developments have shown is so worried about fraudulent claims from charities that is putting in place a charity regulation scheme that in many ways parallels that of the Charity Commission, and appears unwilling to use any of the information already provided by charities to the Commission as part of its own regulatory process.

12. In order to claim Gift Aid, or any other tax relief from HMRC, charities' Trustees and other senior management have to meet the requirements of HMRC's "Fit and Proper Person" test. If HMRC decides that any of these people are not "fit and proper", the charity can be barred from receiving tax relief. The Charity Commission already has full details (minus National Insurance Number, an omission easily rectified) of all the Trustees of a charity, and it's a trivial exercise for charities to log-in to the Commission's website and update these details. Why cannot HMRC simply use this information already provided by the charity to the Commission (and all the other information that the Commission holds on charities) when making their assessment of fraud risk, rather than demand that it be provided again, in hardcopy form through the post?

13. Similarly, if HMRC has concerns about the fitness of a person to act as a Trustee of a charity, should not the Charity Commission and the charity's other Trustees be informed? If the charity "brand" is to be protected, surely it best that any concerns are addressed and dealt with as soon as possible. It addition, it surely cannot be right that the Charity Commission might be perfectly content that a person can act as a Trustee of a charity, but HMRC consider him/her not to be "fit and proper" to hold the same position; either the person is guilty of some sin, or is innocent: he/she cannot be both!

14. Ahead of providing evidence to the House of Commons Public Bill Committee on the Small Charitable Donations Bill, HBA conducted a quick survey of its members about their eligibility to claim under the proposed new scheme. Our survey suggests that 70% of our members will not be able to make any claim for funds through the new scheme in its first year of operation, and only 27% of small charitable donations made to our members would be eligible for reimbursement. These restrictions are simply down to the disproportionate counter-fraud measures imposed by HMRC. If there was appropriate joined-up working between the charity regulators and HMRC, as proposed by Lord Hodgson in his recent review of the Charities Act 2006, it would be possible for HMRC to use the compliance record of charities with the reporting requirements of charity law, perhaps together with a random sampling of annual accounts to assess the legitimacy of claims under the Small Donations Scheme.

15. Lord Hodgson also recommended that all charities that claim tax reliefs be required to register with the Commission. If such a requirement reduces the overall burden on charities, by enabling more joined-up working between HMRC and the Commission, then HBA would support such a recommendation. If such joined-up working is not possible, for whatever reason, then there would seem to be little point in requiring registration for all charities wishing to claim tax relief, unless there is seen to be a benefit in removing from HMRC the duty of determining whether an organisation is a charity for tax purposes, and leaving the three charity regulators to make this decision.

#### REPORTING REQUIREMENTS

16. HBA believes that all registered charities, irrespective of their income, should have to provide the Charity Commission with a copy of their governing document and their Trustees' Annual Report and Accounts. All charities, irrespective of their income or registration status already have to produce these documents, so the

additional burden of having to file them with the Commission is miniscule, especially now that the Commission makes it so easy to file the documents electronically.

17. With the Commission encouraging charities to use its online services, the additional cost to the Commission of accepting these documents and making them available to the public via its website must also be miniscule—all the technical infrastructure is already in place, and the cost of the additional storage must be insignificant.

18. Any small additional burdens that HBA's proposals would impose on charities and the Commission are far outweighed by the benefit, to the charity sector as a whole, of the transparency and accountability that would be brought about by the ability for members of the public to easily access and scrutinise these documents. In these difficult financial times, the Commission does not have the resources to review the annual accounts of every charity, but if charities know that their reports will be published by the Commission and open to scrutiny, there is more chance of them producing a better quality report, and the publication provides the opportunity for members of the public to raise concerns that they have about the running of a charity with the Commission

19. This requirement on charities to file, and on the Commission to publish, should also be extended to the final accounts of a dissolved charity. HBA has first-hand experience of the Charity Commission not holding a copy of either the governing document or final accounts of a hospital radio station that had been removed from the register as having ceased to exist. HBA wished to check that the organisation's remaining assets had been correctly applied in accordance with the governing document, but the Commission said that it did not hold a copy of the governing document, and that it did not require trustees to submit final accounts, but just to complete an online form on its website stating that assets had been disposed in accordance with the requirements of the governing document.

20. This appears to HBA to be a substantial loophole; whilst a charity, such as a typical hospital radio station, might have a relatively small annual income, its capital assets (in terms of equipment, for example) may be quite significant (in the case of hospital radio stations, potentially several tens of thousands of pounds). The Commission, however, shows no interest in ensuring that these charitable assets are correctly disposed of, with the benefit being applied appropriately. Such indifference provides a disincentive for Trustees of a charity to ensure that its assets are correctly applied when it is being wound up, potentially resulting in assets being lost to charity.

21. In his recent review of charity law, Lord Hodgson recommended that sanctions for late filing of accounts and annual returns should include the withdrawal of Gift Aid and that consideration be given to the introduction of fines. Whilst HBA would not agree with the withdrawal of tax reliefs which are due to a charity, it would seem perfectly reasonable to withhold payment until all statutory reporting requirements have been met.

22. In the interests of transparency, and the application of the law, it is clearly important to incentivise Trustees to file their Annual Report and Accounts as soon as possible, and certainly within the 10-month period which the law permits. If fines were to be introduced, there would be a danger that funds given to the charity to further its objects would be misapplied in paying the fine. Unless it was made mandatory to state in the Trustees' Annual Report and Accounts that the charity had paid the fine, and to explain the reason for the filing delay that resulted in the fine, imposing a fine would likely create little or no incentive to wayward Trustees.

23. On the other hand, there may, exceptionally, be a good reason why a charity (especially a small charity with no paid staff, and no professional advisors) is unable to file within the permitted 10 months. If fines were to be introduced, it would be even more important than now that, where such exceptional circumstances existed, there was a mechanism whereby a charity could apply to the Commission for an extension to the permitted time.

24. If fines are to be imposed, consideration should be given to them being imposed on the Trustees individually, rather than on the charity. This might provide the necessary incentive to the Trustees without the danger of misapplication of charitable funds.

25. In a recent consultation, the Charity Commission suggested incentivising Trustees to file their charity's Annual Report and Accounts as soon as possible. Initially, this sounds like a more appealing approach than fines. However, if the extent of the incentive is a flag on the online register, as the Commission's consultation suggests, then this is unlikely to have the desired effect. It might be more effective to introduce an "amber" border to an entry on the Register for those charities which take a long time to file accounts, to sit alongside the current red and green borders.

26. Consideration should be given to the fact, however, that small charities may be relying on the goodwill of accountants to provide external scrutiny of their accounts on a *pro bono* basis, and this may entail them waiting for a quiet period in the financial year for their independent examiner to complete his work. The unintended consequence of incentivising early filing may be additional expenditure by small charities on external scrutiny or, where the law allows, the removal of the requirement for external scrutiny from governing documents, simply in an effort to score more "brownie points". Many hospital radio stations (and probably other small charities too) have their accounts externally scrutinised even though it is not a requirement of the Charities Act (it is often a requirement of the charity's governing document) because it is seen as best practice. Incentivising charities to stop submitting their accounts for external scrutiny would be counter to all the efforts of HMRC to tighten up on fraud.

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## ACCOUNTING REQUIREMENTS

27. There is one aspect of the accounting requirements where a change would both reduce the burden on smaller charities, such as HBA, and improve transparency. Charitable companies, such as HBA, have to use accruals accounting. Due to the lack of understanding of this process, professional advisors have to be employed (costing the charity money) and trustees of the charity, members of the charity, and the general public are generally less able to understand the details of the accounts, and so are less able to query their contents. The ability for charities with an income under £250,000 to prepare accounts on a receipts and payments basis should be extended to charitable companies; the legal form of the charity should not affect the accounting regime.

## INFORMATION PUBLISHED AS PART OF THE REGISTER OF CHARITIES

28. HBA believes that, in the interests of transparency, and to protect to charity “brand”, the Charity Commission should publish, as part of its online Register of Charities, the governing document and the last several years’ copies of the Trustees’ Annual Report and Accounts for every registered charity. All charities already have to produce these documents, so the additional burden of having to file them with the Commission is miniscule, especially now that the Commission makes it so easy to file the documents electronically.

29. Even if certain classes of charities continue to be exempt from the requirement to submit their Trustees’ Annual Report and Accounts to the Commission, they should have the ability to submit these documents and, if they avail themselves of the option, the documents should be published by the Commission.

30. With the Commission encouraging charities to use its online services, the additional cost to the Commission of accepting these documents and making them available to the public via its website must also be miniscule—all the technical infrastructure is already in place, and the cost of the additional storage must be insignificant.

31. The governing document is, clearly, a very fundamental part of a charity’s governance. As the sector regulator, the Commission should have an up-to-date copy of every registered charity’s governing document on file. In the interests of transparency, the Commission should make this copy available as part of the online Register of Charities. With the reduced level of funding available to the Commission, it is understandably focussing its regulatory efforts on larger charities. Implicit in this is an increased reliance on reports from the public regarding apparent mismanagement (or worse) in smaller charities, perhaps after reading information in the charity’s Trustees’ Annual Report and Accounts. Without easy access to governing documents, it is very difficult for the public to determine whether mismanagement has taken place.

32. Where a charity has changed its legal form (e.g. it has changed from an unincorporated to an incorporated form) or has been created as a result of the merger of two or more charities, the Register of Charities should provide the details of, and information relating to, the predecessor charities. Being able to show a registration and compliance history going back beyond the point of a recent reorganisation can be important for charities seeking funding.

33. The governing document, Trustees’ Annual Reports, Annual Accounts and the application to be removed from the register (together with any supporting documentation) should be available for any charity that has been removed from the register. Currently there is a legal requirement that the former Trustees of removed charities retain the records of the charity for a number of years after it has been removed, and to respond to requests from the public for copies of these documents. However, the Commission provides no means by which the public can contact the former Trustees, effectively making it impossible to contact those with the legal obligation to provide it. Of course, there is little incentive for the former Trustees to comply with any request anyway, so the Commission ensuring that it has obtained and published all necessary information prior to removing the charity from the register would seem sensible anyway.

*September 2012*

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## Written evidence submitted by Local Government Association (CH 08)

1. The Local Government Association is a voluntary membership body and our member authorities cover every part of England and Wales. Together they represent over 50 million people and spend around £113 billion a year on local services. They include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities.

2. The LGA, like its member councils, values its relationships with the voluntary and community sector, and is pleased to have this opportunity to comment on this inquiry. Our work is about enabling councils to respond to concerns from both businesses and residents and has been driven by concerns expressed by local communities to our members.

3. The LGA actively supports a closer and more productive relationship between the sectors. We are committed to supporting a thriving VCS and are working with national VCS umbrella bodies and others across a range of areas including commissioning, licensing and working with elected members. We understand the

importance of direct fundraising to charities, both as a major generator of income and as a way of raising public awareness about their charitable work.

4. Councils are the statutory regulator for most types of fundraising and work closely with charities to support them in their work with communities. They also share responsibility for protecting the vulnerable or elderly from unfair pressure or exploitation, as well as maintaining thriving public places.

5. Our main area of interest with the Charities Act 2006 is therefore through its impact on the regulation of fundraising. We particularly wish to address the question: **How successful is the self-regulation of fundraising through the Fundraising Standards Board?**

6. In response to member concerns, the LGA supported Lord Hodgson's investigation into this element of the Charities Act 2006, including hosting a roundtable between member councils, fundraising charities and Lord Hodgson. A copy of our response to Lord Hodgson's review is included in Annex A (see below).

7. The LGA and member councils have expressed concerns about the degree to which fundraising methods have been effectively regulated, and the impact that the existing legislation has on councils' ability to protect residents and businesses from nuisance and harassment.

8. The headline results of our survey<sup>27</sup> of member councils demonstrated particular concerns about the way in which face-to-face fundraisers collect direct debit details in high streets and other public places.

9. We therefore welcomed Lord Hodgson's attention to this matter, and his subsequent recommendation that new, consolidated legislation is required urgently, as the current legislation is both outdated and ineffective. It is important that new fundraising techniques, including collection of direct debit details, are clearly included within a regulatory framework and the LGA hopes that Government will implement this proposal as swiftly as possible. The commitment of Nick Hurd, Minister for Civil Society, to make this a priority is welcome.

10. We also welcomed Lord Hodgson's proposal that the self-regulatory landscape between the FRSB, Institute of Fundraising, and PFRA should be clarified. Our experience has been that all three organisations have a very low profile with both councils and members of the public and that this limits their ability to demonstrate their effectiveness to the public and stakeholders. In the meantime, councils have received a significant number of complaints from the public expressing concerns about fundraising methods.

11. The LGA has been in discussion with all three organisations and considers their immediate opening of discussions on the issue to be a constructive and positive step forward. In particular, we have been working very constructively with the PFRA to enhance their work and give it the wider attention it needs.

12. The LGA is happy to support self-regulation where it is effective and, as outlined above, feels that the responsible organisations are taking important and necessary steps towards achieving this goal. Councils, however, are responsible for the protection of residents and businesses in the public realm and it is clear that there have in the past been failings in fundraising practice that have been unable to be addressed by either the self-regulatory system or by councils using the existing legislation.

13. It is important that support for a self-regulatory approach does not operate without a safeguard and we believe, as Lord Hodgson does, that councils should be given the legal powers to intervene to protect residents and businesses when poor fundraising practice occurs and self-regulation has proven ineffective.

14. We look forward to working with the self-regulatory organisations to improve their profile with our member authorities and to ensure that they effectively provide challenge and transparency about poor fundraising practice. We will be publishing a national agreement between the LGA and the PFRA in the Autumn to promote the valuable role of a voluntary site management agreement.

## Annex A

### SUMMARY

Councils are the statutory regulator for most types of fundraising and work closely with charities to support them in their work with communities. They are also share responsible for protecting the vulnerable or elderly from unfair pressure or exploitation, as well as maintaining thriving public places.

They take these responsibilities very seriously, and recognise the significant contributions that charities can make to achieving these objectives. Charities provide an essential service supporting the vulnerable and hard to reach in society, supplementing council services and developing innovative new service delivery models.

Unfortunately there are times when irresponsible, or inexperienced, charity collectors can create a tension between the way they fundraise and the council's duty to protect residents and businesses. In the case of house-to-house and cash collections, legislation provides councils with the ability to ensure a fair balance, in many cases through a licensing regime; requiring the charity to fundraise in a manner that does not cause undue pressure or nuisance to residents. However, we agree with the Review's statement that the existing legislation regulating public charitable collections causes confusion and, in some aspects, is not fit for purpose. The legal

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<sup>27</sup> Headline results are in Annex B.

status of direct debit street fundraising, also known as “chugging”, is unclear in legislation and there is a legal debate over whether councils have powers to license this activity.

Our response therefore focuses primarily on the impact of chugging and how it can be better regulated to the benefit of both charities and residents. We commissioned a bespoke online survey of councils to help inform our response on this subject.<sup>28</sup>

The survey results clearly show that chugging is a significant issue for residents and businesses, and therefore of concern to councils. Councils need to be able to respond to the concerns of local residents and to ensure that businesses are not damaged by chugging diverting or detaining potential customers. 81% of councils responding to the survey had received complaints about the professional conduct of chuggers.

The LGA is therefore calling for **clarified and more up to date powers for councils** to enable them to address local issues with chugging, in line with their regulatory role for other types of fundraising activity.

Flexible powers will allow councils to create the most effective solution for their local area; to the benefit of businesses, residents and charities and the minimum of red tape. This could include choosing not to regulate the activity, implementing a voluntary agreement or devolving management to a coordinating organisation like the Public Fundraising Regulatory Association.

Our survey shows the value of voluntary agreements, with 74% of those that had implemented them finding them effective, and the LGA is actively engaging with the PFRA to understand how they can be better promoted.

*Do you think that the present regime is working?*

Councils that have busy streets, particularly in cities, may find large numbers of fundraisers descending on one place, causing congestion and deterring people from their day-to-day activities. This can also be an issue for areas who have struggling high streets, where shoppers can be deterred from entering businesses by chuggers standing at entrances.

Our survey showed that 72% of respondents felt that chugging was a problem to at least a small extent in their areas, with 68% receiving complaints about the activity. In addition:

- 81% of respondents strongly agreed or agreed that street fundraisers put pressure on shoppers to donate money
- 63% of respondents strongly agreed or agreed that street fundraising creates added congestion to high streets
- 54% of respondents agreed or strongly agreed that street fundraisers put potential shoppers off visiting the high street

On this basis, we do not feel that the present regime is working effectively to protect residents from harassment and businesses from disruption.

However, councils do recognise the importance of this fundraising method to charities, with 69% of respondents strongly agreeing or agreeing that it is a valuable way of raising funds. Only 28% felt that it was valuable for local charities, though, and we feel this is an area where a locally-established regulation scheme would be able to better support locally significant charities and groups; potentially by keeping clear days or locations for local charities to fundraise.

This would have a beneficial effect on the ability of areas to build community spirit and resilience, as well as develop unique local projects for residents that might otherwise never secure funding.

*Do public charitable collections need to be subject to a licensing regime at all? If so, why? If not, why not?*

Most charities operate responsible, effective fundraising schemes and are a benefit to the community. However, the figures outlined above show that public charitable collections do not always live up to their good intentions and may cause disruption to communities, for a variety of reasons.

Our survey shows that 68% of responding councils, equivalent to 103 councils, received at least a small number of complaints. We argue that figures held by the FRSB therefore only indicate a fraction of the problem.

Sadly, charitable collections are not always undertaken by those with philanthropic motives, and it would be easy for con artists and thieves to pass themselves off as charitable collectors if there was no form of regulation. A robust, yet light-touch, licensing scheme offers the most effective and cost-efficient way of delivering this regulation. It will offer assurance to the donors that their money is genuinely going to a charitable cause and that the collector will act in a fair and reasonable fashion.

Charities currently enjoy considerable trust with the public, over 80% at the last survey, and with 85% of the population giving to charity at least once a year.<sup>29</sup> If donors did not have the confidence that their donations

<sup>28</sup> Please see Annex B for headline findings from the survey.

<sup>29</sup> 2008 Charity Commission Study into Public Trust and Confidence in Charities, pg.5, 9, 10 & 14 ([http://www.charity-commission.gov.uk/About\\_us/About\\_the\\_Commission/pbsurveyint.aspx](http://www.charity-commission.gov.uk/About_us/About_the_Commission/pbsurveyint.aspx)).

would be collected reasonably and well spent, then the impact on charities could be devastating, and any trust would take a long time to rebuild.

*If a new regulatory framework is required, what should it look like? Who should be responsible?*

Councils wish to respond to concerns of local residents and businesses, as well as to support local charities who may well have a greater beneficial effect on their community than a large national charity. Councillors and councils are also the most recognised point of support and contact in a local area. We therefore believe only councils can provide a regulatory role for fundraising activities that is transparent and visible to residents, as well as responding to local needs.

The recent example of a local branch charity opting to close down rather than accept nationally contracted chuggers operating in their area highlights that not all charities welcome chuggers.<sup>30</sup> A local council will be able to respond to local nuances and ensure that local good causes, as well as national ones, are able to secure fundraising opportunities.

We believe that the ability to more effectively manage chugging should have been included under the general power of competence, but since this is not the case, we reluctantly feel that consolidated and update legislation is the best way forward.

We have reviewed the inactive clauses in the Charities Act relating to street fundraising, and consulted with frontline licensing officers on their potential impact. Our opinion is that these clauses no longer offer the flexibility and freedom required by councils, and committed to by a localist government. The Licensing Act 2003, which set the standard for licensing regimes, has undergone significant changes since 2006 and no longer represents an appropriate model for the licensing of charitable collections.

It is important that any regime does not impose unnecessary bureaucracy or costs on either charities or councils. If either were to happen, then public money would be wasted on administration.

We also recognise that chugging is not an issue in all areas. There is therefore no reason why a blanket approach should be adopted across the country. Indeed, this may well stifle and deter local activity.

We believe that a scheme that enables councils to opt to use regulatory powers will be most effective for communities, charities and councils. Where there are problems, councils will wish to act rapidly to protect residents and should have the power to do so.

They may also feel that there are other organisations that are able to carry out the regulatory function on their behalf, including local councils for voluntary services or the PFRA itself. Councils should have the option to devolve this responsibility where they feel appropriate. However, this should be a local decision, made in consultation with local communities, businesses and charities.

If councils decide a local regulatory role is appropriate, Government should make provision for full recovery of the additional costs incurred as a result of this. Councils have recently been given the welcome power to set and collect local fees under the Police Reform and Social Responsibility Act, covering all costs associated with licensing and enforcement.

However, recognition must be given to the fact that these licences are for charitable collections and any fee would divert money from the charitable aims. Government should therefore consider providing funding directly, as outlined in the New Burdens Doctrine. We would be happy to help the Cabinet Office to shape options.

*Could self-regulation play a greater role in the licensing of charity collections? If so, how? What would be the advantages and disadvantages?*

We have a high regard for the PFRA and Fundraising Standards Board. Our survey showed that 74% of the councils that had implemented a voluntary agreement found them very or fairly successful at regulating chugging.

Wolverhampton, in particular, found their voluntary agreement extremely effective and moved from calling for a ban on chugging to encouraging greater use of voluntary agreements. This form of partnership between councils and the charitable sector is welcome.

However, the survey also showed that nearly half of councils were not aware of the self-regulation activities and over 60% had not implemented a voluntary agreement, for a variety of reasons; we therefore have concerns that the public profile of self-regulators is not high enough for them to fully and effectively achieve their function.

The LGA has committed to further work with the PFRA, as a result of this survey, to promote the voluntary agreement option to councils and increase awareness of other key elements of self-regulation, such as the code of conduct. However, we are aware that this may not meet the needs and concerns of all councils.

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<sup>30</sup> The Telegraph, 9 April 2012. <http://www.telegraph.co.uk/health/healthnews/9194173/Local-fundraisers-boycott-cancer-charity-over-chuggers.html>



We are also concerned that self-regulation remains, by definition, voluntary. Although the PFRA currently has good charity coverage, it is not clear what powers, if any, councils would have to tackle issues should a charity choose not to join the PFRA, or should the PFRA be unavailable for whatever reason.

It must also be noted that the PFRA is a small organisation and may struggle to cope with a sudden increase in the number of voluntary agreements. At the moment, they are limited to just over 40 councils, which is commendable, but still a small fraction of the number of councils.

*Should there be different rules for different types of collections (e.g. cash, goods, direct debits, street vs. house to house)? If so, what should the different rules be?*

The current legislation governing charitable collections is, as the Review notes, confusing. We believe that, in the first instance, Government should consider consolidating the legislation and clarifying the regulatory roles.

We do not feel it is appropriate, or possible, for Government to effectively prescribe rules at a national level without inadvertently having a negative impact on some areas or charities.

Councillors and councils should therefore be given flexible powers that allow them to set or modify rules to fit the needs of the local areas. This would need to be done in consultation with local and national charities, as well as members of their business and residential communities.

It is only through recognising the value of local decision making that the positive impact of charitable collections can be maximised for charities, and the negative impact minimised for residents and businesses.

*What measures could be included in a new licensing regime that would help the public distinguish between legitimate collections and bogus collections?*

Legitimacy of collectors is a major concern for donors and councils. Many of the calls made to councils on fundraising issues are to enquire whether a collector is legitimate.

In the first instance, a council licensing regime would enable the council to immediately reassure callers that the collectors were genuine, or to take action if they were not. At the moment, councils are not always aware of when collectors are or aren't present in their locality. Even if they have been notified by the PFRA, a delay often occurs between the council receiving the enquiry and being able to confirm legitimacy.

Councils have also expressed concerns about the amount of the donation that may go to the charity. A requirement for the collection agency to post online, either on the council or other regulators website, the percentage of donation retained, would increase transparency and public confidence in the collection method. We believe this should be included in any new legislation.

*What is your view of the current Exemption Order system that exempts some charities that collect house to house widely throughout England and Wales from the licensing regime? Is it right that such decisions are taken centrally or should this be a local decision?*

The work of national charities is rightly recognised for the value and benefit it brings to communities in England, Wales and abroad. However, the logistical power and public reach of these organisations can sometimes overwhelm and overshadow equally effective, and possibly more locally beneficial, charities.

We feel that local decision-making would reduce this inequality, benefiting local charities without impacting significantly on the ability of national charities to fundraise. Councillors have a crucial role in representing the views of their communities and should be allowed to exercise this role without restriction.

## **Annex B**

### **THE SURVEY**

The full survey report will be published at the end of April. The findings included here demonstrate the headline findings only, and further analysis may provide additional points of discussion or interest.

### **METHODOLOGY**

The online survey was launched on 19 March 2012, and sent to officers with responsibility for licensing; by the 3 April 2012 a response rate of 43% had been achieved.

### **KEY FINDINGS**

#### *Street fundraising*

Of all councils:

- Street fundraising happens on a regular basis for most responding councils with 43% of respondents stating that it occurred on a weekly basis, followed by nearly a quarter (24%) on a daily basis.

- Although councils generally believed that street fundraising impacted on a high street (with 81% of respondents strongly agreeing or agreeing that street fundraisers put pressure on shoppers to donate money), councils also strongly agreed or agreed that street fundraising is a valuable way of raising funds for charities (69% of respondents).
- 72% of councils considered street fundraising to be a problem to at least a small extent, with 68% of councils receiving at least a few complaints about street fundraising in the current financial year (2011–12)

*Complaints about street fundraisers:*

Of those who had received complaints against street fundraisers:

- The majority of councils had received complaints from residents (81%), although a majority of councils also reported complaints from businesses (54% of councils)
- The professional conduct of street fundraisers was the biggest cause of complaints (with 81% of councils selecting this reason).
- The main way that councils dealt with complaints was to speak directly to charities (75%)

*Managing street fundraising:*

Of all councils:

- Most councils were aware of the key types of regulation for street fundraising. The majority of respondents (62%) were aware of the Public Fundraising Regulatory Association (PFRA) voluntary agreements and also the Institute of Fundraising code of contact (56% of respondents).
- However, the majority (60%) had not tried to establish a voluntary agreement with PFRA.
- Where voluntary agreements were in place, 18 out of 23 councils stated that they thought the agreement had been either very or fairly successful
- Respondents supported councils having greater powers to regulate street fundraising on a local basis. The majority of respondents (70%) stated that local powers to ban or restrict street fundraising would help them manage this area more effectively.

*September 2012*

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**Written evidence submitted by War on Want (CH 09)**

SUBMISSION IN RESPECT OF QUESTION 10 ONLY

(Rules governing political activity by charities)

SUMMARY

- War on Want believes that the current rules governing political activity by charities are correct to recognise the key importance of such activity, and that charities must be encouraged to engage in political activity in furtherance of their charitable objectives.
- War on Want does not believe that this is an area of serious concern for charity regulation at present, given that the number of cases in which the Charity Commission is called to assess political activity by charities represents less than 1% of all charity assessments, according to the Charity Commission report cited by the PASC.
- War on Want also does not accept that this is an area of continuing controversy, as political activity (correctly understood) is widely acknowledged to be an important function of charities. War on Want believes the Charity Commission's CC9 guidance on campaigning and political activity by charities is correct in affirming this view.
- War on Want questions whether it is correct still to maintain that political activity cannot be the sole and continuing activity carried out by a charity. The fact that charities cannot be established for political purposes does not mean that political activity should not be the sole and continuing activity of the charity. It may be the case that political activity to change government policies is the best long-term use of a charity's resources in the pursuit of its charitable objectives.

MAIN TEXT

1. War on Want welcomes the opportunity to contribute to this inquiry by the House of Commons Public Administration Select Committee (PASC). As a registered charity that has recently marked the 60<sup>th</sup> anniversary of its founding, we have considerable experience of the regulations governing the charitable sector in the UK. We wish to address question 10 of the PASC inquiry, relating to the rules on political activity by charities.

2. War on Want is a charity that has long believed in the importance of campaigning and political activity as the most effective means of bringing about lasting, transformative change. We were pleased that the latest version of the Charity Commission guidance paper CC9, *Speaking Out: Guidance on Campaigning and*

*Political Activity by Charities*, published in 2008, supported this view. The guidance noted that charities had previously been overly cautious in exercising their right to engage in campaigning and political activity, and affirmed that campaigning, advocacy and political advocacy “are all legitimate and valuable activities for charities to undertake”.

3. The guidance paper issued by the PASC as background to the current inquiry suggests that: “The political activities of charities remain an area of continuing controversy.” In support of this proposition, the paper references two publications: (i) a 2012 publication of the Institute of Economic Affairs relating to government funding of charities, and (ii) the Charity Commission publication, *Charities Back on Track 2009–10*.

4. The Charity Commission publication referenced by the PASC, *Charities Back on Track 2009–10*, notes (p 41) that assessments of political activities by charities represented just 0.8% of the 2,615 cases conducted by the Commission during the year in question. This tiny percentage compares with serious governance breaches (35.6% of cases), other serious non-compliance issues (17.2%), beneficiaries at risk (11.1%), fraud and theft (9.4%), trustee duties (5.7%), mismanagement (5.3%), fundraising (3.4%), other complaints (2.8%), accounting concerns (2.5%), terrorism, money laundering etc (2.0%), and trustee or membership disputes (1.3%). In light of these and corresponding figures for other years, it would be perverse to suggest that political activity is a pressing issue for the charity sector at this time. It is notable, also, that the issue of political activity receives no mention in the findings of Lord Hodgson’s broad review of the legal and regulatory framework for charities, *Trusted and Independent: Giving charity back to charities*, published in July 2012.

5. War on Want does not concur with the suggestion that political activity by charities remains an area of controversy. It is important here to distinguish between the principle of political activity by charities, on the one hand, and any individual cases of abuse that may give rise to controversy, on the other. In our experience, the importance of political activity (correctly understood as per the Charity Commission’s CC9 guidance to mean activity directed towards changes in the law or government policy) is now widely accepted as a key function of charities in seeking to achieve their charitable objectives. Politically motivated think tanks such as the Institute of Economic Affairs represent a marginal view, at best, and should not be mistaken for broader public opinion. As shown in the latest research study by Ipsos MORI, *Public trust and confidence in charities* (June 2012), at a time when more and more charities are directing their efforts towards political activity in support of their charitable objectives, public trust in charities remains extremely high.

6. War on Want also questions whether it is correct still to maintain, as the current guidance does, that political activity cannot be the sole and continuing activity carried out by a charity. We recognise that charities cannot be established for political purposes and that all political activity by a charity can only be a means to furthering its charitable purposes, but this does not logically entail that political activity should not be the sole and continuing activity of the charity. The Charity Commission’s CC9 guidance is clear (section D8) that a charity may lawfully direct all of its resources towards political activity for a certain period, even if the length of that period cannot be known in advance. The guidance is silent (and, we believe, confused) as to why this should not be the case more generally, if a charity’s trustees are convinced that directing all the charity’s resources towards improving laws or government policies is the best way of achieving the charity’s charitable objectives in the long term.

7. War on Want believes that this restriction on political activity by charities is the last hangover from an obsolete belief that charities should engage only in relief or palliative care. We note that legislative or policy change has historically been one of the most effective ways of bringing about lasting progress in society, and that charities are correct to focus their efforts on that end. We urge the PASC to send an unequivocal message in support of the right of charities to engage in political activity, and to remove the last remaining restriction preventing charities from achieving their charitable objectives to the best of their abilities.

September 2012

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**Written evidence submitted by the Baptist Union of Great Britain (CH 10)**

Question 1 *To what extent has the Charities Act 2006 achieved its intended effects of:*

1(a) *enabling charities to administer themselves more efficiently and be more effective?*

We think the Charities Act 2006 has been helpful in helping charities to administer themselves more efficiently and to be more effective. The need for a Public Benefit to be positively demonstrated has been a helpful encouragement. The simplified procedures for winding up small charity funds have been very helpful. The opportunity to deal with routine, but important matters of remuneration for Charity Trustees without always referring to the Charity Commission have been helpful.

1(b) *improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?*

We think it has been helpful.

1(c) *providing a clear definition of charity, with an emphasis on public benefit?*

This has been very helpful.

1(d) *modernising the Charity Commission's functions and powers as regulator, increasing its accountability and preserving its independence from ministers?*

We think that the modernisation of the Charity Commission's functions, and the focus of its functions and powers as regulators on the most significant matters has been helpful.

Question 2 *What should be the key functions of the Charity Commission?*

The Charity Commission should concentrate on its function as a regulator and an organisation that offers clear guidance to charities. Whilst it may be desirable for the Charity Commission to offer specific guidance to individual charities this is probably not affordable.

Question 3 *How should the Charity Commission be funded?*

We think the Commission should be funded from public funds, but in the present economic situation this may be unrealistic. Moderate charges for filing accounts and annual returns may be an appropriate way to generate revenue. We are cautious about welcoming the fines for late filing, although we recognise that these apply to Limited Companies. This may be one reasonable way to generate revenue.

Question 4 *Is the current threshold for registration with the Charity Commission set at an appropriate level?*

We think the current threshold for registration is at an appropriate level.

Question 5 *How valid are concerns that there are too many charities?*

Writing from the perspective of local Baptist churches, each one is an individual charity. This arises because of their history and the fact that they are individual local units, each having charitable status. Therefore we would see the presence of many effectively run charities as a net benefit to the wider community. However, if there is a perception that the charities are not effectively run and that the benefits derived by the wider community are not in balance with the amount of administration required to operate a large number of charities then we recognise that there is a problem.

The suggestion of smaller charities 'sheltering' under 'umbrella organisations' or principal regulators is worthy of further consideration.

Question 6 *Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

We have no experience of this so decline to comment.

Question 7 *There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

The perception of the public may be distorted by the fact that there are organisations that benefit society which are not charities. However, we do not think that the potential for confusion is so significant that it requires further action. Since those organisations will not be seeking donations from the public we think that the confusion does not necessarily create significant harm or risk.

Question 8 *How successful has the introduction of the Charity Tribunal and its replacement, the First-Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

We have no practical experience of this, but have no reason to question the effectiveness of the Charity Tribunal.

Question 9 *How successful is the self-regulation of fundraising through the undraising Standards Board?*

We have no experience of this but do not have any reason to doubt that the Fundraising Standards Board has been effective.

Question 10 *Are the rules around political activity by charities reasonable and proportionate?*

We think the rules around political activity by charities are reasonable and proportionate.

September 2012

### Written evidence submitted by New West End Company (CH 11)

Thank you for the opportunity of submitting evidence to this inquiry.

Our main concern relates to the regulation of street collection, specifically the activities of so called “chuggers”. We therefore restrict our comment to question 1.b

To what extent has the Charities Act 2006 achieved its intended effects of improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?

We would be happy to discuss our concerns in more detail with you or the committee if you felt that would be helpful.

#### SUMMARY

1. The West End is a hugely important part of the UK’s economy which needs careful managing to retain and enhance its position as the world’s top shopping destination.
2. The large number of visitors to the West End makes the district a popular location for teams of charity workers seeking financial commitments from passers-by.
3. Chugging, at the current level of activity, causes obstruction and nuisance and detracts from the West End as a destination.
4. Current legislation excludes chugging from legal regulation. It is subject only to industry self- regulation.
5. In London, uniquely, regulation of street collection is the responsibility of the Metropolitan Police, rather than the local authority.
6. New West End Company recommends that chugging is brought within the regulatory system that applies to other forms of street collection and that responsibility for regulation should transfer from the Metropolitan Police to local authorities in London.

#### NEW WEST END COMPANY AND THE WEST END

7. New West End Company is Europe’s largest retail-led Business Improvement District (BID), representing over 600 retailers in Oxford Street, Regent Street, Bond Street and 22 adjacent streets.
8. The district is the world’s top shopping destination. It attracts over 200 million visits each year, generating over £7.5 billion in sales and employing more than 100,000 people. It is a vital part of the economy of London and the UK.
9. New West End Company works with the public and private sector to maintain and enhance the district’s dominant retail position through encouraging investment, maintaining safe, clean and welcoming streets and marketing the West End nationally and worldwide.

#### CHUGGING IN THE WEST END

10. Chuggers are teams of people, generally working for contractors, who are retained by charities to engage with members of the public on the street and attempt to encourage them to make financial commitments to the charities.
11. Those members of the public who agree to donate do so by completing forms to make regular contributions through their bank accounts. Since no money is collected on the street, the activities of chuggers are not regulated by the Charities Act 2006 or any other legislation.
12. The large number of people visiting the West End daily makes it a very attractive location for charities wishing to collect donations in this way.
13. However, chugging gives rise to two problems in the West End. The first is the obstruction caused by the number of chuggers on the busy and congested streets of the West End. The second is the nuisance caused to visitors.

#### PROBLEMS WITH CHUGGING IN THE WEST END—NUMBERS AND OBSTRUCTION

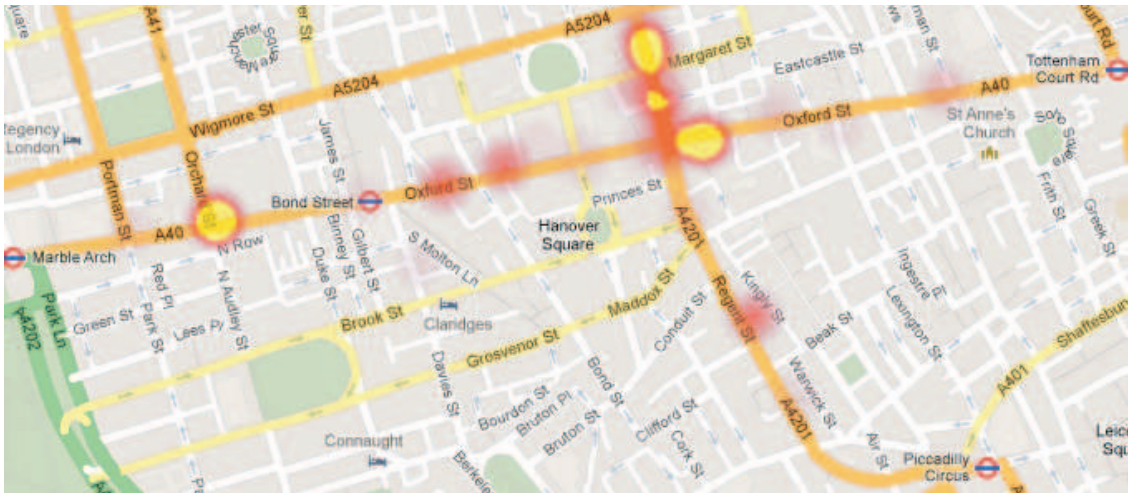
14. With over 200 million visitors annually the main streets of the West End are overcrowded. Visitor numbers increase each year. The opening of Crossrail in 2018 is also estimated to add a further 70 million visits. As the Business Improvement District for the West End we have worked hard with local authorities to

remove or reduce unnecessary clutter on the street including newspaper stands, “Golf Sale” signs, aggressive beggars and street furniture and railings to provide more space for visitors, residents and workers. Chuggers are an unhelpful blockage on these busy streets.

15. The data below has been collected over an eight month period between the 1 January 2012 and 31 August 2012.

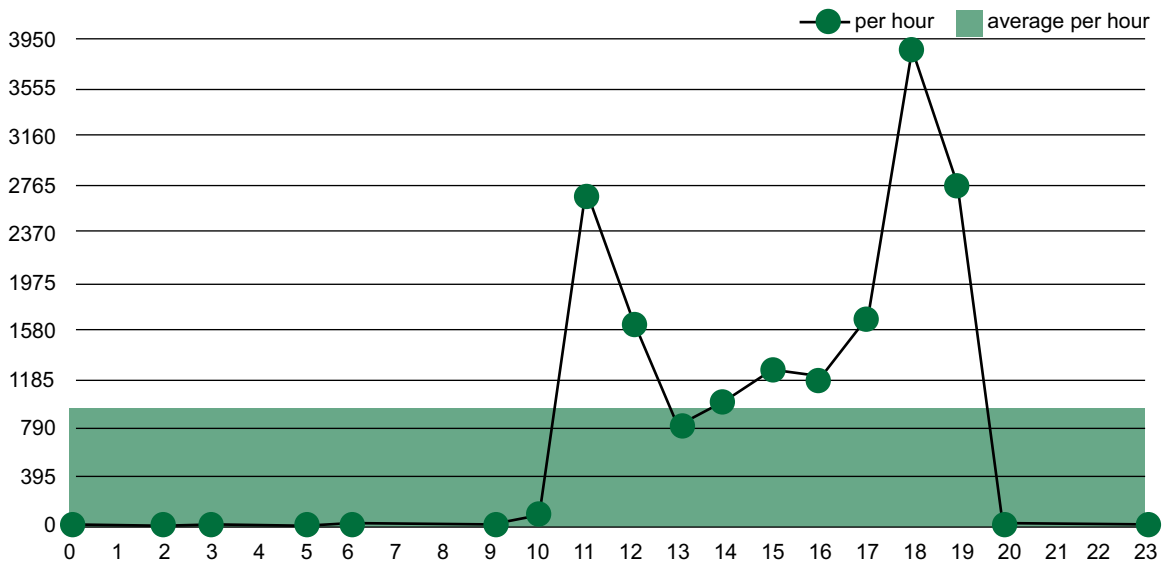
It clearly highlights our concerns that that there is a high density of charity activity concentrated at key locations, times and days which gives rise to this activity been seen as an unnecessary street nuisance.

*Location data:* The graphic below is a “Heat map” of data and clearly high lights (*bright yellow circles*) the location of where the chuggers are mostly concentrated.



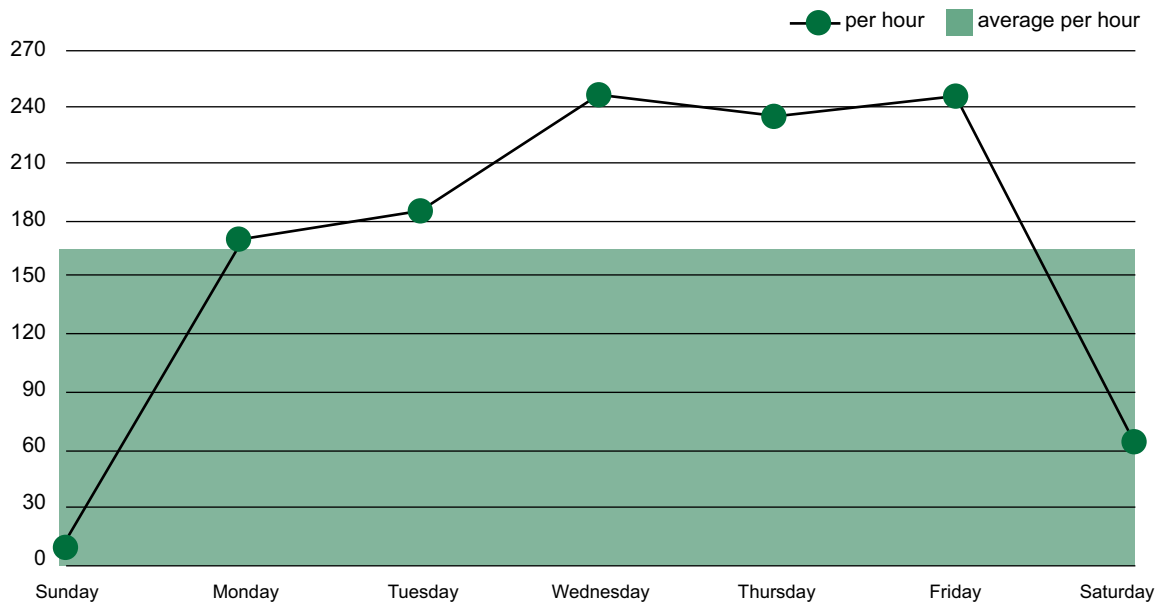
*Intelligence data by hour:* Below is data collected showing the number of Charity Chuggers

Recorded by hour. Again it is evident the high concentration at certain times of the day.



*Intelligence data by day of week:* Below is data collected showing the number of Charity

Chuggers recorded by day of week. Again it is evident the high concentration on certain days.



16. These patterns show that visitors to the West End at peak shopping hours are subject to multiple exposure to chuggers as they walk around the main streets of the West End in any single visit. It also shows the concentration of chuggers close to Oxford Circus underground station which is already one of the most congested parts of the West End. The lack of legal regulation leads to these concentrations.

#### PROBLEMS WITH CHUGGING IN THE WEST END—NUISANCE

17. Evidence from New West End Company surveys, comments made to Red Cap Wardens, and personal experience indicate that chugging causes concern to those who shop and work in the West End. As they walk down each street visitors are stopped many times by different charities or by multiple collectors for the same charity. Many people find these approaches aggressive and unwanted.

18. The activities of chuggers undo much of the good work of businesses and the local authorities to welcome visitors and create the friendly atmosphere that is needed to ensure that the West End remains the world's top shopping destination.

#### CURRENT REGULATION AND IMPLICATIONS

19. This form of charity collection is not regulated by any legislation. Charities and their agents engaged in chugging are subject to industry self-regulation, managed by the Public Fund Raising Regulatory Association (PFRA). The PFRA seeks agreements with local authorities regarding numbers, location and activities of chuggers.

20. Moreover, for all other forms of street collection in London, unlike the rest of England, the Metropolitan Police, rather than local authorities, have responsibility for regulation and enforcement.

21. In practice this means that, whereas Westminster City Council has powers to regulate and enforce regulations on other forms of activity on the streets of the West End, such as street traders and advertising, it has no control over charity collectors. This is both because chugging is excluded from legal regulation and, even if it were not, it would be the role of the Metropolitan Police to regulate these activities.

22. Westminster City Council has a wide remit to manage the West End and promote economic activity. It works with New West End Company and others to enhance the district to help maintain its global position. This includes taking action to keep the streets free of unnecessary congestion and making the district welcoming for visitors and residents alike.

23. In recent years New West End Council has worked with Westminster City Council to remove unwanted activities (e.g. golf sale signs) and regulate others to reduce potential nuisance (e.g. free newspaper stands). Through good management the council has managed to strike a balance which allows legitimate activities while maintaining the world class environment of the West End.

24. The PFRA has no such economic or social remit. While we appreciate the work that it does, it does not have the same aims and interests as those who manage the West End.

25. Similarly the Metropolitan Police does not have the same remit for economic development as Westminster City Council.

#### PROPOSALS

26. New West End Company is not calling for chuggers to be banned, just that the practice should be brought into the regulatory system of other forms of charity street collection. This will allow for better management of this important district.

27. We therefore support the recommendation of the Hodgson Review of the Charities Act 2006 that proposes that face to face collections should be brought into the licensing regime.

28. We also support the Review's recommendation that licensing responsibilities should transfer from the Metropolitan Police to local authorities if there is demand for such change.

*September 2012*

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### **Written evidence submitted by HCA International (CH 12)**

#### MAIN POINTS OF THE SUBMISSION

This submission addresses question 1. C. on what extent has the Charities Act 2006 achieved its intended effects of: providing a clear definition of charity, with an emphasis on public benefit?

- There is little clear definition of charity and some charities only have charitable status due to the fact that when they were established the law relating to charity was different. If they applied for charitable status today, it is highly debatable whether they would be granted charitable status.
- In the case of some charities their public benefit is less than obvious and less than transparent.
- The charitable status of organisations like Nuffield Health and the London Clinic, which operate in the same way as private healthcare providers, undermines the accepted amendment to the Health and Social Care Act 2012 which aims to ensure a “level playing field between NHS, 3rd Sector and Independent providers.” (Clause 23).
- The Office of Fair Trading (OFT) in their Report on the private healthcare sector which they have referred to the Competition Commission makes a clear point of the importance of establishing “competitive neutrality” between NHS, 3rd Sector and Independent healthcare providers. (OFT Private Healthcare Market Study April 2012, paragraph 9.10). The OFT also does not define 3rd Sector providers (OFT Private Healthcare Market Study April 2012, paragraph 9.9).

#### BACKGROUND TO HCA INTERNATIONAL

1.1 HCA is a private healthcare provider for the treatment of serious and complex medical conditions. We achieve some of the highest patient outcome and survival rates in the UK and our hospitals are virtually MRSA free.

1.2 HCA has six world class hospitals and four outpatient medical centres in London. Our hospitals are, The Harley Street Clinic, The Lister Hospital, London Bridge Hospital, The Portland Hospital, The Princess Grace Hospital and The Wellington Hospital. We also run the highly specialised private cancer treatment unit at University College Hospital (Harley Street at UCH) in London.

1.3 HCA has internationally recognised Centres of Excellence for cardiac care, neurology (brain and spine injuries), women's health, IVF and fertility. We also run the largest and most advanced private cancer network in London. HCA buys the very latest equipment, drugs and therapies to ensure that our patients always have access to the best possible treatment that is available anywhere.

1.4 HCA International employs 3,794 staff—1,504 of them are nursing staff (many non clinical roles are also performed by nurses); 158 Radiographers; and 599 other clinical professionals.

#### THE LIMITATIONS OF THE CHARITIES ACT 2006

2.1 The lack of a clear definition of charity with an emphasis on public benefit, allows charities like Nuffield Health and the London Clinic to enjoy charitable status benefits such as exemption from capital gains tax, corporation tax and hefty VAT exemption on expensive medical equipment and supplies.

2.2 On the other hand current legislation does not encourage such charities to spell out in transparent, tangible terms the public benefit they provide.

#### THE LIMITATIONS OF THE CHARITIES ACT 2006

2.3 Nuffield Health and the London Clinic compete for the same private patients and charge similar rates as the independent sector. They operate like any other independent sector provider.



2.4 They also pay salaries more in line with the private sector than organisations that most of the public consider are charities.

#### 2.5 Comparison of charities income and top executive remuneration

<i>Organisation</i>	<i>Income</i>	<i>Chief Officers Salary</i>	<i>Top 9 Executives remuneration</i>	<i>Source</i>
Oxfam	£251,500,000	£100,000 to £109,999	£740,000 to £829,991	Annual Report 2011
<b>London Clinic</b>	<b>£114,758,000</b>	<b>£990,001</b> <b>to £1,000,000</b>	<b>£2,390,000</b> <b>to £2,480,000</b>	<b>Annual Report 2011</b>
<b>Nuffield Health</b>	<b>£554,400,000</b>	<b>£710,000</b> <b>to £719,000</b>	<b>£3,420,000</b> <b>to £3,509,000</b>	<b>Annual Report 2011</b>
NSCPP	£148,600,000	£150,001 to £160,000	£940,009 to £1,030,000	Annual Report 2011
RSPCA	£115,288,000	£100,000 to £109,999	£670,000 to £759,991	Annual Report 2011
Cancer Research UK	£483,000,000	£210,004 to £220,000	£1,450,000 to £1,530,000	Annual Report 2011
Wellcome Trust	£254,400,000	£580,000 to £589,999	£2,750,000 to £2,839,991	Annual Report 2011

#### Notes

The Wellcome Trust is a global charitable foundation whose Fund at the end of the financial year 2010 to 2011 stands at £12,352,500,000.

#### CONCLUSION

3.1 Because of their charitable status, Nuffield Health and the London Clinic receive substantial commercial benefits through tax breaks. It would seem that the Charities Act 2006 allows such discrepancies, through its failure to provide a clear definition of charity or to emphasise the need for transparent and tangible public benefit.

3.2 These concerns are reflected by bodies like the OFT. The Office of Fair Trading (OFT) in their Report on the private healthcare sector which they have referred to the Competition Commission makes a clear point of the importance of establishing “competitive neutrality” between NHS, 3rd Sector and Independent healthcare providers. (OFT Private Healthcare Market Study April 2012, paragraph 9.10). The OFT also does not define 3rd Sector providers (OFT Private Healthcare Market Study April 2012, paragraph 9.9).

3.3 The evidence highlights the limitations of the Charities Act 2006. There needs to be a comprehensive review of the definition of charity and the provision of public benefit.

September 2012

### Written evidence submitted by Sport and Recreation Alliance (CH 13)

#### INTRODUCTION

The Sport and Recreation Alliance is the national alliance of governing and representative bodies of sport and recreation in the UK. Our 320 members represent 150,000 clubs across the country and some 8 million regular participants. The Sport and Recreation Alliance exists to promote the role of sport and recreation in healthy and active lifestyles, to encourage a policy and regulatory environment in which sport from grassroots through to elite level can flourish, and to provide high quality services to help its members continually improve and progress.

The Alliance is represented on HMRC’s Charity Tax Forum working group and we work closely with other charity stakeholders on issues such as last year’s Charity Commission consultation on advancing amateur sport as well as on the Community Amateur Sports Club scheme (CASCs). We also work with Sport England and Just Giving to promote Gift Aid collection by CASCs and most recently we have been collaborating with NCVO during Lord Hodgson’s review of the Charities Act 2006.

The Alliance welcomes the Public Administration Select Committee inquiry into the impact and implementation of the Charities Act and we would be grateful if the committee could consider several of our points during the course of this work.

#### SPORT AND CHARITIES

Sport and charities are closely interlinked. There are currently over 300 sports clubs registered as charities in the UK—as well some 6,200 CASCs—encompassing a huge variety of sporting and recreational activities.

Furthermore, as with many charities, volunteers play a crucial role in the day to day running of sport clubs, with an average of 20 volunteers offering their services at the average sports club in the UK.<sup>31</sup>

Having the ability to benefit from the financial advantages conferred by charitable status is a powerful way of improving clubs at local and community level. This can in turn benefit wider society through the contribution that sport makes in areas like health, education, social inclusion and crime prevention.

#### LORD HODGSON'S RECOMMENDATIONS

With this in mind, the Alliance would first like to address some of the specific recommendations that were made by Lord Hodgson in his review of the Charities Act 2006.

##### 1. REGISTRATION

- (i) The Alliance welcomes the proposal to increase the income threshold for compulsory registration with the Charity Commission from £5,000 to £25,000. This would help to provide more flexibility for the very smallest charities and enable them to make a choice regarding registration which best suits their requirements.
- (ii) In addition, the proposal to make voluntary registration an option for all charities, regardless of income, will help small charities to obtain the "badge" of registration to reassure donors and help fundraising efforts. These charities will have the term "small" in front of their charity number in recognition of this fact and this in turn will most likely encourage more charities to register since being unregistered could raise question marks about the credentials of the charity in the minds of potential donors.

##### 2. GIFT AID

The Alliance is uncomfortable with Lord Hodgson's proposal to impose sanctions when accounts and Annual Returns are filed late, such as the withdrawal of Gift Aid and/or fines. This proposal will only impact charities negatively and could result in many charities missing out on vital Gift Aid repayments. Since so many charities are run by volunteers who are already constrained by time, administrative burdens, resources and technical inexperience, the introduction of an additional hurdle that will only make their lives more difficult and should be avoided.

##### 3. DISPOSAL OF LAND

At present, the process for selling off land is lengthy, complex and bureaucratic so the proposal to deregulate the disposal and mortgaging of charity land is a welcome reduction of red tape. However, the thick layer of regulation does have the advantage of it acting as a safeguard that forces trustees to think long and hard about the decision to sell off land and it prevents charities from hastily disposing of land without fully considering the costs and implications. As a result, the Committee should carefully consider the merits and drawbacks of following through with such a proposal.

#### OTHER RELEVANT ISSUES

Aside from these specific recommendations, the Alliance would like to flag up a few more issues which are germane to the regulation of charities but which were not addressed in Lord Hodgson's review.

##### 1. *The definition of amateur sport for charitable purposes*

The Alliance would like to see a broad definition of amateur sport used that recognises the wide range of benefits conferred by participation. This means that all the mental health and social benefits of sport are considered so that as many different forms of sport and recreation as possible can benefit from charitable status. A flexible approach towards determining amateur status should also be adopted so as not to preclude sports clubs which are overwhelmingly run along amateur lines.

##### 2. *Registration criteria*

The Alliance feels that the registration criteria for charitable status should not be overly restrictive or complex for sports clubs, particularly when we consider the time and resource constraints imposed on the 97% of sports clubs which are volunteer run<sup>32</sup>. The Alliance would advocate a pragmatic and flexible approach that takes into account the various nuances of the amateur sports sector and enables as many clubs as possible to benefit from charitable status.

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<sup>31</sup> Sport and Recreation Alliance: *Sports Club Survey* (2011).

<sup>32</sup> Sport and Recreation Alliance: *Sports Club Survey* (2011).

### 3. Reporting requirements

The reporting requirements imposed on sport charities should be kept to an absolute minimum so that volunteers are free to carry out their day to day tasks rather than fill in complex and burdensome paperwork. For example, if a charitable sports club runs a bar it must set up a separate trading subsidiary and restructure the club to ensure the two entities are kept apart and licensed accordingly. It is bureaucratic hurdles such as these are preventing more sports clubs from becoming charities.

### 4. CASC and Charity

Under the existing provisions of the Charities Act 2006, a CASC is not allowed to become a charity but in practice this has happened on a number of occasions. In reality, a club simply needs to set up a new entity and transfer its assets across to in order to overcome this obstacle. Any future revisions to the Charities Act should address this issue and instead state that it is acceptable for a CASC registered club to become a charity at a later date should the club feel that charitable status is more appropriate to meet its requirements. This would reduce the costs and bureaucratic hurdles that a CASC must overcome to register as a charity.

## CONCLUSION

The Alliance welcomes the Public Administration Select Committee's willingness to examine the Charities Act 2006 and the recommendations from Lord Hodgson's review. As the umbrella body for sport and recreation organisation in the UK, we ask the Committee to in particular consider the following points while it conducts the inquiry:

- The Committee should support an increased income threshold for obligatory registration with the Charity Commission, as well as proposals to distinguish between small and large charities.
- Withdrawal of Gift Aid and fines for charities that file their returns late will only have a negative impact on the sector and should be avoided.
- Careful consideration should be given to the merits of deregulating the disposal or mortgaging of land assets.
- A broad and flexible definition of amateur sport for charitable purposes should be used to recognise the excellent work that sport and recreation clubs do in the community.
- The registration criteria for charitable status should not be overly restrictive or burdensome for sports clubs.
- Reporting requirements should be kept to a minimum in recognition of the fact that the vast majority of charities are run by volunteers who can ill afford the additional burdens of complex and time consuming paperwork.
- The legislation around a CASC becoming a charity should be clarified as soon as possible.

The Sport and Recreation Alliance welcomes the opportunity to respond to this consultation, and would be happy to follow up on any issues that arise from this response to the Select Committee.

*September 2012*

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## Written evidence submitted by British Heart Foundation (CH 14)

### 1. SUMMARY

1.1 The British Heart Foundation (BHF) is the nation's leading heart charity. We are working to achieve our mission of a world in which no-one dies prematurely of heart disease. We fund ground breaking medical research, provide support and care to people living with heart disease and advocate for change. Our work relies on the generosity of the public.

1.2 We are supportive of the main provisions of the Charities Act 2006, particularly the moves towards greater self-regulation of fundraising.

1.3 This submission focuses on our concerns around the proposal in the Review of the Charities Act to abolish National Exemption Orders for house-to-house collections. We believe this move would:

- increase the administrative burden on both charities and local authorities;
- do little to increase public confidence in charitable collections;
- fail to address the real issue with house-to-house collections, which is the proliferation of commercial collections and the rise of bogus collectors;
- place a financial burden on charities like the BHF, taking resources away from our mission.

We therefore believe that National Exemption Orders should be retained in any changes to the regulation of house-to-house collections.

## 2. HOUSE-TO-HOUSE COLLECTIONS

2.1 The debates during the passage of the Charities Act 2006 recognised the need for a new system for licensing of public charitable collections. However, it is clear that this role cannot be effectively fulfilled by the Charity Commission, as envisaged in the Act, because:

- the Commission has had a significant reduction in operational budget and estimate that the cost of setting up the new scheme would be £4 million and £1.5 million per year to run the scheme thereafter;
- the Commission is only able to regulate charities, and so this proposal will do nothing to address the lack of a level regulatory playing field between charitable and commercial collectors

We therefore support the recommendation in the Review of the Charities Act not to bring forward these provisions. This view is widely shared across the charitable sector, including by the Charity Retail Association.

2.2 House-to-house collections are a popular way for the public to give to the causes that they care about—in a recent survey half of people who had received a bag from a charity collecting house-to-house collections donated cash or goods<sup>33</sup>. We recognise the importance of ensuring public confidence in house-to-house collections and have worked to raise awareness of how best householders can ensure that their donations benefit the causes that they care about<sup>34</sup>. We abide by the Charity Retail Association Code of Charity Retailing 2010–11 and are a member of the Fundraising Standards Board and the Public Fundraising Regulatory Association.

2.3 The BHF is one of a number of charities holding a National Exemption Order because we collect in more than 70 local authority areas in England and Wales. This is vital to ensuring that we are able to conduct the collections of donated stock and money needed to fight heart disease. We believe that these orders should be maintained in any changes to the regulation of house-to-house collections.

2.4 The BHF relies on donations from the public to fund our life saving work. In 2011–12 BHF charity shops raised over £31.2 million for the fight against heart disease—the UK’s biggest killer- and £850,000 has been raised so far from people who signed up to a direct debit as part of our door-to-door fundraising campaigns.

2.5 Our shops are valued by the many people in local communities who frequent them and make an important contribution to thriving high streets. The BHF carries out 100,000 collections of donated stock to supply our shops each year in the UK and so applying to each local authority is not realistic or feasible. While it is difficult to anticipate how applying for these collections on a local basis would operate in practice, we estimate that a requirement to apply for each of these collections individually would cost us around £650,000 a year—the equivalent of funding fifteen specialist cardiac nurses to support heart patients a year.

2.6 Furthermore, a requirement to apply for a licence for every collection of donated goods that we undertake would inevitably lead to delays in acquiring stock while waiting for approval. This would have a devastating impact on the BHF’s work. Our charity shops rely on continuity of stock supply and every one% reduction in house-to-house collections would cost the BHF £400,000 in lost sales. This money could be used to support six of our Research Fellows to advance their life saving work for a year. At its most extreme a breakdown of supply in house to house stock would jeopardise the future viability of our shops.

2.7 Donors signing up to give direct debits via house-to-house collections are an important and growing source of income for the BHF. In 2011–12, 22,000 people signed up to give to us in this way—which means a predictable source of income for our research, prevention and care work.

2.8 It is unclear whether a new system for house-to-house collections would enable us to apply for collections of both donated stock and money simultaneously. If we needed to make separate applications in the 375 local authority areas in England and Wales where we undertake collections of money this would mean additional administration costs of £750,000 a year—this money could fund twenty one PhD students to carry out research into the prevention and treatment of cardiovascular disease for a year.

2.9 A requirement to apply for separate local licences for collections of money would also mean a significant increase in our donor acquisition costs. This would mean we would need to run smaller fundraising campaigns and we estimate that this would lead to a 20% reduction in income from direct debits, amounting to a loss of £2 million over the next five years. This money could be used to fund one of our flagship projects working with people in local communities to tackle the disproportionate burden of heart disease amongst lower socio-economic groups.

2.10 One of the stated aims of the Review of the Charities Act is to facilitate innovation and growth in the sector. This proposal would have the opposite effect. The Government has emphasised its commitment to cutting red tape and reducing the bureaucratic burden on charities. Any changes to the current National Exemption Order provisions would only increase the administration and cost of generating stock to charities.

2.11 The abolition of National Exemption Orders would also place additional and significant burdens on local authorities. Licensing departments would be required to find the funds and additional staff time for

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<sup>33</sup> Charity Retail Association (2012) Consumer Research Report.

<sup>34</sup> <http://www.bhf.org.uk/shop/donating-goods/stolen-donations.aspx>

granting applications at a time of dwindling resources. We are in the process of getting in touch with some of the local authority areas where we carry out a number of collections each year. We have to date received estimates that 30 to 45 minutes of staff time is needed to process each application and that the cost to the local authority of processing each application is £3–5. Given that we carry out around 300 collections a year in some local authority areas, applying for each collection separately would bring significant additional costs to licensing departments. As these are just the figures for one National Exemption Order holder, it is clear that the overall cost to local authorities of abolition would be vast.

2.12 We recognise that some charities that do not hold National Exemption Orders may be facing difficulties in conducting house-to-house collections, but if this is the case it is counterintuitive to extend these difficulties to the whole sector. Instead, the focus should be on supporting any organisations that have encountered problems. The Charity Retail Association has developed some alternative proposals for how organisations conducting fewer collections could be better supported, including a “fast track” process for charities that have a good track record of conducting collections.

2.13 Rather than harming charities through the abolition of National Exemption Orders, we believe the Government should focus on creating a level playing field between charities and commercial collectors undertaking house-to-house collections. Where companies are collecting on behalf of charities they should be required to provide transparent information to householders about the proportion of funds raised going to charities and where companies are collecting for purely commercial gain this should also be made clear to householders. Any changes to the regulation regime for house-to-house collections must bring greater transparency for the public and consistency in requirements on commercial and charity collectors.

2.14 Finally, we believe that further action is needed to tackle charity bag fraud and theft (bogus collectors). In 2010–11, BHF shop staff reported 241 incidents of theft of donated goods from doorsteps but we believe that this is only the tip of the iceberg. While the illegal nature of this activity means this cannot be addressed through a new regulatory system, those convicted of these offences should face the stiffest penalties to deter others and retain public confidence in house-to-house collections. We also believe that the Sentencing Council for England and Wales should include the harm to charities and philanthropy as an aggravating factor in sentencing guidance on theft and fraud.

### 3. SELF-REGULATION OF FUNDRAISING

3.1 The BHF is supportive of self-regulation of fundraising. We are a member of both the Fundraising Standards Board and the Public Fundraising Regulatory Authority. Although our direct contact with these organisations has been limited, we consider self-regulation to have been a success and would like to see this continue.

*September 2012*

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## Written evidence submitted by Help the Hospices (CH 15)

### 1. ABOUT HELP THE HOSPICES

1.1. Help the Hospices is the charity for hospice care representing and supporting local hospices across the UK.

1.2. Hospices are consistently used as an example of the success and potential of charities across England. Eighty-five percent of hospices in the UK are local, independent charitable organisations providing tailored care to 360,000 people including families and carers.

1.3. Together, charitable adult hospices are the largest charitable cause in the UK attracting substantial support from the communities they serve. Hospices raise more than £580 million annually through donations, legacies and trading and are supported by more than 100,000 volunteers whose contribution is estimated to be worth in excess of £112 million each year.

1.4. We welcome the opportunity to contribute to the Select Committee’s inquiry into the impact and implementation of the 2006 Charities Act.

### 2. ABOUT THIS MEMORANDUM

2.1. This memorandum draws on the experience of independent charitable hospices around England, and is supplemented by references to research conducted by Help the Hospices and others.

2.2. We have limited our comments to the following areas:

- Impact of the Charities Act 2006.
- Key functions of the Charity Commission.
- How should the Charity Commission be funded.

- The increase in the number of organisations that operate for the public good such as social enterprises and mutuals, and their impact on the public perception of what a charity is, and how charities are regulated .
- How successful is the self-regulation of fundraising through the Fundraising Standards Board.

### 3. SUMMARY OF KEY POINTS

- The headings of charitable purpose should include a distinction between those who provide a universal or selective benefit (*Paragraph 4.5*).
- The Charity Commission should develop stronger guidance on “public benefit” for charities in receipt of statutory funding to provide public services (*Paragraph 4.6*).
- We support the work of the public collections reform project currently being lead by the Institute of Fundraising to produce an evidence base and principles of a framework for public collections reform, and welcome the initial principles put forward by the project, which have been shared in their submission to this Committee. (*Paragraph 4.9*).
- The Charity Commission should consider accountable, diverse and transparent funding and income models (*Paragraph 6.1*).
- Any fee system introduced by the Charity Commission should be proportionate and take into account the nature, role and scale of the charities or groups of charities (*Paragraph 6.3*).
- Any fee system introduced by the Charity Commission should include safe guards against disincentives for collaboration between regulators (*Paragraph 6.4*).
- The Charity Commission, Government and sector bodies should work together to raise awareness of social enterprises and mutuals (*Paragraph 7.1*).
- The Government should put in place the regulation required to establish Charitable Incorporated Organisations without further delay and work with umbrella bodies such as Help the Hospices to support its implementation (*Paragraph 7.2*).
- The self-regulation of fundraising should continue and that statutory regulation is unnecessary (*Paragraph 8.1*).

### 4. IMPACT OF THE CHARITIES ACT 2006

4.1. The Charities Act 2006 has proved to be a key piece of legislation, producing a modern legal framework, which, in our view, remains fit for purpose.

4.2. We welcome the Lord Hodgson review<sup>35</sup> and the report of the NCVO Charity Law Review Advisory Group<sup>36</sup>, which identify a number of changes that could improve the current law, or clarify existing guidance with regards to charity regulation. A key theme of debate within the sector and these reviews has been that the Act must be supported by regulators working more closely in partnership to reduce the burden on charities and to minimise regulatory duplication for the charity sector.

4.3. Hospices are unusual in that they face multiple and often over-lapping regulation, both as providers of care and as charities. Currently, hospices must meet the regulatory requirements of over 11 regulators annually. Many of these demands of these complex requirements could be reduced by regulators working more closely together and sharing information submitted by registered bodies.

4.4. Hospices also face growing regulation as a result of the Health and Social Care Act 2012. The Act established a new joint licence to be developed by the Care Quality Commission and Monitor. We are gravely concerned that the two regulators do not appear to be collaborating in the development of the licence. This concern was compounded by proposals outlined in a recent consultation issued by Monitor, many of which were, in our view, incompatible with regulatory requirements overseen by the Charity Commission and challenges the Government’s commitment to increasing the role of civil society organisation in providing public services and reducing red tape<sup>37</sup>.

4.5. The 13 headings of charitable purposes outlined in the Charities Act 2006 are welcomed. **We recommend that the headings include a distinction between those charities providing a universal or selective benefit.** This would serve to reinforce the universal nature of public services as charities expand their role in the provision of such services.

4.6. The definition of “public benefit” based on case-law is something that we would not want to change. However, the Coalition Government’s public service reform programme, which is seeking to increase the role of charities in providing public services, requires supportive action, which would also support public

<sup>35</sup> Cabinet Office (2012) “Trusted and Independent: Giving charity back to charities—Review of the Charities Act 2006” Available to view at: <http://www.cabinetoffice.gov.uk/resource-library/trusted-and-independent-giving-charity-back-charities-review-charities-act-2006>

<sup>36</sup> NCVO (2012) “Charity Law Review Advisory Group’s final report and recommendations” Available to view at: <http://www.ncvo-vol.org.uk/ncvo-charity-law-review-advisory-group>

<sup>37</sup> Help the Hospices (2012) “Licence conditions stakeholder engagement exercise—tranche 2”. Available to view at: <http://helphospices.org.uk/our-services/running-your-hospice/policy/responding-to-consultations/?entryid186=107210>

confidence. **We recommend that the Charity Commission develops stronger guidance on “public benefit” for charities in receipt of statutory funding to provide public services.**

#### PUBLIC COLLECTIONS

4.7. We have previously recommended that the proposed public collections scheme put forward in the 2006 Charities Act should not be introduced<sup>38</sup>. Hospices have expressed concern about the significant duplication and extra regulatory burden with the introduction of the proposed scheme and we had recommended that this should not cover lotteries, which are already heavily regulated.

4.8. We continue to have concerns that proposals put forward by the Hodgson Review will be more expensive than those proposed by the 2006 Charities Act, and still do not address concerns of the public, local authorities and charities.

4.9. We support the work of the public collections reform project currently being lead by the Institute of Fundraising to produce an evidence base and principles of a framework for public collections reform, and welcome the initial principles put forward by the project, which have been shared in their submission to this Committee.

#### 5. KEY FUNCTIONS OF THE CHARITY COMMISSION

5.1. The Charity Commission is well regarded by hospices across England but our members have little direct engagement with the Commission. We support the continuation of both the Charity Commission’s regulatory and advisory role but are concerned that the reputation of the charity sector could be undermined by a failure to effectively regulate some charities. We believe that the Charity Commission should utilise its substantial enforcement powers to meet its public confidence, public benefit, compliance and accountability objectives. Striking a balance is difficult but we feel that this can and must be achieved through regulation that balances both national and local priorities, as well as the provision of both generic and specialist advice.

5.2. As the umbrella organisation for hospice care, we have welcomed Lord Hodgson’s recognition that there is potential for umbrella bodies to play a larger role in supporting the sector and scope for increased collaboration with the Charity Commission. Help the Hospices currently provides advice to its members on a whole range of issues and in the future we hope that the Commission will work with umbrella bodies such as ours to maximise the benefit of advice and guidance that is sub-sectorally specific. Promoting best practice is central to what we do and we are looking forward to continuing our work with the Charity Commission, Fundraising Standards Board and Government to ensure local charitable hospices are best placed to meet the growing needs of the communities they serve.

5.3. As the Inquiry recognises, there are a growing number of organisations that operate for the public good, such as social enterprises and mutuals. To protect and support public trust and confidence in the wider sector, the Charity Commission, Government and sector bodies should work together to raise awareness of these organisations.

#### 6. HOW THE CHARITY COMMISSION SHOULD BE FUNDED

6.1. The income of any regulator should be diverse. We recommend that the Charity Commission should consider accountable, diverse and transparent funding and income models.

6.2. At a time of economic difficulty and increased demand for their services, our member hospices would be concerned about the prospect of a new fee system for the Charity Commission. Unlike many charities, hospices already have experience of a fee-charging regulator—the Care Quality Commission—which has faced widely reported problems.

6.3. We recommend that, should any fee system be introduced by the Charity Commission, this system should be proportionate and take into account the nature, role and scale of the charities or groups of charities.

6.4. **We also recommend that any fee system introduced should incentivise collaboration between regulators.** For example, by exploring the potential for dual registration across multiple regulators to minimise the cost burden on charities.

7. The increase in the number of organisations that operate for the public good such as social enterprises and mutuals, and their impact on the public perception of what a charity is, and how charities are regulated.

7.1. Several hospices have established their own social enterprises or become a social enterprise. There are many common misconceptions about what social enterprises do and the way they work and **we recommend that the Charity Commission, Government and sector bodies should work together to raise awareness of these organisations and dispel some of the uncertainty that surrounds them.**

7.2. With regard to legal structures, many social enterprises are both registered charities and registered companies, and we welcomed the provision of the Charitable Incorporated Organisation (CIO) in the Charities

<sup>38</sup> Help the Hospices (2012) “A submission from Help the Hospices to the Charities Act (2006) review” Available to view at: <http://www.helpthehospices.org.uk/our-services/running-your-hospice/policy/responding-to-consultations/?entryid186=107201>

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Act 2006. We recommend that the Government should put in place the regulation required to introduce CIOs without further delay, and should work with umbrella bodies such as Help the Hospices to support its implementation.

#### 8. HOW SUCCESSFUL IS THE SELF-REGULATION OF FUNDRAISING THROUGH THE FUNDRAISING STANDARDS BOARD

8.1. Ensuring public trust and confidence in the charitable sector is essential to its continued success. We believe that the self-regulation of fundraising should continue and that statutory regulation is unnecessary.

8.2. Self regulation should actively be improved by the sharing of best practice. In many instances, hospices achieve best practice within the sector with regards to providing information to enable people to understand local issues, identify ways to address them through giving and then see the results of their efforts.

8.3. We welcome the Lord Hodgson review recommendation that the Fundraising Standards Board and Public Fundraising Regulatory Association should explore how they can work more collaboratively, including around raising public awareness of their work.

September 2012

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#### Written evidence submitted by Wellcome Trust (CH 16)

1. As the UK's largest charitable foundation, the Wellcome Trust is pleased to have the opportunity to provide input into the Public Administration Select Committee's (PASC) review of the impact and implementation of the Charities Act 2006 (Act).

2. The Trust believes that the Act has gone a long way in achieving its intended effects. However, as the recent report on the Act undertaken by Lord Hodgson has highlighted<sup>39</sup>, there is still a lot more that can be achieved through changes in legislation and policy that could give greater freedom and control to charities for the benefit of the public.

#### WELLCOME TRUST RESPONSE TO PASC'S REVIEW QUESTIONS

*To what extent has the Charities Act 2006 achieved its intended effects of:*

(a) *enabling charities to administer themselves more efficiently and be more effective?*

3. The Act has gone a long way to achieving these aims but Lord Hodgson's Report highlights a number of areas where charities can be empowered to be more effective. Of particular interest to the Trust are Lord Hodgson's recommendations on social investment (a term used by him as a catch-all term for any investments that have social impact as an element of their overall benefit). His recommendations on social investment are therefore relevant to programme-related investment activity carried out by the Trust's funding of technology transfer activities.

4. Whilst charity law as it currently stands does not prohibit social investment, it is not set up to support it hence Lord Hodgson's recommendations to integrate social investment into the legal and regulatory framework. The Trust strongly supports these recommendations;

(b) *improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?*

5. The Trust does not raise funds from the public and therefore has no comments about the regulation of charity fundraising.

6. The Act has gone some way to reducing regulation on the sector but the Trust believes that further measures can be introduced to reduce unnecessarily burdensome regulation. In particular, we strongly support Lord Hodgson's recommendations that:

- Information submitted by charities to the Charity Commission (**Commission**) should be combined in a single document with a list of key risk indicators that would help the Commission select samples for investigation;
- The Companies House and Charity Commission Annual Returns should be combined, reducing the burden of dual regulation by charitable companies;
- The processes of applying for registration with the Commission and for tax relief from HMRC should be combined;
- The income level at which charities are required to have their accounts audited should increase from £500,000 to £1 million;

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<sup>39</sup> <http://www.cabinetoffice.gov.uk/sites/default/files/resources/Review-of-the-Charities-Act-2006.pdf>



- The Summary Information Return which forms Part C of the Annual Return to the Commission and which must be completed by charities with an income of over £1 million p.a. should be scrapped as this duplicates information provided by large charities elsewhere.

(c). *providing a clear definition of charity, with an emphasis on public benefit?*

7. The Act has gone a long way to achieving these aims. The Trust agrees with Lord Hodgson's recommendations that the list of charitable purposes in the Act should remain as is and that no statutory definition of public benefit should be introduced. The Trust agrees with Lord Hodgson's view that the harmonisation of the definition of charity across the UK remains desirable in the longer term but that this is not the time to address the issue.

(d). *modernising the Charity Commission's functions and powers as regulator, increasing its accountability and preserving its independence from ministers?*

8. The Trust believes that the Act has gone a long way to achieving these aims and strongly supports Lord Hodgson's recommendation that the Commission remains a Non-Ministerial Department.

9. The Trust *disagrees* with Lord Hodgson's recommendation that consideration should be given to whether the name "Charity Commission" should be changed to "Charity Authority". The time and cost of implementing this change is likely to outweigh any possible benefit. In any event, the Trust believes there could be a positive disbenefit to the proposed change—"Charity Commission" is a well-established brand and the proposed change may well confuse the public.

*What should be the key functions of the Charity Commission?*

10. The Trust agrees overall with Lord Hodgson's recommendation that the Commission must focus on its core regulatory function and less on its role as 'friend and adviser' to charities, given the financial constraints upon it. However the Commission should continue to provide its generic guidance to aid charities in complying with the law and continue to offer bespoke legal advice (for example in relation to specialised schemes) on a cost recovery basis.

*How should the Charity Commission be funded?*

11. The Trust believes that charity regulation should be funded predominantly by the State to help preserve a sector that brings huge public benefit to society.

12. The Trust does have some reservations about Lord Hodgson's recommendations relating to charging for regulation (for example, the proposals for charging organisations for registering as new charities and for filing annual returns). Whilst these recommendations, if implemented, would not directly impact the Trust, they may have negative consequences for smaller charities in the sector and therefore they would benefit from detailed consideration of the pros and cons before any decision to take these forward is made.

13. In the Trust's response to the recent Commission consultation on the information it collects from charities, we expressed the view that fining charities that are late in filing their accounts would disproportionately affect smaller charities that may be relying on *pro bono* or amateur help with finance and are therefore more likely to run into difficulties with filing on time than larger charities. Also any fine imposed on a charity would, in effect, punish the beneficiaries. If the fine were to be imposed upon trustees themselves, this would have the effect of disincentivising people from becoming trustees and the public benefit of slightly more timely reporting would be outweighed by the governance problems that would arise from a lack of willing trustees.

4. *Is the current threshold for registration with the Charity Commission set at an appropriate level?*

14. The current threshold for compulsory registration with the Commission seems too low. The Trust supports Lord Hodgson's proposals that:

- the income threshold for charities to register *compulsorily* should rise from £5,000 to £25,000, matching the threshold for filing accounts; and
- for charities whose income falls below £25,000, *voluntary* registration should be introduced.

15. However, the increase in the income threshold needs to be implemented at the same time as the ability to register voluntarily is introduced (Lord Hodgson's Report is unclear on this point). Charities with an income of less than £25,000 should not have a period of time where they are unable to register voluntarily with the Commission—Lord Hodgson's Report makes it clear that the absence of a charity number can have a profound effect on the ability of a charity to access funding.

5. *How valid are concerns that there are too many charities?*

16. We do not have any comments.

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6. *Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

17. The Trust's main interaction with exempt charities is through its funding of research undertaken within Higher Education Institutes in the UK. The Trust's experience to date is that there have been no problems with the regulation of universities by their principal regulators (HEFCE in England, Office of the Scottish Charity Regulator (OSCR) in Scotland and the Charity Commission in Wales). Charity law regulation of universities in the UK should be consistent and it is important that the Commission ensures that there is no material divergence of approach as between HEFCE, OSCR and the Commission.

18. The Trust supports Lord Hodgson's recommendation that principal regulators of exempt charities be renamed "co-regulators" as this better describes their relationship with the Commission.

7. *There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

19. We do not have any comments.

8. *How successful has the introduction of the Charity Tribunal and its replacement, the First-Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

20. Whilst the Trust has no direct experience of using the First Tier Tribunal (Charity) itself, it supports Lord Hodgson's recommendations on the Tribunal as these will improve transparency and clarity of the appeal process from the Commission and increase accessibility.

9. *How successful is the self-regulation of fundraising through the Fundraising Standards Board?*

21. The Trust does not raise funds from the public and has no comments.

10. *Are the rules around political activity by charities reasonable and proportionate?*

22. The Trust believes that the Commission's current rules on political activity by charities are reasonable and proportionate. In March 2012, the Trust responded to a Cabinet Office Consultation on a Statutory Register of Lobbyists and emphasised that charities and charity umbrella groups should not be captured by the proposed statutory register of lobbyists. Lobbying and other political activity may be undertaken by a charity only in the context of supporting the delivery of its charitable purposes. As information about those charitable purposes is publicly available, requiring charities to register would not deliver additional transparency benefits, and it would impose additional costs on charities.

#### LACK OF JOINED-UP APPROACH BY GOVERNMENT

23. The one additional area that the Trust wishes to flag to PASC is the lack of a joined up approach towards charity regulation on the one hand and the tax treatment of charities on the other. It is important to ensure that charities do not become the innocent victims of anti-avoidance legislation and other tax measures which may be appropriate to for-profit organisations but which are usually completely inappropriate for charitable organisations. The Trust is expanding on these concerns in its responses to separate consultation documents issued by HMRC on anti-avoidance measures<sup>40</sup>.

The Wellcome Trust is a global charitable foundation dedicated to achieving extraordinary improvements in human and animal health. We support the brightest minds in biomedical research and the medical humanities. Our breadth of support includes public engagement, education and the application of research to improve health. We are independent of both political and commercial interests.

September 2012

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### Written evidence submitted by the Self Help Group (SHG) (CH 17)

#### SUMMARY

- There should be an independent ombudsman to deal with complaints about charities.
- Failure to provide an open and independent complaints system damages all charities in the public's perception.
- If charities are to be allowed to continue campaigning politically it should be possible for people to donate either to a fund whose sole purpose is to fund the charities actual activities or to a fund whose sole purpose is to fund political campaigns.

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<sup>40</sup> HMRC's General Anti-Abuse Rule (GAAR) Consultation document (closing date 14 September 2012) HMRC Consultation: The attribution of gains to members of closely controlled non-resident companies (closing date 22 October 2012).

1. **The Self Help Group for Farmers, Pet Owners and Others experiencing difficulties with the RSPCA (The SHG)** provides support and legal advice to people who are being investigated and prosecuted by the RSPCA, whose activities and prosecutions are often controversial and have attracted a great deal of criticism.

#### REGULATION OF CHARITIES

2. Our main concern is the lack of any independent investigatory or regulatory organisation to which either members of the public or employees or volunteers of a charity can turn, either for advice or to report issues that concern them. Currently the Charity Commission openly admits that it can only deal with a limited range of issues.

3. Every other profession or range of services have proper controls in place and there is a clear and open complaints system which usually culminates in an ombudsman. There is no reason why charities should be exempt from proper and open regulation, whether in terms of fund raising, financially or for the simple complaints of bad service that can lead to serious public damage if not addressed and dealt with at an early stage.

4. Such an Ombudsman should have the power to deal with complaints about charities, to refer matters to a different ombudsman if one exists who specialises in the subject matter of the complaint, and would have the authority to order a charity to provide adequate redress or alter their procedures if a complaint was upheld.

5. The ombudsman should also have the power to refer matters to the relevant criminal investigatory authority before dealing with the complaint if it appears that a crime may have been committed.

6. The public are becoming increasingly cynical, especially when most complaints about a charity are investigated and determined by the charity itself and the only remaining option is to take expensive legal advice, something beyond the reach of most people with Legal Aid being cut and cut again.

7. An example of what can happen to the public perception of a charity that fails to deal with complaints and concerns expressed by the public can be seen at Pet Forums.

<http://www.petforums.co.uk/introductions/244095-hello-rspca.html>

The thread has currently run to some 113 pages and 1,127 posts, mainly complaining about lack of accountability at the RSPCA. This is the sort of adverse publicity that can only serve to bring the reputation of charities into disrepute and is the direct and inevitable result of the lack of an open and accessible complaints procedure.

8. We re-iterate: all other sectors pay for their own regulators. Why should charities be any different? If charities can afford to pay high salaries to their Chief Executives and other staff then they should not plead poverty when asked to pay for their own regulatory regime. Charities could be asked to pay on a sliding scale depending on their income.

#### PUBLIC BENEFIT

9. The SHG believes that the damage done by a charity or a charitable activity should be measured against the good the charity claims to achieve and that any individual or organisation should be able to petition the Charity Commission (or a Charity Ombudsman) and ask them to determine the net good or damage, whether the charity has moved so far away from its original aims and objectives that it needs to review its position, or whether the original aims and objectives are fit for function in modern society.

#### POLITICAL CAMPAIGNING AND FUNDRAISING

10. The SHG believes that the rules on political campaigning are far too lax. If people wish to be involved in politics then the proper route is to join a political party. Charities should not be permitted to run political campaigns paid for out of money donated to help the people the charity was set up to help. Charity is about helping someone or something, not political campaigning.

11. If charities are to be allowed to continue to run political campaigns then some form of ring fencing of funds donated for different purposes should be imposed. For instance, the person who wishes to support homeless people should be able to donate secure in the knowledge that their money will not be used to campaign for changes in the law or public behaviour. The person who wishes to support such campaigns should likewise be able to donate knowing their donation will be used for exactly that purpose and no other.

12. The SHG believes that there should be a cooling off period, just as there is for people who agree to buy double glazing, for those who agree to make donations to charities or who sign over property to them.

13. Fundraising by charities should also be governed by an ombudsman or fall directly under the remit of the Financial Ombudsman or Consumer Direct and Trading Standards.

## Written evidence submitted by Charity Retail Association (CH 22)

The Charity Retail Association is the trade association representing 80% of charity shops in the United Kingdom, from national chains to smaller hospices and charities with only one or two shops.

### SUMMARY OF RECOMMENDATIONS

- The Committee should recommend that the Government works with the sector to reduce bureaucracy for all charities conducting house-to-house collections of goods.
- The Committee should recommend that National Exemption Orders for house-to-house collections of goods should be retained on the grounds that their abolition will increase the cost burden unjustifiably on the public purse, as well as on the charities which hold them.
- The Committee should recommend that further work should be developed around how to reduce the licensing and regulatory burden to charities which do not hold a National Exemption Order.
- We would urge the Committee to make a clear distinction in its report between house-to-house collections of goods/clothing and other forms of public charitable collections.
- The Committee should support the work being undertaken by the Institute of Fundraising to explore alternatives to Lord Hodgson's proposals which have the potential to be more cost effective and better meet the needs of charities and other stakeholders.

### 2. MAIN SUBMISSION

2.1 Our interest in the Charities Act 2006 is primarily focused around Part 3, which governs public charitable collections, and specifically with its application in relation to house-to-house collections for clothing and other goods, which our members use as a key method of generating stock to sell in their shops.

2.2 For this reason, the focus of our submission to the Committee is on Question 1.b) of the Issues and Questions paper, namely:

*To what extent has the Charities Act 2006 achieved its intended effects of improving regulation of the charity fundraising, and reducing regulation on the sector, especially for smaller charities?*

2.3 Part 3 of the Charities Act has never been implemented, and house-to-house collections of clothing and other goods remain governed by the 1939 House-to-House Collections Act. In this regard, the Charities Act 2006 has not helped to improve fundraising regulation for public charitable collections.

2.4 The environment for house-to-house clothing collections has become much more difficult in recent years for charity shops, as the price of second hand textiles has increased, generating much more commercial interest in the market and more intense competition.

2.5 It should be noted that purely commercial collectors (private companies which collect clothing to sell abroad for profit) are currently not covered by any regulatory regime. Most charities, on the other hand, are required to apply for local authority licences for their collections, which imposes significant bureaucracy and contributes to a sense of unfairness. We hope the review of the licensing regime will result in the Government supporting charity shops to continue to fundraise via house-to-house clothing collections by simplifying the administration of the licensing system and ensuring that no additional complexity is created in the system.

### 3. NATIONAL EXEMPTION ORDERS

3.1 Some national charities benefit from National Exemption Orders (NEOs), meaning that they are not required to apply for local authority licences. According to the 1939 legislation, this was for charities conducting collections over a wide area on the basis that the Secretary of State was "satisfied that [the organisation] pursue[d] a charitable purpose". Lord Hodgson's report proposes that NEOs are abolished to create a more "even" playing field with smaller charities.

3.2 As the representative body for both smaller and larger charity retailers, the Association is opposed to the abolition of NEOs, on the basis that it will significantly increase costs for charities which hold them while doing nothing to alleviate the administrative burden for charities without them. The British Heart Foundation alone estimates that the requirement to apply for collection licences would cost it around £650,000 each year. This proposal also runs counter to welcome Government efforts to reduce unnecessary bureaucracy for charities, most recently through its Red Tape Challenge for Civil Society.

3.3 The removal of NEOs is also likely to create more administrative costs for local authorities. The Institute of Fundraising has estimated that this proposal could lead to 500,000 extra licence applications for local licensing authorities to process.

3.4 In fact, rather than "even the playing field", the abolition of NEOs is likely to introduce greater complexity in the system for charities without NEOs, as the knock-on increase in licensing applications from NEO holders would be likely to create delays for local licensing authorities in processing all applications.

3.5 The Association believes that the logical response aimed at supporting charities without NEOs would be to make it *easier for all* charities to conduct house-to-house collections, rather than *harder for some*.

3.6 *The Committee should recommend that the Government works with the sector to reduce bureaucracy for all charities conducting house-to-house collections of goods.*

*The Committee should recommend that National Exemption Orders for house-to-house collections of goods should be retained on the grounds that their abolition will increase the cost burden unjustifiably on the public purse, as well as on the charities which hold them.*

#### 4. CHARITIES WITHOUT NATIONAL EXEMPTION ORDERS

4.1 We remain concerned that the proposals in Lord Hodgson's Review of the Charities Act will create additional complexity in the system for both charities and for local authorities who are currently responsible for licensing most charitable collections. The Association also believes that a significant opportunity has been missed in the report to reduce the bureaucracy which currently exists in the licensing regime, particularly for charities which do not have the benefit of NEOs, including many smaller organisations.

4.2 As the call for evidence notes, there is a great deal of variation among local licensing authorities and inconsistent application of the licensing rules. Licensing periods can vary from one month, three months, six months or 12 months, and they begin at different times of the year. This results in additional complexity for charities in keeping track of licences, particularly those which are conducting collections in more than one local authority area. Other paperwork adds to the complexity of the process. For example, a separate application is required to Her Majesty's Stationery Office for collector identification badges. These badges have low public recognition and do not therefore add to the ability of the public to identify legitimate collectors, as was presumably their original intention.

4.3 At present, the regulatory system for house-to-house clothing collections could be greatly simplified for legitimate collectors. The Charity Retail Association put forward some "quick win" practical suggestions in its submission to the Charities Act Review which would support smaller charities to carry out collections more easily; reducing red tape and extra paperwork. This included exploring a "licensing lite" system for well-established, responsible house-to-house collectors, including:

- 12 month licensing period as standard, beginning at the same time of the year (eg 1 April) for every local licensing authority.
- Stationery Office collection badges to be abolished for all collections.

Automatic renewal of the licence if there are no complaints from the local authority and no variations to the licence are sought by the collector.

4.4 These proposals do not appear to have been adopted, nor are there any alternative proposals in Lord Hodgson's report which would make it easier for charities without a National Exemption Order to conduct house-to-house collections.

4.5 *The Committee should recommend that further work be developed around how to reduce the licensing and regulatory burden to charities which do not hold a National Exemption Order.*

#### 5. HOUSE-TO-HOUSE COLLECTIONS FOR GOODS AND CLOTHING

5.1 The Association agrees with the principles outlined by the Institute of Fundraising for a successful public collections framework, and in particular that any new system needs to be responsive to different types of collections and recognise the diversity of activities in nature and approach within it.

5.2 It is critical to note that the Charities Act 2006 and Lord Hodgson's Review cover a huge range of public collection scenarios, and that a single approach is not appropriate for all types of collection. Soliciting donations through street fundraising or door-knocking is very different from delivering and collecting collection sacks for clothing in terms of both the interaction with the public and its logistical cost and planning. House-to-house collection sacks are delivered through the door with no face-to-face interaction with householders and in this sense the collection is a less intrusive method of soliciting donations. In addition, house-to-house collections are obviously a request for unwanted goods and clothing rather than cash, and provide householders with a convenient way of disposing of these items.

5.3 In addition, and particularly with regard to licensing, the logistics of organising a van collection and bag-drop to a street can be more complex than a street fundraising campaign. It is also often planned at shorter notice, as charity shops realise that their stock levels are diminishing, so does not have the same "lead-in" time. Plans also often change at short notice; for example, if another collector does a bag drop in the intended area then the charity may move their collection elsewhere to ensure a good return rate, or the stock shortage may be unexpectedly resolved by over-the-counter donations for a particular store.

5.4 For these reasons, some proposals which may work to coordinate cash fundraising—for example, a national slot allocation system—would be impractical to implement for clothing collections. In addition, it would be unlikely to be necessary, as bag "saturation" is in many cases naturally avoided by charities themselves. In most cases it will not be worthwhile to send a collection van to an area which has already been covered by other collectors as the return rate is likely to make the collection unviable.

5.5 *We would urge the Committee to make a clear distinction in its report between house-to-house collections of goods/clothing and other forms of public charitable collections.*

5.6 In addition, it would probably not be proportionate, or offer value for money to the tax payer, for the Government to fund such a system given the comparatively low level of complaints from the public on the issue of house-to-house clothing and goods collections.

5.7 Initial data from the Fundraising Standards Board suggests that they receive a small number of complaints about house-to-house collection sacks compared both with complaints about other forms of fundraising and with the overall volume of collections taking place. This suggests that to devote resource to extra statutory regulation or licensing would not be a good use of public money.

5.8 With this in mind, if additional regulation were to be considered, the Association would expect to see comprehensive evidence that this were required, and that the regulatory solution was tailored to fit the nature of the problems identified.

5.9 The Association supports the work of the Institute of Fundraising in exploring what a new system for the regulation of public charitable collections may look like, encompassing the whole range of collections including direct debit and cash collections on the street, and house-to-house. We hope this piece of work will result in a more credible and proportionate regulatory system for all forms of public collections, while allowing enough flexibility in the system to encompass a range of collections and the distinct needs of those fundraising methods.

5.10 *The Committee should support the work being done by the Institute of Fundraising to explore alternatives to Lord Hodgson's proposals which have the potential to be more cost effective and better meet the needs of charities and other stakeholders.*

## 6. BOGUS COLLECTORS

6.1 The Charity Retail Association does have concerns about the increase in bogus and fraudulent house-to-house clothing collectors and is working with the Home Office and the Association of Chief Police Officers to look at best practice around enforcement issues. The Association has also worked with the Institute of Fundraising, the Textile Recycling Association and the FRSB to raise public awareness of this issue and provide guidance to the public around how to identify legitimate charity collections. In addition, we have developed an online tool for the public to report suspicions about bogus collections; information which is forwarded to the National Fraud Intelligence Bureau.

6.2 The Association is in agreement with Lord Hodgson's analysis that the best way to tackle bogus and fraudulent collections is through better enforcement, rather than through extra statutory regulation of the licensing regime. Illegitimate collectors by their nature are likely to sit outside of the licensing regime. In addition, sentencing for theft and fraud has the potential, if used effectively, to be a much greater deterrent to bogus collectors than the penalties for not having a licence under the House-to-House Collections Act.

6.3 Having said this, we believe there is a role for the sector in ensuring public confidence in the house-to-house collections system and raising awareness of how to distinguish between bogus and legitimate collectors. The Association, along with its members and the other sector bodies, are currently exploring how to take this work forward.

*September 2012*

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## Written evidence submitted by UNISON (CH 23)

### INTRODUCTION

1. UNISON is the largest trade union representing workers delivering public services, and has over 60,000 members in the community and voluntary sector.

### THE SECTOR

2. We believe that the sector has a good track record of supplementing mainstream public services, and using its close contacts with local service users and volunteers to innovate new solutions to public needs. The sector has also helped give a voice to those marginalised and excluded from mainstream society.

3. The traditional confidence of the public in charities is based on their perceived independence, ethos of "doing good", and closeness to communities. This is also the foundation of individuals' willingness to volunteer their time, and so it is essential for the sector that this continues.

### SERVICE CONTRACTS

4. The work that charities perform is underpinned by finance from a range of sources, including donations, grants from the public sector, but increasingly from public sector service contracts.

5. UNISON believes that there is a trend for large and medium sized charities to increasingly look for larger and more profitable contracts. This mimics the behaviour of large private contractors who have (for example in the Work Programme and National Citizen Service) bid for large contracts, but included charities as an ancillary part of the consortium.

6. We are concerned that larger charities are acting more like private contractors by mainly pursuing more profitable contracts, and many smaller charities are left trying to pick up small unprofitable contracts or sub-contracts. This may result in larger charities becoming more remote from the people they serve—in which case the defining quality of a “charity” may be questioned.

7. There is already strong evidence of the financial squeeze that smaller and medium sized charities are coming under with shrinking assets, and dipping into reserves for basic running costs (see “Scottish Third Sector Statistics”, SCVO, 2012).

#### CAPACITY

8. There is hard evidence (see “Cutting it in Birmingham”, NEF, 2012) that this squeeze on smaller charities, and other community and voluntary organisations, is undermining their core funding and resulting in less support for volunteers and a decrease in community capacity. This has an important knock-on effect because the advocacy, rights and advice organisations that enable excluded groups to access mainstream services, and exert their claim to the support from those services, are reduced.

9. An increasing focus on funding the sector through lowest-cost service contracts will exacerbate this problem, and undermine aspirations of a big society. There should be proper grant funding, especially for smaller organisations.

#### EDUCATION

10. There are around 2,000 academies open in England and this number continues to rise. Many academies are joining together in chains and some of these chains are setting up arms-length bodies to sell services to schools. In the face of this rapid, market-style expansion, UNISON is extremely anxious about the ability of the Department for Education and the Education Funding Agency to take effective action to ensure that all academy schools (and the organisations which sponsor them) are remaining fully compliant with charity law.

11. Also, unlike those charities registered with the Charities Commission, the financial statements of academies are not readily available for public scrutiny resulting in a lack of transparency in the spending of taxpayers’ money. UNISON is very concerned that by turning academies into exempt charities it is paving the way for state schools be run for profit—and is shifting the focus away from the charitable aims of benefiting children and young people.

#### STAFF

12. UNISON has widespread evidence of charities being seen as a “soft touch” for public sector spending cuts. Funding reductions to service contracts operated by charities is leading directly to reductions in the number of staff on these contracts, and in the pay, terms and conditions of charity employees. Casual “zero-hour” and very short hour contracts are becoming much more common. Pay has always been low in the sector, but poor treatment of staff and failure to pay a “living wage” undermines the credibility of charities claiming to offer fairness and to fight poverty.

13. The reductions in full-time equivalent staff numbers is leading to critical shortages at the front-line, and even with the most dedicated staff there is a high and increasing risk of service failures affecting vulnerable clients. This will undermine the public perception of charities as “doing good”, and cast them as offering third-rate “bargain basement” care for clients.

#### RESPONSES TO SPECIFIC QUESTIONS

1. *To what extent has the Charities Act 2006 achieved its intended effects of:*

(c.) providing a clear definition of charity, with an emphasis on public benefit?

5. *How valid are concerns that there are too many charities?*

14. The number of charities is not a problem but it is important that existing charities—especially those delivering public services—are adequately funded and do not become the third-rate “bargain basement” option for public sector commissioning.

10. *Are the rules around political activity by charities reasonable and proportionate?*

15. The rules around political activity are currently reasonable. There is little evidence of the existence of the sector being a “sock puppet” as claimed by some, and in a time of austerity there is a vital role for parts

of the sector to be able to speak up on behalf of marginalised groups whose voice may not otherwise be heard. This must not be undermined.

September 2012

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### Written evidence submitted by a working party of the Charity Law Association (CH 24)

The members of the working party are:

Chris Priestley—Withers LLP (Chair)  
Richard Corden—formerly of the Home Office; Cabinet Office; and Charity Commission  
Jessica Cumming—Walker Morris  
Greyham Dawes—Crowe Clark Whitehill LLP  
Darren Hooker—Stone King LLP  
Sylvie Nunn—Wrigleys Solicitors LLP

Question 1: *To what extent has the Charities Act 2006 achieved its intended effects of:*

(a.) *enabling charities to administer themselves more efficiently and be more effective?*

We think this objective has been achieved in some areas but not others. The Register of Mergers is a good idea but fails to protect legacy-entitlements of a merged charity in every case. A larger number of small charities can now expend permanent endowment but more could be helped by setting higher financial thresholds. More charities would be able to rely on the Act in paying a minority of their trustees for providing goods or services if the Act were to override pre-existing constitutional provisions to the contrary.

The continuing delay in making the CIO Regulations must be hurting many small charities. We think the Act's CIO provisions can answer trustees' anxieties about personal liability. The SCIO option seems to be highly popular with new Scottish charities.

(b.) *improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?*

We think the objective has not been achieved here and that the Act's regulatory impact may even have been negative. The Act's only substantive change was making disclosure of the "notifiable amount" by professional fundraisers and commercial participators mandatory. The complexity of some of their arrangements and the impracticality of displaying such information mitigate against charities being able to provide sufficiently detailed and accurate "solicitation statements". Moreover, there is no policing of compliance.

The work of the Fundraising Standards Board ("FRSB") has done much to encourage responsible *self-regulation* of fundraising (see Question 9) and we therefore think that increasing the role and responsibility of the FRSB would be preferable to legislating for direct regulation.

(c.) *providing a clear definition of charity, with an emphasis on public benefit?*

We think the Act has achieved its objective here. The requirement for the Commission to publish statutory guidance on the meaning of Public Benefit and for trustees to give that guidance due consideration has certainly raised awareness of the concept and how best to satisfy it among charities and the public.

Practitioners have found the Charity Commission's approach in applying the law—particularly in relation to the use of the descriptions of charitable purposes—unhelpful at times. A more serious issue is the differing approach taken by the separate legal jurisdictions within the United Kingdom as to what may or may not be regarded as a charitable purpose. This is inconsistent with the approach taken by HMRC for tax purposes and can cause difficulties for those who wish to establish or operate a charity throughout the UK.

(d.) *modernising the Charity Commission's functions and powers as a regulator, increasing its accountability and preserving its independence from ministers?*

We think this objective was achieved judging by the conditions and expectations that prevailed in 2006. What was not then foreseen was that five years later the Commission would endure substantial funding cuts such that its ability to discharge effectively all of the functions Parliament intended in 2006 is compromised.

Increasing the Commission's accountability—principally by creating the Tribunal and amending the Commission's governance and its public and Parliamentary reporting obligations—achieved what was intended by generally making the Commission a properly accountable regulator. The Commission does appear to operate independently from Ministers: its continuing status as a Non-Ministerial Department, with the 2006 Act protecting it from Ministerial direction, gives it access to the workings of Government without allowing it to be *controlled* by Government.



Question 2: *What should be the key functions of the Charity Commission?*

In summary, these should be:

- determining charitable status and registering charities;
- ensuring that charities comply with charity law generally and the provisions of their constitutions in particular. (This involves two aspects: firstly to authorise actions beyond charity trustees' powers where this is in the charity's best interests, eg, certain charity land dispositions; trustee remuneration; and secondly to deal with maladministration or misconduct within charities); and
- providing general guidance and particular advice on best practice in charity administration and governance. This function can reduce the incidence of charities getting into difficulties to the detriment of their beneficiaries and/or requiring intervention and supervisory action by the Commission.

We think it is crucial that the Commission is adequately resourced to perform these functions effectively. They cannot safely be pruned by arbitrary funding cuts. We see these as the minimum needed for sustaining public confidence in charities.

We think the Commission's name is best left unchanged. A similar name-change (to "Charity Regulatory Authority") proposed by the Strategy Unit in 2001 was rejected by the sector at that time, and would in any case need expensive publicity to rebuild public recognition. "Charity Authority", as now proposed, would not (for those not yet unaware of the Commission) describe its functions any more accurately than its current name. Name changes are costly.

Question 3: *How should the Charity Commission be funded?*

Lord Hodgson's report promotes levying charges to resource the Commission's registration procedures, albeit as non-recurring income. That might also encourage intending charity founders to work instead through an existing charity in the same field, in time reducing the present proliferation of charities. But against that benefit the detriment could be the stifling of would-be founders' charitable impulses. Company registration fees offer no precedent here, as most companies are formed for private profit rather than public benefit. The idea of private citizens paying fees to the State in setting up an exclusively public benefit organisation is anathema to many.

Were the Commission to charge for giving specific advice, charities with their own professional advisers might not be affected—unlike most smaller charities, which do not have the resources to retain professional advisers. However, for charities large and small, advice from the regulator is invaluable precisely because it can safely be followed without risk of regulatory intervention. Such an advice function may well pay for itself many times over in the hidden savings of regulatory interventions thereby obviated. But a hidden danger may be the risk of the Commission becoming too dependent on significant funding from the very constituency it should be regulating without fear or favour.

Penalising late filing by charities has also been mooted. That might decrease the currently small percentage of late filing, but could deter many from charity trusteeship, in case they might become personally liable for such penalties.

Another problem with levying charges of any kind for the Commission's services is that donors give their money to a charity for the benefit of its beneficiaries and expect other "stakeholders" in charity to be similarly altruistic. In the public mind, charities spend too much on "administration", which would include fees levied to make them contribute to the costs (wholly State-funded since 1853) of the regulator. We therefore think donors would react unfavourably to such charges, seeing them as an extra tax caused by the Government's unwillingness to fund the regulator adequately.

In summary, we strongly believe that the Commission should continue to be wholly funded by the taxpayer.

Q4. *Is the current threshold for registration with the Charity Commission set at an appropriate level?*

For resource reasons, the Charity Commission currently declines to register charities below the £5,000 gross income threshold, pending implementation of the Act's provision for their voluntary registration. Lord Hodgson recommended the thresholds increase to £25,000 in reporting on his review of the Act. Whilst the change would significantly reduce the Commission's administrative costs, for reasons of credibility with funders, with the banking sector and with HMRC it would benefit small charities only if voluntary registration is made available to them, by bringing into force section 30(3) of the Charities Act 2011, and we think this would then justify the increase.

Voluntary registration would avoid "start-up" charities being prejudiced by having to fundraise for a further £20,000 before being eligible for registration. It would also reduce the number of unregistered charities below the new threshold, of which there would otherwise be some 96,000—whose aggregate annual gross income, however, is immaterial for regulatory purposes.

Question 5: *How valid are concerns that there are too many charities?*

Lord Hodgson reports concerns in the sector that charitable resources may be wasted if too many charities are allowed to operate in similar areas. We think that risk cannot be mitigated by externally imposed regulation without harming the charitable impulse itself. People have differing views on how best to further a charitable cause and often prefer to fund/support a charity they can be actively involved with. “Political” reasons can lead to a new charity where the existing charity’s trustees are perceived as ineffective or pursuing an approach not favoured by the intending donor or are perhaps too “cliquey”. Subtle but important differences in charities’ activities in the same field can increase effectiveness and donor-appeal.

Funding-competition continually increases the pressure that drives the weakest to the wall, allowing only the fittest charities to survive. That is more acceptable than regulating their numbers. It allows for the enthusiasm and involvement of committed people taking action on their own initiative and at their own risk. Some family “foundations” exemplify an “inefficiency” that is not against the public interest: their levels of funding is hard to achieve by most other charities.

The current economic climate of funding cuts could precipitate the closure of many worthy charities unable to collaborate with each other for a successful charity merger, but it could do more harm than good to accelerate this natural streamlining by enforcing mergers or closures or inhibiting start-ups. We think a regulatory stance that promotes strict compliance with charity law is the best way to maintain public confidence in the sector, not controlling charity numbers.

Q6. *Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

We think a “blanket” application of the registration threshold for *all* charities could be considered, as in Scotland, or else exempt status should entail more active liaison between the regulators than at present, so that all charities are treated consistently. In our experience, the principal regulator’s obligation to ensure due compliance with charity law for non-government funding is not taken seriously enough. Some exempt charities still await confirmation of their principal regulator, so their compliance with charity law is not yet being regulated.

The regulatory procedures between the Charity Commission and principal regulator are protracted and cumbersome, hindering effective enforcement action. The Commission can only investigate an exempt charity upon request from its principal regulator, which must also be consulted before the Commission’s supervisory powers can be used. Too much hangs on the principal regulator understanding the charity law compliance issues arising and being vigilant in recognising them whilst regulating the use of the government funding it provides.

It is unclear how much training in charity law the principal regulators receive. The Commission’s memorandum of understanding with the DfE says appropriate staff visits to each others’ offices “may” be offered and that they may “explore” the possibility of providing joint training and development initiatives and “where practical” offer places to each others’ staff on training courses. For the regime to work properly a much more stringent, rigorous and clearly defined approach to training is needed than the arrangements currently in place.

A more fundamental problem is the principal regulators’ lack of independence from government. They must regulate charity law compliance alongside their departmental relationship as principal funding body. Where a charity’s regulator is also its funder a conflict of interest may result. This conflict would not arise if all charities were regulated by the Commission for their charity law compliance, within which government funding would be governed by an appropriate funding agreement in much the same way as with grants from other charities, including “clawback” terms and conditions to protect the proper use of that funding for its intended purpose as determined by Parliament.

Question 7: *There has been an increase in the number of organisations that operate for the public good, such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

As long as different types of not-for-profit entities exist, with different levels of Government support in terms of grants and/or tax benefits, there will continue to be confusion about the distinctions between them in the public mind. The term “social enterprise” is understood in different ways and is frequently confused with “charity”, both by those in the not-for-profit sector and by the wider public. It is difficult to see how this can be avoided. Many entities calling themselves “social enterprises” operate for some sort of profit or private benefit as well as for what should at least be their main aim of providing public benefit and so are far from operating as charities.

Structures which are not charities (or alternatively community amateur sports clubs) do not benefit from the same preferential tax treatment. It is our view that the area which needs most regulation is where tax benefits are given, but that even in their absence the existing high level of public trust and confidence in charities must not be undermined. There is a need to educate the public about the distinction between charities and non-charities within the not-for-profit sector. Having a “registered charity number” is generally perceived as

beneficial to the credibility of charities. Making it compulsory for *all* charities above a *de minimis* level of income to register (ie including those currently exempted from registration) would facilitate this, but the Commission would have to be properly funded first, as it might then have to regulate more than double the current number of registered charities. Such additional registrations would have to be phased in gradually.

Some members of the working party suggested that the Commission should be given statutory power to be able to prevent non-charities representing themselves as charities (ie in addition to the present restriction on companies seeking to include “charity” or “charitable” in their name), akin to the powers of OSCR. This would be easier to administer if all charities had to be registered, as the public would become accustomed to looking for a charity number. Some also suggested that there should be criteria which organisations must meet if they are to be allowed to represent themselves as “public benefit” organisations within the meaning of that term in financial reporting standards. The question of what those criteria would be and whether the Financial Reporting Council (within its responsibility for the standards) or some other public body should regulate the use of the term “public benefit” to describe an organisation would require some thought, as this would be outside the Commission’s jurisdiction.

The mutual model is extremely useful to the not-for-profit sector but is not well understood. In this connection we think the Government should now expedite the registration of charitable Industrial & Provident Societies by implementing the Act’s removal of their exempt status. We would note here that Lord Hodgson’s suggestion that unregistered charities should be required to label themselves as such does not resolve the problem of distinguishing charities from social enterprises.

The failure to bring into force the relevant sections of the 2006 Act is symptomatic of a more general problem with the IPS legal form, which suffers from HM Treasury being the lead ministry instead of the Department for Business, Innovation and Skills, when BIS would be a more competent ministry for these. HM Treasury has shown itself to be ineffective in modernising the law. Companies House would be a better regulator for mutuals. This could be done by having a combined CIC/Mutuals regulator. The current situation where the FSA acts as regulator is an anachronism for most mutuals.

*Question 8: How successful has the introduction of the Charity Tribunal and its replacement, the First Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

The Tribunal has had some success in holding the Charity Commission to account in relation to its decision-making functions, but we think the Tribunal’s jurisdiction is too narrowly defined in Schedule 6 to the Act, in a prescriptive and complicated table.

We think it would be more helpful and would assist in the aim of making it easier for decisions to be challenged were Schedule 6 to be augmented by giving the Tribunal an additional general supervisory role. It is acknowledged that the Tribunal suffers from a public misperception that it is still expensive to bring proceedings and that full legal representation is always required, although self-representation is encouraged. It may need explicit guidance from perhaps the Commission to overcome this problem.

*Question 9: How successful is the self-regulation of fundraising through the Fundraising Standards Board?*

We recognise the important role played by the FRSB’s regulation of fundraising by charities and the prestige attaching to their use of its kitemark, the “tick” logo. This is a specialised area in which, for resource reasons, the Charity Commission is unable to regulate effectively. We therefore take the view that the FRSB should be more fully empowered to be able to act more effectively as the regulator for charity fundraising.

Whilst applauding the establishment of the FRSB and its achievements to date, we think greater public awareness of the role of the FRSB is needed. We note that the FRSB’s authority is limited: the only sanctions it can impose are withdrawal of the right to use its “tick” logo and ultimately the expulsion of a recalcitrant charity from FRSB membership. Thereafter the expelled member remains free to continue the fundraising that generated the complaints upheld by the FRSB and is no longer susceptible to FRSB influence. The loss of the FRSB’s “tick” logo on its fundraising literature will not currently make it unlawful for the charity to fundraise from the public nor perhaps make that fundraising significantly less successful, as there is not yet enough public awareness of the FRSB’s role and the meaning of the “tick” logo. We therefore think FRSB membership should be made compulsory for all charities fundraising directly from the public, so that expulsion from membership would then be an effective deterrent.

We also think that such empowerment of the FRSB would need to be made subject to external appeal against FRSB decisions. Currently, the appeals process is only internal.

*Question 10: Are the rules around political activity by charities reasonable and proportionate?*

We believe that the rules on political activity by charities derived from case law rather than statute, are apt and well-balanced. The Charity Commission’s current guidance explaining the rules—including guidance on elections and on political donations is very helpful and is clear on what the Commission considers that the rules allow. However, we believe that there is a need for specific guidance on charitable think tanks.

It is both reasonable and important that a charity's main purpose is not political and that its activities do not stray into party politics. Political activity undertaken or supported by a charity must only be a means of supporting the achievement of a charitable purpose or purposes.

September 2012

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### Written evidence submitted by Farrer & Co (CH 25)

#### ABOUT THE RESPONDENT

Farrer & Co is a firm of solicitors with particular expertise in the charity and not-for-profit sector.

#### SUMMARY OF RESPONSE

- This response is restricted solely to question 1(c) set out in the issues and questions paper (To what extent has the Charities Act 2006 achieved its intended [effect] of... providing a clear definition of charity, with an emphasis on public benefit?) to the extent that this relates to charities whose purposes relate to the advancement of amateur sport.
- Our primary concern is the fact that a number of questions remain unanswered in relation to “the advancement of amateur sport”, in particular:
  - the status of the Charity Commission's 2003 guidance RR11—Charitable Status and Sport; and
  - the meaning of “amateur” in this context.
- The Charity Commission has consulted on the advancement of amateur sport but has not yet issued guidance and, until it does so, these questions will continue to cause uncertainty.

#### BACKGROUND

1. It is almost six years since the Charities Act 2006 (“the 2006 Act”) received Royal Assent, and yet sports charities and their funders and professional advisers are still waiting for guidance on what the Charity Commission considers “the advancement of amateur sport” to mean and therefore the scope of charitable activity permitted by this purpose.

2. While the Commission held a consultation<sup>41</sup> in 2011, this did not include draft guidance save in respect of advancing amateur sports or games for the public benefit (which was included as an annex to the consultation).

3. The foreword to the consultation stated that “the comments we receive as a result of this consultation will help provide the framework for the guidance we will prepare for charities who wish to have aims which include advancing amateur sport or games”.<sup>42</sup> However more than a year has elapsed since the consultation closed, and the guidance is still awaited.

4. This has created a number of practical difficulties for charities and funders operating in this sector, as a number of significant questions remain to be answered.

#### Status of RR11

5. One such question concerns the current status of the 2003 Charity Commission's previous guidance RR11<sup>43</sup> (which coincided with Commission's decision to recognise as charitable “the promotion of community participation in healthy recreation” by providing facilities for playing particular sports).

6. It could be argued that RR11 is guidance on the decision to recognise as charitable “community participation in healthy recreation”. This argument rests on the view that “the advancement of amateur sport” is a different and wider purpose than “community participation in healthy recreation” and hence that RR11 is not relevant to the description of a charitable purpose provided in the 2006 Act.

7. This view is supported by contrasting RR11's insistence on the ability of a sport being “capable of improving physical health and fitness”<sup>44</sup> with the definition of sport in the 2006 Act: “sports or games which promote health by involving physical or mental skill or exertion”. It would therefore follow that organisations advancing sports which promote “mental skill or exertion” (or indeed “physical skill”), rather than the narrower “physical health and fitness”, could now be charitable.

8. Indeed, the Charity Commission seems to have accepted this view of the scope of the new charitable purpose, having registered a bridge club as a charity. Details of this decision were published by the Commission<sup>45</sup>.

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<sup>41</sup> Charity Commission: *Consultation: The advancement of amateur sport* (issued on 28 February 2011)

<sup>42</sup> Charity Commission: *Consultation: The advancement of amateur sport*, foreword

<sup>43</sup> RR11—*Charitable Status and Sport* (issued by the Charity Commission in April 2003)

<sup>44</sup> *Ibid.* (paragraphs 7 and 35 *inter alia*)

<sup>45</sup> [http://www.charitycommission.gov.uk/Library/about\\_us/hitchindec.pdf](http://www.charitycommission.gov.uk/Library/about_us/hitchindec.pdf)

9. However until RR11 is revisited (and preferably amalgamated) in the guidance on the advancement of amateur sport, the question of its status remains open.

#### MEANING OF “AMATEUR”

10. The second question is again one of interpretation. While “sport” is defined as “sports or games which promote health by involving physical or mental skill or exertion”<sup>46</sup>, the Act does not provide a definition of “amateur” or “amateur sport”.

11. The Charity Commission’s 2011 consultation suggested that “amateur” is “best described as “not professional””<sup>47</sup>, but also noted that the definition used in Schedule 18 of the Finance Act 2002 for community amateur sports clubs could provide “a useful starting point when thinking about what distinguishes amateur from professional sports or games”.<sup>48</sup>

12. This is not an abstract question. While it may be obvious that Premier League football clubs are professional teams, other sports clubs may have a single professional team with ten other amateur or junior teams, or (in individual sports such as athletics or tennis) a single member who turns professional. Many sportsmen and women now receive sufficient grant funding to enable them to train full-time. The training of sportsmen and women for the benefit of a professional club has been considered by the Office of the Scottish Charity Regulator.<sup>49</sup>

13. There is therefore a very real need for clarity on what “amateur” means in the context of advancing amateur sport in a manner that is consistent with charitable status.  
September 2012

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### Written evidence submitted by the Christian Institute (CH 26)

#### SUMMARY

- In the hands of the Charity Commission, the Charities Act 2006 has created confusion and uncertainty.
- The courts have not upheld the Commission’s interpretation of the law in two major areas. Yet the Commission seem not to have taken onboard that their approach to the law is wrong.
- The charitable status of established Christian churches is threatened because of the Charity Commission’s approach to Public Benefit.
- Religious charities are spending disproportionate resources on unnecessary bureaucracy to comply with charity law. The Charities Act 2006 was a missed opportunity to reduce the burden on charities.

#### INTRODUCTION

1. The Christian Institute is a non-denominational charity established for the promotion of the Christian faith in the UK and elsewhere. We have over 30,000 supporters throughout the UK, including almost 3,800 churches and church ministers from almost all the Christian denominations.

2. The Christian Institute seeks to assist the work of churches and Christian charities through providing guidance on the law in publications and conferences and in funding important court cases for religious liberty. In 2010 the Institute ran a series of ten charity law roadshow events across England and Wales. This was aimed at the trustees of churches and other Christian charities to help them better understand their legal duties. We are regularly involved in advising church trustees, many of whom are confused or anxious about what the Charities Act 2006 does or does not require.

3. We are grateful for the opportunity to respond to the Committee’s inquiry. We wish to cover questions 1(a), 1(b), 1(c), 2, 4 and 10 posed in the Committee’s Question Paper.

#### DEFINITION OF CHARITY AND PUBLIC BENEFIT

4. It is claimed that the Charities Act 2006 expressly abolished any presumption that charities established for the relief of poverty, the advancement of religion and the advancement of education are for the public benefit. In fact, the wording of the Act (rightly) does not purport to abolish anything. It simply provides that in determining whether the public benefit test is fulfilled in relation to a particular purpose it is not to be presumed “*that a purpose of a particular description is for the public benefit*”.<sup>50</sup>

<sup>46</sup> Section 2(3) of the 2006 Act (now section 3(2) of the Charities Act 2011)

<sup>47</sup> *Consultation: The advancement of amateur sport* (issued by the Charity Commission on 28 February 2011), paragraph 44

<sup>48</sup> *Ibid.*, paragraph 47

<sup>49</sup> Decision of OSCR in relation to Dundee FC in the Community Association reported in “Analysis: How a bid to become a charity was kicked into touch”, *Third Sector*, 14 February 2011

<sup>50</sup> Charities Act 2011, Section 4(2) (formerly Charities Act 2006, Section 3(2))

5. Since the passing of the Charities Act 2006 leading charity lawyers have cast doubt on the claim that there has ever existed a presumption in law that any charitable object was for the public benefit.<sup>51</sup> The Upper Tribunal endorsed that opinion in October 2011 when it published its decision in the case of The Independent Schools Council (“ISC decision”), a judicial review application brought by the ISC combined with a reference brought by the Attorney General. In the ISC decision the Upper Charity Tribunal stated:

“So far as we are aware, the courts have never made any assumption about whether a purpose is directed to the public or a sufficient section of the public”.<sup>52</sup>

6. The ISC decision is confined to the context of educational charities, but the Upper Tribunal noted that its analysis of the principles and case law “may have wider implications”.<sup>53</sup>

7. In February 2012 the Upper Tribunal published its decision in relation to a second reference, relating to charities for the prevention or relief of poverty. As in the ISC decision, it was found that there was no presumption that a trust for the relief of poverty is for the public benefit and the supposed abolition of the presumption had had no impact on whether a trust for the relief of poverty is charitable or not.<sup>54</sup>

8. And so while the principles of precedent require the Charity Commission to follow case-law in finding certain trusts to be established for the public benefit, this is no mere exercise of a presumption. The courts may well have started with a predisposition that a particular trust was for the benefit of the public, but that predisposition could be displaced if the evidence suggested otherwise.

9. The courts have long applied two related principles in determining whether trusts are established for the public benefit. Firstly, whether the nature of the particular charitable purpose is of *benefit* to the community. Secondly, whether those who may benefit from the carrying out of the purpose are sufficiently numerous and identified in such manner as to constitute a section of the *public*. Both principles can be discerned in the ISC decision.<sup>55</sup>

10. The courts have had no problem in applying these principles. In 1999 the Commissioners refused an application by The Church of Scientology for registration because the core practices of scientology were deemed not to constitute worship or have a sufficiently public element.<sup>56</sup>

11. It is clear that the Charities Act 2006 expressly retained the case-law relating to public benefit,<sup>57</sup> which still binds the decisions of the Commission in relation to granting charitable status.

12. This is important because much of the debate regarding the passing of the 2006 Act has centred on the abolition of a supposed presumption and a belief that the Act had somehow ushered in a new charity test. The assumption that the Act abolished a previously existing presumption has caused much confusion. This assumption has combined with the effect of the new reporting requirements to lead many religious charities to believe (wrongly) that they are now assessed for their charitable status on the basis of their *activities* rather than the *purposes* they are set up to advance.

13. While charities are now required to report to the Commission on the activities undertaken by the charity to further its charitable purposes for the public benefit<sup>58</sup>, this requirement is in no way tied to securing an organisation’s charitable status. This requirement seems to be based on the false assumption that the case-law definition of public benefit has been scrapped in favour of a Scottish-style activities test.

14. This underlying assumption permeates the public benefit guidance published by the Commission in 2008. This is fundamentally misconceived and misleads charities into thinking that their continuance as charities depends on them proving that they are *providing* benefits to the public. This is not a requirement of the Charities Act 2006. The judges in the ISC decision confirmed that whether an institution is established for charitable purposes

“is directed to what it is that the institution was set up to do, not to how it would achieve its objects or whether its subsequent activities are in accordance with what it was set up to do”.<sup>59</sup>

15. The Commission’s public benefit guidance is now being revised by the Commission in light of the recent decisions made against it in the Upper Charity Tribunal. The proposed replacement guidance is currently subject to a public consultation and we are responding to that. We believe that significant consequential changes will be required to be made to the specific guidance on charities set up for the advancement of religion.

<sup>51</sup> eg Luxton, P, “Making Law? Parliament v The Charity Commission”, *Politeia*, 2009; Luxton, P, “A Three-Part Invention: Public Benefit Under the Charity Commission”, *The Charity Law & Practice Review*, 11(2), 2009; Hackney, J, “Charities and Public Benefit”, *Law Quarterly Review*, 124 (Jul), 2008, 347–350

<sup>52</sup> *The Independent Schools Council v The Charity Commission for England and Wales* [2011] UKUT 421 (TCC), at para. 71

<sup>53</sup> *Ibid*, at para. 15

<sup>54</sup> *Attorney General v Charity Commission for England and Wales and Others* (FTC/84/2011), at para. 39

<sup>55</sup> *The Independent Schools Council v The Charity Commission for England and Wales* [2011] UKUT 421 (TCC), at para. 44

<sup>56</sup> Decision of the Charity Commissioners for England and Wales made on 17 November 1999 regarding Application for Registration as a charity by The Church of Scientology (England and Wales)

<sup>57</sup> Charities Act 2011, Section 4(3) (formerly Charities Act 2006, Section 3(3))

<sup>58</sup> Charities (Accounts and Reports) Regulations 2008, Regulation 40

<sup>59</sup> *The Independent Schools Council v The Charity Commission for England and Wales* [2011] UKUT 421 (TCC), at para. 188

16. In spite of these developments, the Charity Commission apparently still believes that the Charities Act 2006 fundamentally changed the definition of charities. It was recently reported that a Plymouth Brethren trust had its application for charitable status rejected by the Charity Commission.<sup>60</sup> The case relates to the Preston Down Trust, which runs three meeting halls for the Plymouth Brethren Christian Church. We understand that Preston Down Trust has, together with Horsforth Gospel Hall Trust in Leeds, lodged an appeal with the charity tribunal against the Charity Commission.

17. The Plymouth Brethren are a well established Christian Church with some 300 gospel halls across the country. In a landmark decision in 1981, the High Court held that the Plymouth Brethren's Kingston Meeting Room Trust was a valid charitable trust.<sup>61</sup> It held this to be so despite the Plymouth Brethren's well known separatist distinctives. The court did so because outsiders, "*provided they come in a proper spirit and not a spirit of levity*" are allowed to attend meetings of the Brethren other than the celebration of the Eucharist and business meetings. Furthermore, the Plymouth Brethren publicly attempt to evangelise by conducting campaigns in the street and open spaces, similar to the Salvation Army. Mr Justice Walton thus concluded that:

*"it appears to be quite impossible on the evidence to come to the conclusion that there is a lack of benefit to the public".*<sup>62</sup>

18. If the Charity Commission can now find against the Plymouth Brethren Christian Church in the case of Preston Down Trust, this would appear to have grave implications for other Christian churches and groups, the majority of which apply some restrictions on access to sacraments and benefits, on the basis of the teachings of scripture. This includes the Church of England, Roman Catholic Church and many of the free churches.

19. We believe the time is ripe for an Attorney General's reference to properly clarify the law on public benefit with regard to religious charities. Furthermore, we would like to see modifications made to the role and structure of the Charity Commission, to prevent it adjudicating on theological matters, a function which it is ill-suited to discharge.

20. We are opposed to any move to further legislate to clarify or codify the definition of a charity. The last thing the charitable sector needs is another raft of legislation which is likely only to further confuse charities and make lawyers richer. We note that Lord Hodgson of Astley Abbots rejected the suggestion of a statutory definition in his Review of the Charities Act 2006 presented to Parliament in July 2012.

#### THRESHOLDS FOR REGISTRATION

21. The 2006 Act modestly raised the threshold for charity registration from an annual income of £1,000 to £5,000. It also reserved to the Government the power to raise this threshold by regulation. This is a mechanism that the Government should use to support smaller struggling churches and remove a continuing disincentive for start up projects to involve themselves in the Big Society.

22. We welcome Lord Hodgson's recommendation that the threshold for compulsory registration should be raised to £25,000. We believe this figure is about right. However, we are disappointed that he qualified this by recommending that compulsory registration should be applicable to all charities that claim tax relief. This would negate the positive advance he recommends. We believe that most Christian churches, many of whom are stretched in terms of time and resources, claim tax relief.

23. We want to make it clear, however, that we are not suggesting that such charities should be free from regulation. Streamlining the formal role of the Charity Commission simply allows for a more proportionate and light touch of regulation. It frees up the Commission to focus its energies on dealing with cases of abuse and illegality. Two important observations should be made.

24. Firstly, most of the major Christian denominations which are represented in the Institute's support base are "excepted" from registration, subject to the £100,000 threshold currently relevant to each congregation. This historic excepted status recognises that those charities are connected with an umbrella body, such as a diocese, denomination or association, which exercise some oversight. Far from being an "anomaly", excepted status remains a sensible and efficient way of maintaining a degree of oversight without the unnecessary and bureaucratic burden placed on smaller churches which necessarily goes with compulsory registration.

25. Secondly, it is frequently forgotten that excepted charities are still required by charity law to prepare financial accounts and subject their accounts to an annual examination or audit if their income or expenditure exceeds the threshold. Even before the 2006 Act the Charity Commission could request any charity to prepare an annual report in relation to its activities in a given year. In rare cases of suspected maladministration, the Commission could, and still can, institute inquiries and act to protect excepted and small charities, even if not registered. Excepted charities still fall to be regulated by the Charity Commission.

26. Under the post 2006 regime, all excepted charities with an annual income over £100,000 are now required to register with the Charity Commission. As regulations currently stand, all excepted charities will be

<sup>60</sup> *Third Sector Online*, 25 July 2012, see <http://www.thirdsector.co.uk/news/1142556/Exclusive-Brethren-group-appeals-against-Charity-Commissions-refusal-grant-charitable-status/> as at 13 September 2012

<sup>61</sup> *Robert Edwards Holmes and others v Her Majesty's Attorney General* (1979 H. No. 1183), page 12

<sup>62</sup> *Ibid*, page 7

required to register by 31 March 2014<sup>63</sup>, including every chapel and parochial church council. This is both excessive and unnecessary.

27. As a result of the current law, thousands of small churches, chapels and other charities face being forced to register, creating a not insignificant burden on them as well as on the Charity Commission. Registration also undermines the traditional function of the umbrella associations to which they belong by creating an unnecessary duplication of roles. These charities face having to satisfy the full ongoing reporting regime of the Charity Commission, including submitting Annual Returns and Reports in a form which complies with more onerous requirements following the 2006 Act.

28. The 2006 Act reserves to ministers the powers to extend the excepted status but not to lower the £100,000 threshold. We believe that primary legislation should be introduced to increase the threshold to £150,000. Lowering the £100,000 threshold (as recommended by Lord Hodgson) will create unnecessary work for both the charities involved and the Commission, without conferring any real benefit. Independent examination of excepted charities' accounts already ensures that there is outside scrutiny of financial records.

29. The 2006 Act was a missed opportunity to review excepted charities in terms of increasing the number of excepted associations and removing the anomalies of certain associations (eg some Christian denominations) which are not currently excepted and which should be. This omission should now be corrected, extending excepted status to other appropriate charities.

#### REPORTING

30. We believe that excepted charities should continue to concentrate on furthering their charitable objects free from the cost and bureaucracy of registration, including the associated reporting requirements.

31. We note that Lord Hodgson has recommended that the requirement to *submit* accounts and reporting information should be aligned with the registration threshold (recommended to be set at £25,000). However, regrettably, as we have previously said, he also recommends that all charities claiming tax reliefs should be required to register.

32. The low threshold for reporting penalises small start up charities, many of which are compelled to grapple with understanding the reporting requirements at a time when they are still struggling to establish themselves. Many small churches have an income exceeding £25,000 but expend disproportionate resources in meeting reporting requirements, often paying professional fees to assist them.

33. The threshold for sending accounts and reports to the Commission should be increased substantially. We suggest £100,000. Since it is the preparation rather than the act of submitting to the Commission which creates the biggest burden on small charities, this requirement should also be reduced. There should be no requirement for charities below £100,000 to *prepare* an annual report, except when the commission requests one in exceptional circumstances. Such charities should of course still be required to produce accounts, which should be available to anybody who requests them, as now.

34. Lifting the threshold for reporting to £100,000 would remove many small churches and other charities from reporting requirements but would not risk a loss of public confidence in such charities. Such charities are already some of the most transparent. They have members who fund them and most churches will hold regular members' business meetings.

35. It seems that more paperwork is being expensively produced only to be sent to the Commission to be logged and archived. The Commission cannot have the resources to read through the majority of submissions it receives.

36. Even without a requirement to report, we believe that in the market place of charities any successful charity would want to report to its supporters (and potential supporters) on the activities undertaken in furthering its objects. It is in the interests of charities to do so. By reducing the formal reporting requirements, individual charities can choose how best to present and report such information, having regard to the nature of their support base and the kind of work in which they are engaged.

37. We are also concerned that universal reporting with regard to churches and the requirements to report on activities raises the perception that the Commission has a legitimate role to play in assessing the theological beliefs and practices of religious charities. This is neither the function of the Commission nor a role which it is equipped to discharge. When taken with decisions such as that made by the Commission in Preston Down Trust, Christians are naturally concerned about what is the proper role of such a public body.

#### CHARITY COMMISSION

38. The Charity Commission has an important role to play as the ultimate regulator of charities in England and Wales. It rightly has statutory powers to step in and investigate charities where there is suspected wrongdoing and misappropriation of funds. However, it lacks the skill and resources to do more and, by its recent interpretations of the law, has tended to overcomplicate the law. The interpretation of the law post 2006

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<sup>63</sup> The Charities (Exception from Registration) (Amendment) Regulations 2012, Regulation 2



has also led to some seemingly anomalous decisions by the Charity Commission. The Druid Network<sup>64</sup> has been accepted for charitable status but the Gnostic Centre<sup>65</sup> and now the Plymouth Brethren have had their applications rejected.

39. Requiring the Commission to police the whole ambit of public benefit law has led to two significant tribunal cases being found against it in the past year, in relation both to the advancement of education and the relief of poverty. If the Plymouth Brethren pursue their appeal, there may well be a third such finding against them, this time in relation to the advancement of religion.

40. While charities should, of course, appropriate their funds in furtherance of their charitable objects, there are already remedies available in trust law to deal with breaches of trust.

#### POLITICAL ACTIVITY

41. We believe that the current rules around political activity by charities are probably reasonable and proportionate. However, as a charity which engages in public campaigning in furtherance of its charitable objects, we are concerned that the Commission should not take sides in political and ethical questions.

*September 2012*

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### Written evidence submitted by Scottish Council of Independent Schools (CH 27)

#### INTRODUCTION

The Scottish Council of Independent Schools, more often known as SCIS, represents the diverse range of mainstream independent schools in Scotland,<sup>66</sup> as well as specialist and special needs schools, which accommodate approximately 32,000 children—c.5% of the Scottish school population. Within that membership, there are 3,575 children in mainstream boarding schools and 275 children in residential special schools. In addition, our schools are responsible for c.1,700 children in day care nursery provision.

With the exception of special needs schools mentioned above, the entirety of independent school funding comes from fee income, supplemented in some cases by legacies and other trusts connected to individual schools. There has always been substantial bursary and scholarship provision within the schools, and recent years have seen the move towards a majority of such provision being means-tested, as a way of widening access to independent education. This has run in tandem with the Scottish charity tests on public benefit.

The Select Committee's remit, in looking at the impact and implementation of the Charities Act 2006, is restricted to England and Wales. In Scotland, matters of charity law are governed by the Charities and Trustee Investment (Scotland) Act 2005. As such, this is not a detailed submission, but we lend our full support to the submission made by the Independent Schools Council, with which we work closely.

In that respect, we align ourselves entirely with the ISC's positions that differences of opinion regarding independent education should not be disputed on the battleground of charitable status, and that there is no justification for treating charitable independent schools differently to other charities for the purposes of taxation.

#### PUBLIC BENEFIT IN THE INDEPENDENT SECTOR IN SCOTLAND

1. Most independent schools in Scotland are Scottish charities registered with the Office of the Scottish Charity Regulator (OSCR)—in some cases as part of an Educational Trust—and are governed by fully autonomous Governing Boards upon which members act as directors of companies limited by guarantee, charity trustees and as school governors. Some special needs school in SCIS membership receive funding from the Scottish Government as grant-in-aid, many receive funding and referrals from local authorities as well as parents and umbrella charities, while a few operate as independent private companies.

2. We are in agreement with the ISC that schools have charitable status because they are established for public benefit purposes. In the case of Scottish independent schools, that charitable purpose is ordinarily "the advancement of education". Public benefit is not a compliance issue. Schools are charities by definition, and public benefit is an integral part of their charitable composition.

3. We share the concerns of the ISC, among others, that it has become commonplace to dismiss independent schools as, in some way, a breed apart from "proper" charities. Pupils, parents, support staff and teachers of our schools find the recurrent narrative of tax avoidance and "tax breaks" as both deeply inaccurate and highly offensive.

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<sup>64</sup> Charity Commission for England and Wales, The Druid Network Decision made on 21 September 2010 regarding Application for Registration of the Druid Network

<sup>65</sup> Charity Commission for England and Wales, The Gnostic Centre Decision made on 16 December 2009 regarding Application for Registration of the Gnostic Centre

<sup>66</sup> All of which are registered by the Registrar of Independent Schools in the Scottish Government.

#### CHARITABLE STATUS AND TAX IMPLICATIONS

4. We support the view of the ISC that there is no justification for treating charitable independent schools differently to other charities for the purposes of taxation. One of the tactics of those who oppose independent education is to question the legitimacy of tax reliefs available to charitable schools. Indeed, independent schools are often portrayed as “clinging on” to charitable status for the sole purpose of continuing to take advantage of these tax reliefs. The detailed financial rebuttal of this view in paragraph 24 of the ISC’s submission merits close attention, particularly as relates to VAT and to means-tested fee relief.

5. In a submission to Lord Hodgson’s review of the Charities Act, our stated view was that it is important that distinction is made between definitions of charitable purposes—that differ across the United Kingdom, and the outcome or effect of charity—which is universal.

6. In 2009, the (“Calman”) Commission on Scottish Devolution recommended that there should be a single definition of each of the expressions “charity” and “charitable purpose(s)”, applicable for all purposes throughout the United Kingdom. The Commission proposed that this should be enacted by the UK Parliament with the consent of the Scottish Parliament. We supported the Calman Commission’s proposal, although these were not adopted and were not taken forward in Lord Hodgson’s final report.

7. The situation currently is that Her Majesty’s Revenue and Customs (HMRC) applies the England and Wales charity test to Scottish charities (in place of the former test of the Statute of Elizabeth). In the case of charities established Scotland, this implies a double test of their charitable status, one for registration as a charity and one for tax purposes. There is no clear justification for this as relates to Scottish charities, and a solution was proposed by the Calman Commission.

8. Until the passing of the Charities and Trustee Investment (Scotland) Act 2005, there was no statutory system of regulation of charities in Scotland. The administration and disposal of charitable funds and assets were a matter for the Scottish courts. The 2005 Act created a new system of regulation of charities in Scotland and a new regulator—OSCR. OSCR is bound to operate according to the 2005 Act; while the Charity Commission has—to date—developed practice based on pre-existing English law, subject to legislative changes. In both countries, the test of what constitutes a charity involves not only purposes, but also the provision of public benefit. Definition of public benefit, and what constitutes a barrier to access, has diverged since the 2005 and 2006 Acts were passed.

9. Nevertheless, as the Calman Commission noted, the House of Lords stated in 1891 that UK taxing statutes must receive the same interpretation throughout the UK. It therefore follows that where two bodies undertake exactly the same activities, one in Scotland and the other in England, both should benefit from automatic tax exemption. It may require amendment to existing UK tax legislation to ensure that any charity recognised by OSCR or the Charity Commission for Northern Ireland is eligible for the same tax relief as any recognised by the Charity Commission for England and Wales or HMRC.

10. Any charity recognised or registered in one part of the United Kingdom should be able to conduct its charitable activities in another part of the UK without being required to register separately and without being subject to reporting and accounting requirements of the regulator in that part. This could be achieved by allowing “home country” recognition from one charity regulator to another within the UK.

11. Finally, it should be noted that in relation to VAT, independent schools are in a considerably worse position to state schools (or academies elsewhere). Independent schools, along with many other service-providing charities, are unable to reclaim VAT and the cost of irrecoverable VAT across the charitable sector is estimated above £1 billion each year.

12. In conclusion, we support the views of independent school colleagues that charging fees is not inconsistent with charitable status. There is no justification for treating independent schools any differently to any other type of charity.

*September 2012*

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#### **Written evidence submitted by Churches’ Legislation Advisory Service (CH 28)**

##### Summary

- The 2006 Act has made trustees and charity administrators much more conscious of the need to comply with the law.
- Whether or not the Act has reduced regulation on smaller charities is arguable.
- The Charity Commission seems to have an unfortunate tendency to attempt to import into English law the “charity test” from the Charities and Trustee Investment (Scotland) Act 2005—which it should not do.
- The Commission is—broadly speaking—an independent, fair, open and proportionate regulator.
- The Commission’s functions should be to regulate charities in England and Wales and to give authoritative advice to the sector.

- The Commission must remain free from ministerial control over its policies and operations.
- The Commission needs to be properly resourced—which, currently, it is not.
- We oppose charging charities for registration.
- The principal regulator approach is appropriate to reasonably-uniform groups of charities (such as universities) but is not a panacea.
- The tribunal system has worked fairly well but is by no means perfect.
- The rules around political activity by charities are reasonable and proportionate.

#### WHO WE ARE

1. The Churches' Legislation Advisory Service is an ecumenical charity that brings together all the major Churches in the United Kingdom (and, because the umbrella ecumenical bodies are members, many of the smaller Churches as well), together with the United Synagogue. Although we are a body composed of religious organisations our focus is not "religious"; rather, our primary purpose is to represent our members' views on issues of secular law as they affect their interests. A note of our membership in England and Wales is attached.

2. We welcome the opportunity to make a brief response some of the questions in the Committee's call for evidence.

#### QUESTIONS AND ANSWERS

*To what extent has the Charities Act 2006 achieved its intended effects of:*

- (a.) enabling charities to administer themselves more efficiently and be more effective?
- (b.) improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?
- (c.) providing a clear definition of charity, with an emphasis on public benefit?
- (d.) modernising the Charity Commission's functions and powers as regulator, increasing its accountability and preserving its independence from ministers?

3. Whether or not the Act has enabled charities to administer themselves more efficiently and to be more effective is a moot point which could only be settled by empirical research. What is undoubtedly true, however, is that the advent of the 2006 Act has made trustees and charity administrators much more conscious of the need to comply with the law—and that in itself must have been an influence for good on the administration of charities.

4. As to whether the Act has reduced regulation on smaller charities it is difficult to offer a worthwhile opinion.

5. The Act has certainly provided a clear set of definitions with an emphasis on public benefit. However, we detect a (possibly unconscious) tendency on the part of the Commission to attempt to import into English law the "charity test" from the Charities and Trustee Investment (Scotland) Act 2005. The emphasis in the Scottish legislation is different: it focuses on *outcomes*, whereas the 2006 Act focuses on *objects*. Our understanding of the 2006 Act is that if the objects of a trust are charitable and for the public benefit, then that trust is a charity *ipso facto*.

6. The Charities Act 2006 has certainly modernised the Charity Commission's functions and powers as regulator, (somewhat) increased its accountability and—thus far—has preserved its independence from ministers.

7. The Commission is—broadly speaking—an independent, fair, open and proportionate regulator. However, some of its more controversial actions—such as the decision to ask the Attorney General to refer to the Charity Tribunal the question as to whether or not "poor relations" and "poor employees" trusts satisfied the public benefit test—seemed to be motivated as much by a particular political/philosophical view of the nature of society and the nature of charity as by any feeling that the law itself was unclear.

*What should be the key functions of the Charity Commission?*

8. Ideally, the functions of the Commission should be to regulate charities in England and Wales and to give authoritative advice to the sector.

9. In our view there is no reason why these two roles cannot go hand in hand—*always provided that the Commission is properly resourced*. The problem of outsourcing advice (say, to the National Council for Voluntary Organisations) as suggested in various quarters is simply that, to be of any value, advice needs

to be *authoritative*—which the views of the NCVO and similar umbrella bodies, however expert, simply cannot be.

10. Both roles are equally important—but the role of regulator cannot, in our view, be outsourced, since there is no obvious impartial, independent body that could take it over, at least so far as religious charities are concerned. There is no obvious parallel in the field of religion with, say, HEFCE in the field of higher education.

*How should the Charity Commission be funded?*

11. The Commission must remain free from ministerial control over its policies and operations (as it is at present by virtue of s. 13(4) Charities Act 2011). To that end, it must therefore be free to negotiate its own budget direct with the Treasury and, ideally, have an insider's access to Whitehall. None of the realistic alternatives to Non-Ministerial Department status improves upon the Commission's current position in those respects.

12. Crucially, if the Commission is to continue to operate to its existing objectives, functions and duties it needs to be properly resourced. At the moment it is emphatically not.

13. We would not wish to see charging for the Commission's services if the purpose of any charging scheme that might be introduced were simply to pursue a policy that, where the market will bear it, charges should be imposed on those being regulated, to pay for the cost of the regulator. A charging scheme introduced on that basis would be particularly unattractive if the charges collected by the Commission were to go straight into the Consolidated Fund rather than augmenting the Commission's budget. If it *does* become necessary to introduce charging, we would prefer a one-off registration fee to the other alternatives and that fee should be proportionate to the resources of the body that is applying to register.

*Is the current threshold for registration with the Charity Commission set at an appropriate level?*

14. Probably yes, but there will soon come a point at which the thresholds will need to be revisited to take account of inflation—otherwise, the Commission will find its workload too great to handle. (Similar considerations apply to the current thresholds for the various levels of audit.) In any event, we would certainly not wish to see the current registration threshold lowered.

*How valid are concerns that there are too many charities?*

15. No comment: this is the kind of question that can only be answered by in-depth empirical research.

*Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

16. The principal regulator approach is no doubt appropriate to reasonably-uniform groups of charities (such as universities) with similar systems of governance and it appears to be working perfectly well.

17. We do not believe, however, that (as Lord Hodgson suggested in his Call for Evidence) the principal regulator approach could become a model of formal co-regulation that could apply to other focused groups of specialist charities such as Churches—not least because of the resource implications. All the current principal regulators are publicly-funded: Churches and other religious groups are not.

*There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

18. No comment.

*How successful has the introduction of the Charity Tribunal and its replacement, the First-Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

19. Broadly speaking, the tribunal system has worked, but with two caveats.

20. The first is that some of the Commission's more controversial actions—such as the decision to ask the Attorney General to refer to the Charity Tribunal the question as to whether or not “poor relations” and “poor employees” trusts satisfied the public benefit test—seemed to be motivated as much by a particular political/philosophical view of the nature of society and the nature of charity as by any feeling that the law itself was unclear.

21. The second is that the mechanism is, potentially, very costly. The A-G's reference had quite considerable implications for some small religious charities (such as benevolent schemes for retired clergy in small Churches, of which there are several) but none of those affected could risk the expense of intervening. Part of the reason why the case was properly argued was that the Grand Lodge of England intervened, apprehensive of the possible effect of a negative outcome on Masonic charities.

*How successful is the self-regulation of fundraising through the Fundraising Standards Board?*

22. From the point of view of most Churches, week-to-week fundraising is done either by collections at services or by individuals completing standing orders or contributing to weekly envelope schemes or a combination of these. Funds for larger capital projects, such as appeals for refurbishments, tend to be raised via special appeals—and their purpose is usually obvious to the donors. We suspect that the average congregation has never even *heard* of the Fundraising Standards Board.

*Are the rules around political activity by charities reasonable and proportionate?*

23. Unequivocally yes.

September 2012

## Annex

### MEMBERS AND ASSOCIATE MEMBERS OF CLAS IN ENGLAND AND WALES

Archdiocese of Thyateira and Great Britain (Greek Orthodox Church)  
 Assemblies of God in Great Britain and Ireland  
 Association of English Cathedrals  
 Association of Grace Baptist Churches (SE)  
 Baptist Union of Great Britain  
 Baptist Union of Wales/Undeb Bedyddwyr Cymru  
 Church Communities UK  
 Church in Wales/yr Eglwys yng Nghymru  
 Church of Christ Scientist  
 Church of England  
 Church of Scotland [which has a few congregations in England]  
 Churches Together in Britain and Ireland  
 Churches Together in England  
 Congregational Federation  
 CYTŪN  
 Evangelical Alliance  
 Evangelical Presbyterian Church of England and Wales  
 Fellowship of Independent Evangelical Churches  
 Free Churches Group  
 General Assembly of Unitarian and Free Christian Churches  
 Independent Methodist Churches  
 Lutheran Council of Great Britain  
 Methodist Church  
 Moravian Church  
 Presbyterian Church of Wales/Eglwys Bresbyteraidd Cymru  
 Religious Society of Friends (Quakers)  
 Roman Catholic Church in England and Wales  
 Salvation Army  
 Seventh-Day Adventist Church  
 Union of Welsh Independents/Undeb yr Annibynwyr Cymraeg  
 United Reformed Church  
 United Synagogue

### Written evidence submitted by Charity Finance Group (CFG) (CH 31)

#### 1. EXECUTIVE SUMMARY

1.1 CFG believes that the implementation of the Charities Act 2006 has had an overall positive impact on the sector through rationalising charity law and further developing an independent and effective regulator. We have also commented on:

#### PROPORTIONATE REGULATION

1.1 Generally the Charity Commission's risk-based regulatory approach and the legal framework for large and small charities, is appropriate.

1.2 CFG strongly disagrees with suggestions that the registration threshold should be increased. We would urge the Government and the Commission to work together to make it easier for charities with an income below £5,000 to register as a charity with the Commission.

## PUBLIC BENEFIT

1.3 The concept of public benefit and public benefit reporting are important aspects of charity law and regulation. CFG would like further clarity and improvements to the requirements to report and the reasoning behind public benefit reporting. The Government should consider the position of exempt and excepted charities in relation to the public benefit reporting requirements and how regulation can be streamlined across these charities.

## AN ENABLING ENVIRONMENT

1.4 In light of recent cuts to the Charity Commission's budget, it is essential that the regulator is supported to maintain an enabling role within the sector. It is important that the funding arrangements for the Commission remain the same.

1.5 An enabling environment for the third sector supports the development of new charities as well as the merging of existing charities where appropriate. The number of charities is not important as long as demand for services is met in an effective way, something for individual charities to assess.

## OTHER AREAS OF REGULATION

1.6 CFG broadly agrees with the self-regulation of fundraising. Further streamlining is required in some areas such as public charitable collections and the Government should work with the sector to move this in the right direction.

1.7 CFG feels that the regulations around charity campaigning and political activity are broadly proportionate and appropriate.

## 2 ABOUT CHARITY FINANCE GROUP

2.1 Charity Finance Group (CFG) is the charity that seeks to raise the standards of financial management in the voluntary sector by championing best practice, campaigning for a better operating environment for charities, providing high quality training and events and challenging regulation which hampers effective use of charitable funds. CFG has more than 1,800 members, all senior finance professionals working in the sector and collectively our members are responsible for the management of over £21 billion in charitable funds.

## 3 WHY CFG IS RESPONDING TO THIS INQUIRY

3.1 CFG is largely concerned that the tax and regulatory framework within which charities exist is fit for purpose; enabling innovation and growth but also ensuring that the sector continues to engender public trust and is accountable to donors and beneficiaries. It is essential that the sector is proportionately regulated and it is in this context that we are pleased to input to the PASC's post-legislative scrutiny inquiry into the impact and implementation of the 2006 Charities Act.

3.2 The inquiry follows a review of the Charities Act 2006 conducted by Lord Hodgson, the final report of which was published in July 2012. CFG provided a detailed response to the review of the Act,<sup>67</sup> and has also sent in comments to the Charity Commission's recent review of its information strategy.<sup>68</sup>

3.3 Overall, we believe that the charity legal framework supports and facilitates the effective functioning of charities in the UK. In our submission to Lord Hodgson's review, following detailed engagement with our members, we concluded that "*the current level of regulation charities face is broadly right*". However, we made the point that "*charity law and the regulatory requirements placed on charities can also be complex and are not always apparent or comprehensible to those who set up, work for, or volunteer for a charity*".

3.4 As part of our submission to this review we will be re-iterating perspectives put forward as part of the consultations mentioned above. These have been informed by member surveys and other member engagement such as roundtable events.

## 4 QUESTIONS

1. *To what extent has the Charities Act 2006 achieved its intended effects of:*

(a.) Enabling charities to administer themselves more efficiently and be more effective?

4.1.1 The Charities Act 2006 has helped to rationalise the legal framework for charities. This in turn has developed understanding of the responsibilities of charities and trustees and has provided focus on public benefit (although further clarification is needed here).

4.1.2 As was noted by Lord Hodgson's review, it is difficult to identify a clear causal relationship between changes in the sector and the implementation of the Charities Act 2006. However, we feel that the Act has had

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<sup>67</sup> Please see CFG's submission to the review of the Charities Act 2006 <http://www.cfg.org.uk/Policy/charity-law-and-regulation/charities-act-2006.aspx>

<sup>68</sup> Please see CFG submission to the Charity Commission review of the information strategy <http://www.cfg.org.uk/Policy/have-your-say/consultations/closed-consultations/2012/july/charity-commission-information-review.aspx>

a broadly positive impact within an unprecedented context. The economic climate has not only influenced the availability of funds but has also impacted on the social landscape of the UK. Recessionary effects on the sector have been belated and we fore-see deep and permanent change. The environment is one of increased demand and decreased resource. This has implications for efficiency, quality of service, and staffing, but has also promoted emphasis on impact and efficiency.

4.1.3 The Charity Law Association in their submission to the Charities Act 2006 review highlighted that several aspects of the Act were yet to be implemented. This is largely borne out of a lack of resource, which will be compounded further by the announced reduction in the Charity Commission's budget. It is difficult to truly assess the impact of the Act as a whole for this reason. There are also still areas of regulation that could be rationalised further, such as in the interactions between the Commission, HMRC, and principal regulators.

- (b.) Improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?

4.1.4 Prior to the Act there was a clear need to implement a more coherent regulatory regime for fundraising. This is likely to be the area where public dissatisfaction is most prevalent. Establishing the Fundraising Standards Board has been a significant step for the sector. To a large extent this has been a successful move and is a development that CFG continues to support.

4.1.5 The Charities Act 2006 does help to relieve regulatory pressure on the smallest charities. CFG would also recommend that it be made easier for charities with an income under £5,000 to register with the Commission; this is something which has not been progressed since implementation of the Act (please see our response to question 4).

- (c.) Providing a clear definition of a charity, with an emphasis on public benefit?

4.1.6 The public benefit requirement is an important element of charity law that explains how charities clearly qualify for the benefits of charitable status. Reflecting on a charity's aims and achievements is an important and necessary part of planning and reporting.

4.1.7 Our members have reported mixed views on the value of "public benefit reporting". 45% in a recent survey of members felt that the renewed emphasis on PBR has been helpful; however 55% do not find it helpful. A common observation was that for most the public benefit was obvious, and reporting on it therefore adding little in terms of accountability or public understanding.

4.1.8 Better explanation of the motivations behind public benefit reporting and clearer guidelines on what is required, would help to reduce the view of it as a mere compliance exercise; it should serve as a useful discipline to ensure that a charity's aims were at the forefront of the mind in planning activities. It is also worth mentioning that exempt and excepted charities are not subject to the requirement to report on their public benefit. This inconsistency is not desirable as we try to develop a sector that engenders "public benefit" as a concept.

- (d.) Modernising the Charity Commission's functions and powers as regulator, increasing its accountability, and preserving its independence from ministers?

4.1.9 The Charities Act 2006 has significantly improved the clarity of the Commissions, functions, powers and objectives. The Commission is seen as an independent and accountable regulator of the Charity Sector and we see little need to make changes that could affect this.

## 2. *What should be the key functions of the Charity Commission?*

4.2.1 The Charities Act 2006 compiles the greater part of the legal framework underpinning the regulatory regime. Under the Act the Charity Commission has responsibility as registrar and regulator of charities. We have found that the Commission enjoys a good relationship with those bodies that it regulates, being seen as a regulator and a friend. This has helped to create a supportive environment, a likely contributing factor to the success of the sector in the last decade.

4.2.2 Announcements in the 2010 Comprehensive Spending Review will see the Commission's Budget cut by 33% in real terms by 2015. There is no doubt that in order to fulfill its statutory duties within this budget, significant efficiencies have to be found. The Commission has responded effectively to this through a strategic review, and the role of bodies such as CFG in providing advice and guidance will need to develop further. However, we would maintain our view that it is essential that the Government still supports the notion of an independent regulator which sets out to support the sector through an enabling relationship. We believe that this will help improve and maintain long term levels of transparency, efficiency and accountability of charities across the board.

## 3. *How should the Charity Commission be funded?*

4.3.1 It is important that the Commission remains a non-departmental public body and that it is funded by the Treasury. Charging for registration with the Charity Commission will remove funds from the sector, unfairly impact on the smallest charities, and be unlikely to bring in the necessary funds without significant charges. Overall we feel this undermines the need for an enabling regulatory regime.

4.3.2 Results from a survey of our members for the Charities Act 2006 review suggested that a significant number would not object to fines being introduced as a means of compliance. However, critically we do not think that this should be considered as a revenue generating measure for the Commission. This could result in conflict of interest and would not support trust in the Commission from the public or charities.

4.3.3 If considered, there is need for further consultation in order to ensure that the resulting regime is fair. In any case it would be better if fines for late filing were not automatic, considered on a case by case basis, and were more likely in circumstances of consistent non-compliance.

#### *4. Is the current threshold for registration with the Charity Commission set at an appropriate level?*

4.4.1 In the final report from the Charities Act 2006 review, Lord Hodgson recommended that the threshold for compulsory registration should be raised from £5,000 to £25,000. We are strongly against this position and believe that it is important to improve the level of organisations registered with the Charity Commission and not to promote an initiative with potential for the opposite effect. One reason for this is simply to guarantee high quality data on the sector. The Commission's risk-based regulatory approach should go some way to ensuring that the level of regulation for smaller charities remains appropriate.

4.4.2 CFG would recommend that organisations with an income below £5,000 that wish to register with the Commission are able to do so more easily. It is important not to compromise data on the sector and the number of charities familiar with regulatory obligations, and that we give more charities the opportunity to take the step toward registration.

4.4.3 The current thresholds represent a staggering of requirements dependent on income. For some smaller charities it may be superficially attractive to increase the threshold for full audited accounts. This point was also picked up by Lord Hodgson in the Charities Act 2006 review. We would recommend that great care is taken in exploring this option. There is significant danger of undermining trust and confidence in the sector.

4.4.4 CFG has also previously recommended that the information transfer and regulatory relationship between the Commission and HMRC could be improved if all charities registered with HMRC were required to be registered with the Commission. This would provide many small charities with a direct incentive to register with the Commission and would reassure HMRC that those claiming tax reliefs are legitimate, regulated charities.

#### *5. How valid are concerns that there are too many charities?*

4.5.1 We want to support a vibrant and diverse civil society enabled through the regulatory environment so that:

- It is simple and easy to set up a charity or social enterprise in response to a social need or problem, or in order to bring about an innovative idea for change.
- Organisations that wish to merge in response to changing needs or converging beneficiary groups and activities are able to do so.
- Organisations are not forced into merger through political or financial pressure when not appropriate, perhaps because of organisational cultures, benefits of existing independently in terms of expertise and potential negative impact on beneficiary services.

4.5.2 A major barrier to greater collaboration between charities is the VAT charged on shared services, which in many cases prevents charities from enhancing efficiency by sharing back office or other services. The VAT cost sharing exemption (Article 132(1)(f) of the EU Principal VAT Directive), came into force as part of the Finance Act 2012 and is a positive step towards addressing the problem. However, the narrow scope of the measure and the conditions attached mean that it will only work for some charities, some of the time. Government needs to explore sector-specific alternatives to the exemption so that all charities can collaborate to share services without the complexity or cost the VAT burden brings.

4.5.3 It is important that charities work as effectively and as efficiently as possible. As good practice charities should review whether they could work more collaboratively with other organisations or merge.

4.5.4 So long as we have social, environmental or other such needs there will be demand for charitable endeavour. A diverse voluntary sector and civil society is desirable in order to effectively meet this.

#### *6. Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

4.6.1 Public benefit reporting does not apply to exempt (unless the principal regulator applies it) or excepted charities. Equally, while it applies to charities with an income under £25k, as they do not have to submit and publish their Trustee's Annual Report on the Commission's website, it is difficult to know how meaningfully it is applied; the information is also difficult to get hold of. As this is the fundamental reporting requirement underpinning charitable status, we feel strongly that it should apply to all charities, including those who are exempt and excepted and have a turnover of less than £25k.



7. *There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutual, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

4.7.1 Innovations involving social enterprise, mutuals, and other entities present some exciting opportunities to make a difference within a commercial model. This is something we support and we think can add to the diversity of civil society. However, it is important that the public are supported to understand the difference between charities and other entities, and what is specific about charity registration. The tax reliefs afforded to charities are a fundamental part of how we maintain an active public benefit sector within our society. It is important that these are maintained, improved where necessary, and understood by the public.

8. *How successful has the introduction of the Charity Tribunal and its replacement, the First-Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

4.8.1 CFG has little to comment on the Charity Tribunal but is in support of the current structure. It is important to provide clear channels through which to hold the Commission to account and to appeal against Commission decisions.

9. *How successful is the self-regulation of fundraising through the Fundraising Standards Board?*

4.9.1 Overall we do not believe that the general model of the FRSB should be changed and do not support suggestions that it should be paid for through a levy on Gift Aid or through mandating membership. It is important that charities continue to join the organisation at a point where they feel they can live up to the expectations.

4.9.10 There is still a concern that the overall regulatory landscape for fundraising activity remains confusing. This is especially the case with increased sanctions being put in place by local authorities and with the legal framework relating to public collections. Lord Hodgson's recommendations on this have received a mixed reaction; this is therefore clearly an area requiring more work in order to get it right.

10. *Are the rules around political activity by charities reasonable and proportionate?*

4.10.1 Campaigning and contributing expertise to policy development is an essential part of many charities work and should be supported as a significant aspect of delivering real difference against charitable objectives and as a crucial part of the democratic and policy making processes. Independence enables charities to provide voice to their beneficiaries, and many organisations will work with individuals across the political spectrum wherever possible in order to allow their voice to be heard and to have maximum impact.

4.10.2 Currently the rules prohibit party-political campaigning, or objects of political purpose; charities are only permitted to campaign in order to work towards charitable objects. We believe that this is a fair and proportionate approach. In the policy making arena, the contribution of the charity sector is essential in order to get to the bottom of local and national needs and to develop the most effective ways to address these needs. There is little or no credibility to suggestions relating to the influence of public funding on policy and campaigns activity. Charities' independence and governance structures should ensure that decisions are made around campaigning activity in line with charitable objects and mission drift is a risk usually considered very seriously by the sector when entering into any sort of funding arrangement with a different body.

September 2012

### **Written evidence submitted by Charities Aid Foundation (CAF) (CH 32)**

#### **CHARITIES AID FOUNDATION**

##### **1. INTRODUCTION**

1.1 The Charities Aid Foundation (CAF) is a registered charity that promotes charitable giving and provides financial services and social finance to not-for-profit organisations.

1.2 CAF helps donors—including individuals, major donors and companies to give more effectively whilst providing financial and fundraising solutions for charities in the UK and internationally, helping good causes to manage their resources more effectively.

1.3 CAF also has a strong track record in research, policy and advocacy, working across a range of issues to ensure the best possible funding environment for charities.

##### **2. *What should be the key functions of the Charity Commission?***

2.1 The central guiding principle of the Charity Commission should be to maximise and maintain public trust and confidence in charities. In order to achieve this, its key functions as the regulator for the charity sector should be offering general guidance for charities and their trustees on how to interpret the laws that apply to them and ensuring that charities on the Commission register report adequately on an annual basis. Transparent,

easily available information that confirms a charity is legitimate and active is vital as the basis for public trust and confidence in charities.

2.2 It is important that charities, the public and the government are clear and realistic about the scope of the Charity Commission's role and the resources it has. The limited and diminishing resources that the Commission has available mean that it should steer away from producing large amounts of detailed, specific advice for charities. Whilst this advice is valued by many charities (as confirmed by the recent Hodgson Review of the Charities Act 2006), there are many infrastructure bodies in the voluntary sector receiving strategic funding from Government, and it is these organisations that should take responsibility for providing such detailed advice. The Charity Commission should continue to provide general advice on the interpretation of relevant legislation, and can continue to play a role as "first port of call" for those with queries, but it should look to signpost them to other organisations and sources of information when more detailed advice is sought, rather than attempting to fulfil this function itself.

2.3 Another crucial function of the Commission is ensuring that charities report on an annual basis. As well as ensuring regulatory compliance, this reporting also acts as an important source of information on charities for the wider public. It is important, however, that reporting requirements are proportionate and do not place an undue administrative burden on charities.

2.4 CAF believes that better use of technology is the key to maximising the effectiveness of the Charity Commission while minimising the burden on charities. Requiring standardised online reporting from registered charities would ensure that the information received is not only consistent, but can be processed and analysed systematically. It should then be possible to apply risk-weighting algorithms that are able to identify any issues and causes for concern. This would make it easier for problems to be identified at an early stage and acted upon swiftly. One of the major concerns currently is that issues are often not addressed until they have reached an advanced stage. This means that in many cases by the time an investigation is completed, the charity's problem is beyond repair.

### *3. How should the Charity Commission be funded?*

3.1 At a time when public spending cuts are being made across the board, it is unsurprising that the Charity Commission has had to face robust cuts to its own budget. The challenge is to ensure that this does not undermine its crucial role in underpinning public trust in the UK charity sector. It is necessary to consider the most effective ways of minimising the costs of performing the commission regulatory function (as discussed above) and also the most effective ways of funding it as an organisation.

3.2 One suggestion is that there should be a fee for being a registered charity (either one-off upon registration or annual, or a combination of both). CAF would in principle support the idea of a registration fee as a means of ensuring the sustainability of the Charity Commission. However, this fee would have to be modest and proportionate to the means of each charity. For many charities, the additional cost of registering with the Charity Commission could be problematic if set too high. Furthermore, there is a potential issue for charities that rely on fundraised income, because donors may be unhappy if they feel that their donation is going towards paying the administrative costs of the regulator.

3.3 The introduction of a registration fee could have benefits in terms of the issues of duplication and dormancy discussed in section 5. A fee could act as an additional encouragement to consider whether it is necessary to set up a new legal entity, and also (if the fee were annual) as an incentive to close down dormant charities.

### *4. Is the current threshold for registration with the Charity Commission set at an appropriate level?*

4.1 Currently all voluntary organisations with an annual income of £5,000 or more are required to register with the Charity Commission (unless they are exempt or excluded organisations). The recent Hodgson report proposed that this threshold be raised to £25,000. There is some logic to this proposal, as it would bring the threshold for registration into line with the threshold above which organisations are required to submit accounts and an annual report.

4.2 The supposed benefit of raising the registration threshold is that it would reduce the administrative burden on smaller organisations. There are a number of clear potential downsides, however. The first is that raising the threshold would mean more voluntary organisations were not registered with the Charity Commission. The Hodgson report noted that even raising the threshold to £10,000 would mean that over half of all charities would no longer need to register. That would leave an enormous number of organisations about which there was little information available. The second issue is around public perception: there is already concern that most people are not aware that very small voluntary organisations can be legitimate without being registered charities. Raising the threshold would make this problem more widespread, and risk creating a two-tier voluntary sector in which registered charities are at an advantage.

4.3 The issue of registration is clouded further by the fact that there are two separate registration regimes currently operating. Organisations registered with the Charity have to make an additional registration with HMRC if they want to take advantage of the various tax benefits available to charities (eg tax relief on donations). Unlike the Charity Commission register, the HMRC list of approved charities is not currently

publicly available. The danger here is that it creates confusion in the minds of the public, if they find that things they might have thought defining about charities (eg the ability to reclaim Gift Aid on donations) are not actually true of all registered charities.

*5. How valid are concerns that there are too many charities?*

5.1 The concern that there are “too many” charities can be interpreted in a number of ways, so it requires clarification. Is the concern that there are 162,000 registered charities in England and Wales, and that is inherently “too many”? If so, then this does not really seem valid: if all of those organisations came about for a clear reason and continue to address outstanding problems then it is hard to see on what basis one can argue that there are “too many”. It is more likely that the concern is that within this total figure, there are many organisations that are unnecessarily duplicating the work of others; many which are effectively dormant because they are neither raising nor spending money; or many whose reason for existence was time-limited and have come to an end.

5.2 Duplication, if it occurs, is problematic because it creates inefficiency and erodes the value of donations that are actually put towards charitable work. If two charities are distinct entities but doing identical work, their back-office costs are duplicated unnecessarily. It is not always easy to identify duplication, however. There are often valid arguments about differences in operational approach, geographical location etc which mean that it makes sense for two separate organisations to occur. However, there are clearly many examples where this is not the case.

5.3 The problem is that there are no clear mechanisms for dealing with duplication when it does occur. Unlike the commercial sector, takeovers are pretty much impossible in the charitable sector and mergers are difficult and hence extremely rare. It is possible for two charities to merge, but issues of culture clash and lack of fit tend to be particularly pronounced in a sector where organisations are staffed by people with a passion for a social cause and a distinctive view about the best way to address that cause. Finding ways to support successful merger within the charitable sector could help to offer a solution to the issue of duplication.

5.4 The other way of addressing the issue of duplication is by prevention rather than merger. If those who wish to set up new charities can be encouraged to consider whether there are existing organisations addressing the issues they are concerned with, and whether they would be better off simply supporting these existing organisations, it could avoid the unnecessary proliferation of charities. The Charity Commission has gone some way towards this by requiring those applying to register a charity to specify whether there are any other organisations in their area doing similar work.

5.5 Dormancy is perhaps a more clear-cut issue: there are certainly charities on the Commission’s register which are receiving no income and spending no money on charitable activities, and some of these may have significant assets. Again, the problem is that there is no mechanism for dealing with this issue. In the commercial sector, there are companies that specialise in buying up “zombie” companies or funds and getting the value out of their assets, but this is not currently possible in the charitable sector. Theoretically, this is an issue about trusteeship, because Trustees of a charity that is clear dormant or has reached the end of its natural lifespan have a duty to wind it up effectively. Unfortunately this is not always the case in practice.

5.6 It is possible that the Charity Commission could take a more active role in closing down dormant charities, but this may be impractical given the limitations on its resources. It is also not clear what would happen to the assets of those charities that were closed down. Currently, at least some of the assets of dormant charities can be released eventually through the standard process for dealing with dormant accounts, but this takes a minimum of 15 years. It would be beneficial to the voluntary sector as a whole if there was a better mechanism for releasing assets from dormant charities.

5.7 One answer to the problem might be to develop a mechanism that allowed charities to apply for ownership of the assets of dormant charities with suitably closely-aligned charitable purposes. That way, money given by donors to address a given social purpose could be put to use towards that purpose rather than languishing in the ownership of a defunct organisation.

5.8 Given the limitations on its resources, it is unrealistic to expect the Charity Commission to put a lot of time and money into developing new services aimed at preventing people from registering charities unnecessarily, or enabling them to close charities down. There could certainly be a role, however, for other organisations in the voluntary sector to address these problems. One solution that might be applied in both cases is the use of existing “general purpose” charities to act as umbrellas for other organisations. Some organisations such as CVSs already do this to an extent. These umbrellas can act as hubs for voluntary action, allowing people to test out ideas for services and approaches without having to set up their own organisation. These trial organisations get the benefits of favourable tax treatment and public confidence that come from being part of an existing charity, while having the time and space to decide whether to set up a standalone entity, and whether this entity should be a charity or social enterprise.

5.9 Umbrella charities could also be useful when it comes to dealing with dormancy. An umbrella charity could be empowered to take control of a dormant charity’s assets and either invite applications for funding or make grants to suitable charities. Taking this a step further, it might even be possible to remove any restrictions on the charitable purpose to which the funds of the dormant entity can be put. There would be valid concerns

about taking money raised for one purpose and using it for a different purpose, but since it would be in the best interests of the charitable sector to free up dormant assets, it is worthwhile looking for ways to overcome these concerns.

*6. There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

6.1 There are an increasing number of organisations that are attempting to move away from models of delivering public good through traditional donation-funded charitable means towards models which blend social returns with financial ones. It seems reasonable to suppose that for the public, the idea of a “charity” is more about social purpose than anything to do with legal form, so the distinction between a registered charity and a social enterprise or community groups may not be that clear if all are delivering some sort of public benefit.

6.2 Perhaps the most important distinction to make is between those organisations where public good comes first and those where financial return comes first. This would mark a clear difference between not-for-profit organisations which might produce financial returns but reinvest the majority of those returns into their social mission, and commercial businesses which may have some social aims but whose primary responsibility is to shareholders or investors. (This is a distinction that has been in the news recently thanks to the Advertising Standards Authority’s decision that the public service contracting firm A4e cannot call itself a “social purpose company”, as this would mislead people into thinking it is not-for-profit).

6.3 However, there is still an important role for organisations that are truly charitable. There are some social problems have proved intractable for many years: in these cases, expecting to find a solution to the problem that also delivers a financial return may be unrealistic. If the State does not address such a problem through taxation-funded public services, then the only option is for a charitable organisation to address it through work that is funded by donations. It is crucial that the public continues to be aware of the importance of this kind of charitable work. Otherwise there is a risk that people begin to question why all organisations cannot take a social enterprise approach, and more traditional charities are seen as somehow “second class”.

6.4 Charities are also important because they enjoy a particularly high level of trust from the public. Given that this may be due, at least in part, to the fact that they take voluntary donations and use them to deliver public benefit rather than attempting to generate financial returns (even if these were to be re-invested in the mission), it is worth maintaining clarity about the difference between charities and social enterprises.

*7. Are the rules around political activity by charities reasonable and proportionate?*

7.1 Apart from general and local elections, a free press and a vocal civil society sector are the main mechanisms for holding the Government to account. Charities play a vital role in representing some of the most marginalised individuals and communities in society, and it is crucial that they are able to campaign and advocate on behalf of these beneficiaries. This campaigning should be in addition to operational work and contribute to the charity’s mission. Clearly this activity should not be party political, and this is already prohibited by Charity Commission rules.

7.2 An issue raised by PASC’s inquiry briefing is whether charities that receive Government funding should be able to lobby against Government. The concern is that there are charities which are being funded by the Government to lobby in favour of policies that the Government itself would like to introduce, but needs to demonstrate support for. There is little evidence that this is a widespread issue. In fact, many charities experience the opposite problem: they are receiving money from government to deliver services and it is made clear to them that this funding could be under threat if they also attempt to campaign.

7.3 Both of these situations are wrong. It should be possible for a charity to hold public service contracts and still campaign for changes to policy. If the Government is commissioning for a particular service and a charity believes that it can provide it in a way which best meets the needs of its beneficiaries, it is right and proper to bid to deliver that service. The charity might still believe, however, that there is a market failure or that a more fundamental change to Government policy is required. In this case, they should be able to campaign for change at the same time as delivering the best service they can within current confines. It should not be the case, however, that the Government is able to influence charities to campaign on issues that they would not otherwise have campaigned on, simply in order to secure funding.

## Written evidence submitted by the Association for Charities (CH 33)

### SUMMARY

#### THE ASSOCIATION FOR CHARITIES

- Status, focus, background and partnership with other national organisations in the charity regulatory field.

#### RESPONSES TO PASC QUESTIONS

- Question 1(d): Charity Commission functions and powers as regulator, increasing its accountability.
- Question 2: Key functions of the Charity Commission.
- Question 3: Charity Commission funding.
- Question 8: Charity Tribunal effectiveness.

#### AN ADDITIONAL ISSUE

- Charity Commission accountability to Parliament: a plea to the Committee.

### 1 THE ASSOCIATION FOR CHARITIES

1.1 The House of Commons Research Library (Research Paper 06/18) referred in 2005 to our Association in the following terms “*It is the country’s first independent, grass roots, inter-charity organisation, representing the interests and rights under the law of charity people and their beneficiaries, particularly in relation to the regulator, the Charity Commission for England and Wales*”. In a separate 2005 report by the Charity Commission’s Independent Complaints Reviewer, as the Charities Bill was wending its way through Parliament, our Association was described as “*a notable stakeholder in the sector*”.

1.2 We have made submissions over many years to the National Audit Office; the House of Commons Public Accounts Committee (Their 2003 report on the performance of the Charity Commission included our submission as an appendix); the Strategy Unit (before and after the publication of their September 2002 report); and the Joint Parliamentary Committee on the Draft Bill. Our 96 page submission to the latter committee included some 13 case studies detailing the conduct and performance of the regulator, written by charity trustees or supporters with intimate knowledge and experience of what had actually occurred in those charities, following Commission regulatory interventions. We received evidence from charity trustees from over 40 charities who provided information on the Commission’s regulatory interventions in those charities. We also commissioned two films—a 30 minute video “*With charity for all*” and a 7 minute DVD “*Imagine a country*” in 2001 and 2002. These films were made available to every Member of both Houses of Parliament, and we also drew Parliamentarians’ attention to our concerns through regulator announcements in “*The House Magazine*” and “*Parliamentary Monitor*”.

1.3 Since 2004, following the changes in the Charity Commission’s top management, we have noticed significant changes and improvements in the Commission’s exercise of its regulatory powers which we have publicly acknowledged. We have also been represented at Charity Commission Open Board Meetings, and have regularly communicated privately with the Commission’s Chief Executive, both to welcome changes, and express certain concerns from time to time.

1.4 We have worked closely with other national organisations concerned about charity regulation and the Charity Commission’s performance as regulator, since our formation as an independent, self-funded, voluntary organisation. Our Association was a member of the NCVO’s Coalition on the (Charities) Bill. We have been greatly helped in our campaigns to improve charity law and regulation by a number of leading charity lawyers, and individual membership of the Charity Law Association has provided us with access to CLA working papers and reports. The issue of a trustee’s “right to have information” was first raised by one of our members, and has since received widespread support.

### 2 RESPONSES TO PASC QUESTIONS

2.1 Given our Association’s focus, background, experience and evidence, we confine our responses to questions 1(d), 2, 3 and 8.

#### CHARITY COMMISSION FUNCTIONS AND POWERS AS REGULATOR, INCREASING ITS ACCOUNTABILITY

2.2 We believe the Charities Act 2006 has been generally helpful in focusing on clarifying the Commission’s functions and powers as a regulator, though we support the Charity Law Association’s Working Party response to the effect that the objectives and functions of the Commission could be combined and refined, possibly with a broader statement of objects, supported by powers and duties.

2.3 Our major area of continuing concern, however, relates to the need for greater accountability by the Commission, given its extensive array of regulatory powers, and the exercise of these in relation to charity beneficiaries, trustees and volunteers. We are clear that the current accountability arrangements—to Parliament, the Courts and Tribunals, and ultimately the public and the public good—is currently insufficient. We

acknowledge the progress made in Commission accountability through the Charities Act 2006, the improved management of the Commission as regulator, and the creation and operation of the Charity Tribunal, as helpful steps to improving the Commission's accountability as regulator. We believe, however, that these are but steps on a journey towards the destination of better, fairer and more proportionate regulation.

2.4 We have been encouraged by the proactive stance and approach of your Committee in its annual reviews of Charity Commission regulatory performance, given that our Association, from its inception, lobbied long and hard for greater and more effective Commission accountability to Parliament through your Committee. In our concluding section of this submission, we make an impassioned plea for your Committee to compel the Charity Commission to provide fuller and better evidence of its performance as regulator. Such greater accountability does not and will not require any legislation: only your Committee's willingness to implement.

#### KEY FUNCTIONS OF THE CHARITY COMMISSION

2.5 Given our focus, background, knowledge and evidence of charity regulation, we believe the key function of the Commission should be regulation, and we support Lord Hodgson's recommendation that the Charity Commission be renamed as "the Charity Authority". If the Commission can become the fairer, more reasonable and proportionate regulator envisaged by Parliament during the Charities Bill debate, and if, as a result of funding difficulties, it needs to restrict or cease to a certain extent its advisory functions, then so be it. One effect of such funding constraints could be a greater emphasis on the need to improve its regulatory performance.

#### CHARITY COMMISSION FUNDING

2.6 Our major concern relating to Commission funding is the danger that the Commission, for understandable budgetary reasons, may fail in attempts to regulate the sector better. Given the evidence of the likely cost of fraud and misappropriation of funds within the charity sector, we question the extent to which the Commission can improve its regulatory performance. We believe it is critical that the Commission is properly and adequately funded to perform its primary regulatory role. Whether, or to what extent, the Commission should be able to secure income for charging for certain services is not an area in which we can offer evidence or advice.

#### CHARITY TRIBUNAL EFFECTIVENESS

2.7 One of our founding objects as an Association, given the "coal face" knowledge and experience of the charity trustees from different charities who came together in the 1990s to establish our Association, was the overwhelming need for the establishment of an independent Charity Tribunal. We were disappointed that the Tribunal was not established until 2008, but since it began its operations, we believe that it has had several beneficial results. We believe that, by its very existence and "modus operandi" (its inquisitorial rather than adversarial approach to complaints and complainants), it has provided a useful check on the previously relatively untrammelled exercise of its regulatory powers which so damaged a number of charity beneficiaries, trustees and charities. The damage done to a number of charity beneficiaries, trustees, charities and volunteers was recorded in our 2004 report "*Power without Accountability: the Charity Commission as Regulator*", made available to Parliamentarians and doubtless available from the Office for Civil Society in the Cabinet Office.

2.8 We have followed each of the Tribunal references and cases since 2008, but remain disappointed that the Tribunal is currently curtailed by "the table" in the 2006 Act from considering complaints generally believed it would be proper for them to consider. Our Association's recommendation to Lord Hodgson's Review was that the Tribunal should be able to consider *any* matter relating to the Commission's exercise of regulatory powers which the High Court would be able to hear by way of Appeal, or Judicial Review. We were disappointed that Lord Hodgson appeared unwilling to accept the logic of this recommendation.

2.9 We believe, however, that possibly the greatest benefit and advantage of Tribunal access and justice—not generally noted elsewhere—is that the Charity Commission is *compelled* in Tribunal proceedings to appear as defendant to defend the decisions and actions which are the subject of complaint or appeal. The Commission at a Charity Tribunal cannot, as it did in "*Weth v H M Attorney-General*" refuse to appear to defend the decisions and actions which were the basis of trustee appeal to the High Court. [The High Court Judgment obliging the Commission to appear as defendant in the trustee appeals in this case was overturned by the Court of Appeal upon appeal by the Attorney-General and the Charity Commission.]

2.11 From our knowledge, evidence and experience of charity regulation, we argue that the Tribunal should have powers to award compensation as appropriate, together with the power to award "consolatory" payments (a facility open to the Commission, though entirely dependant upon their willingness to make use of this).

2.12 In summary, we believe the introduction of the Charity Tribunal, and of the First Tier Tribunal (Charity) as Court of Record, has made it easier to challenge certain decisions of the Commission. We believe, however, it is important to provide easier access to the Tribunal through changes in its powers, the abolition of the "table" of issues, together with an ability to award costs, compensation and consolatory payments as requisite.

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### 3 AN ADDITIONAL ISSUE

#### CHARITY COMMISSION ACCOUNTABILITY TO PARLIAMENT: A PLEA TO THE COMMITTEE

3.1 Despite the improvements in the Commission in a number of areas following managerial and procedural changes since 2004, we remain conscious that, under present arrangements, the Commission remains insufficiently accountable for the exercise of its extraordinary, concurrent High Court regulatory powers. Our evidence, over many years, presented to Parliament, the National Audit Office, the Strategy Unit and the sector, demonstrated the disgraceful way in which a number of charity beneficiaries, trustees and volunteers had been treated through the exercise of these powers. More recently, during the previous few months, there has been evidence from public comments by former senior Commission staff, with knowledge of the Commission's Compliance Unit, of low staff morale—recognised also by the Commission Board. It appears that, in at least one case (the David Orbison appeal to the Employment Tribunal) that the Commission may have been reluctant to act robustly as regulator in a named charity case. The Commission case officer involved, using “Whistleblower Act” provisions, made certain allegations relating to the Commission's behaviour in its dealings with that charity. The Employment Tribunal, by a two to one majority, found that the appellant had been constructively dismissed by the Commission, although it is understood that the Commission is appealing against the Employment Tribunal Judgment on this.

3.2 Our concern, and the subject of our appeal to your Committee, relates to the need we see for evidence of the manner in which the Commission exercises its regulatory powers on an ongoing basis. We believe that this proposal, relating to the content of Commission Annual Reports to your Committee will not require any legislation. It would require only an order by your Committee to the Commission to provide, in its Annual Report, information of the nature outlined in paragraph 3.3 below.

3.3 Our proposal and plea to your Committee is that they request information and evidence from the Commission which will demonstrate how the Commission has exercised its regulatory powers, taken from internal and external sources readily available. The costs of providing such information should be minimal, given its availability. The information and evidence we propose the Commission should provide to your Committee could include the following:—

- A record of the number and type of cases of disciplinary investigations and the action taken by the Commission (eg warnings, suspensions, dismissals), if any
- The number and amount of any compensation or consolatory payments made by the Commission in the preceding year.
- The number and nature of complaints or appeals to external bodies, including any independent complaints reviewer, the Charity Tribunal, the High Court and the Parliamentary Ombudsman—and the results of such references, complaints or appeals. [We are aware that the Commission noted in a recent Annual Report that no references had been made to the Parliamentary Ombudsman in the previous two years, but no mention was made of other references to any external body.]

3.4 The information we hope the Committee will request is of the type which could be requested and produced by way of Freedom of Information Act requests. We do not believe, however, that it should be necessary for interested organisations and persons to have to make Freedom of Information Act requests, or to have to trawl through the records of other bodies and organisations to which complaints or appeals have been made. We believe it should be the duty of the Commission to provide the Committee with information and evidence of this nature relating to the exercise of its regulatory powers.

3.5 If it is urged that private companies or other public bodies do not provide, or need to provide such information and evidence, we would respond that, to the best of our knowledge, no other organisation possesses and exercises concurrent High Court powers of the nature of those employed by the Commission; and that the Commission should have a duty to provide information of this nature.

3.6 We believe that a request for the Charity Commission to produce such information in their Annual Report to your Committee would, by its very nature, tend to increase self-accountability on the part of the Charity Commission's senior management—apart from providing a better and more accurate record of the manner in which the Commission has exercised its regulatory powers over the preceding 12 months. The Association's Chairman has written privately to the Charity Commission's Chief Executive apprising him of the Association's proposal. We recognise, however, that the proposal may not command universal approval within the Commission, but we believe it would constitute a further important step in securing greater accountability on the part of the Commission, to the benefit of those it exists to serve.

### Written evidence submitted by British Red Cross (CH 36)

The British Red Cross (BRC) is a volunteer-led humanitarian organisation that helps people in crisis, whoever and wherever they are.

Two-thirds of BRC activity is funded by voluntary income, amounting to £150 million in 2011. Successful fundraising is at the core of our sustainability and public trust and cost-effective regulation are vital to that success.

BRC welcomes the Public Administration Select Committee (PASC) scrutiny into the effectiveness of the Charities Act 2006 (the Act) and is submitting views below on two of the questions (Q1b and Q9) with supplementary information on Q2 as these questions are specifically relevant to fundraising.

BRC has submitted responses to a number of consultations including Lord Hodgson's Charities Act Review and the Charity Commission Strategic Review, the key messages from which are reflected in this document.

#### EXECUTIVE SUMMARY

It is vital that charities are effectively regulated to ensure public trust and confidence and to provide a system whereby breaches of the law are dealt with in the most appropriate manner. Regulation ought to be straightforward and proportionate to ensure that resources are not unnecessarily diverted away from charitable objectives.

BRC feels following the implementation of parts of the Act, it is timely to consider opportunities to review regulation, such as:

- Clarification of the roles of the four sector self-regulatory bodies.
- Simplification of solicitation statement legislation.
- Consistent and fair application of collection legislation.

BRC greatly values the work of the Charity Commission and feels that despite funding cuts it is important that its role is not diluted nor its activities reduced.

The FRSB has improved transparency and accountability in the sector, however costs could be seen as high in light of the relatively low ratio of complaints to the number of interactions with charities. Furthermore, charity take up remains low relative to the total number of charities.

BRC supports effective, proportionate self-regulation which enhances public trust in charities while remaining unburdensome to the sector. While there are certain areas which could be improved, simplified or streamlined, the Act remains a valuable tool for ensuring charities are appropriately regulated.

The balance between public trust and effective fundraising must also factor in the ever important stakeholder or beneficiary who will too often seemingly get forgotten in the endeavour to protect the general public. As fundraisers, it is vital that we continue to value our intrinsic right to ask.

#### BRITISH RED CROSS RESPONSE TO PASC SCRUTINY OF EFFECTIVENESS OF THE CHARITIES ACT 2006

##### 1. *Question 1 b*

1. To what extent has the Charities Act 2006 achieved its intended effects of:

(b.)

improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?

1.1. BRC acknowledges the value of charity fundraising regulation and the need to sanction activity which goes against the law or damages the sector. The Act and the system of self-regulation enable the public to have confidence in the charities they support.

1.2. It is important to strike a balance between maintaining public trust through regulation, and ensuring that charitable resources are focussed on beneficiaries rather than administration. BRC feels that light touch regulation reduces costs, cuts red tape and minimises administrative workload.

1.3. Whilst regulating fundraising is a complex matter, there are some areas where the Act could perhaps be simplified or improved in order to further achieve its intended effects of improving or reducing sector regulation.

#### CLARIFICATION OF THE ROLES OF THE FOUR SELF-REGULATORY BODIES

1.4. There are four main membership bodies with responsibilities for different elements of self-regulation for fundraising (the Institute of Fundraising, the Fundraising Standards Board, the Professional Fundraising Regulatory Association and the Charity Retail Association). Improved clarity of their individual and collective roles could avoid overlap, strengthen self-regulation and to ensure value for supporters' money in our membership fees.



1.5. Whilst it is acknowledged that the system is relatively new and requires more time to develop, there may also be opportunities for improved joint working to explore co-regulation.

1.6. Currently BRC pays separate membership fees annually to all four organisations, which in 2011 cost the organisation a total of £189,000. Whilst we support and uphold the highest standards in all areas of fundraising, it should be noted that these funds could have been spent on supporting our beneficiaries.

#### SIMPLIFICATION OF SOLICITATION STATEMENT LEGISLATION

1.7. Legislation around the requirement for solicitation statements for professional fundraisers could be considered to be unenforceable and unnecessary. Furthermore, there is the potential for inadvertently criminalising staff fundraisers which appears disproportionate.

1.8. Solicitation statements could be simplified, and made part of the Institute of Fundraising's Codes of Fundraising Practice rather than law.

#### CONSISTENT AND FAIR APPLICATION OF COLLECTION LEGISLATION

1.9. Charitable collections are currently regulated by the Police, Factories etc. Act 1916 and the House to House Collections Act 1939. There are instances where this legislation is applied unevenly between local authorities and it is arguable that some authorities restrict fundraising opportunities through their licensing approach.

1.10. These Acts could be replaced and incorporated into the Charities Act 2006 to ensure fair and transparent regulation for all charities. Alternatively, a new system could be developed which should be delivered by charities and local authorities, rather than being legislative.

1.11. National Exemption Orders could be applied to all charities to ensure equality in fundraising without additional administrative costs, and would particularly benefit smaller charities.

## 2. Question 2

*What should be the key functions of the Charity Commission?*

2.1. BRC greatly values the work of the Charity Commission and believe that it acts as a strong advocate for charities operating in England and Wales.

2.2. Particular areas of the Charity Commission's functions which we consider to be of significant value include:

- Work and guidance on matters related to compliance and accountability, which we see as being critical to gaining and enhancing public confidence and trust in charities.
- Tailored advice and support to all charities, and for BRC, the large charities unit providing a dedicated resource and channel for enquiries.
- Advice and support on cross border matters as a charity operating across the four nations of the UK.
- Advocacy on the sector's behalf regarding proposals to increase public trust in charities.
- Development of proportionate monitoring arrangements to assure stakeholders that charities are not diverting from their charitable purposes.
- Support to the sector's ability to fundraise, including management of restricted funds and "failed appeals"

2.3. In our response to the strategic review 2011 of the Charity Commission, BRC expressed concern that funding cuts to may result in a reduction of the level support to charities the Charity Commission is able to provide.

## 3. Question 9

*How successful is the self regulation of fundraising through the Fundraising Standards Board (FRSB)?*

3.1. The FRSB and its implementation of a complaints process have improved transparency and accountability in the sector.

3.2. However, in practice there is a high level of regulation and cost compared to a relatively low proportion of complaints received by charities and compared to the number taken to the FRSB and upheld.

3.3. The Institute of Fundraising in its submission to Lord Hodgson's Review of the Charities Act 2006 said:

*"In 2010, over 18,000 complaints were made by members of the public to charities who are members of the Fundraising Standards Board out of 3.9 billion donor contacts made by these charities—a tiny proportion of complaints.*

*The majority of these complaints were solved internally by charities themselves, with only 12 being escalated to stage 2 and requiring formal intervention by the FRSB. Up until 2011, only seven complaints were taken to the FRSB's ultimate stage 3 adjudication and 2010 saw the first occasion on which a stage 3 adjudication was upheld.”*<sup>69</sup>

3.4. Any intention to strengthen the powers of the FRSB should be proportionate to the scale of the perceived problem to be solved.

3.5. It may also be worth noting that the FRSB has not attracted the hoped-for membership (1,431 members to date), meaning that it does not have influence over all fundraising charities and professional fundraisers.

3.6. As outlined in question 1b, clarification of the roles of the four self-regulatory bodies could be a positive step forward for the sector.

September 2012

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#### **Written evidence submitted by Nikki Brooker (CH 37)**

I recently attended the Charity Commission public meeting. As a result someone said I could submit evidence in relation to the above question.

Having worked in the charity sector the last 15 years I have seen a change in motivation for people to establish charities and I believe that it is too easy for anyone to set up a charity. I think that people setting up charities, particularly if they intend to be the directors of those charities should have to be able to prove that they have experience and expertise that are relevant to the charities objectives.

For example someone who sets up a charity to help young people obtain jobs should be able to demonstrate an understanding of how to work with young people, and have more experience in this sector than simply having been a parent themselves.

September 2012

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#### **Written evidence submitted by the Panel on the Independence of the Voluntary Sector (CH 38)**

##### **BACKGROUND**

The Panel on the Independence of the Voluntary Sector was established by the Baring Foundation in 2011 to shed light on how far there is a problem of independence in the voluntary sector and to make recommendations. The first of four annual reports over five years, *Protecting Independence: the Voluntary Sector in 2012*, was published in January this year, which identified a number of real and present risks to the independence of purpose, voice and action of some parts of the voluntary sector. Further details of the Panel's work, including the Panel's first report, can be found at [www.independencepanel.org.uk](http://www.independencepanel.org.uk)

##### **GENERAL POINTS**

Independence is important not just to those served by the voluntary sector but to society more generally. Independence lies at the heart of what makes the voluntary sector distinctive, effective and necessary: allowing the design and delivery of services and other activities that respond sensitively to diverse needs, and providing an informed and robust voice on behalf of different groups and unpopular causes. An independent voluntary sector is a key component of a vibrant democratic society and results in help for different groups that might otherwise remain unsupported. It also provides an alternative form of provision and thus promotes pluralism of provision and choice.

Arguably, the greatest potential threat to that independence is the increasing blurring of boundaries between the voluntary, public and private sectors. This can be positive where respect for the independence of the voluntary sector is maintained—leading to cross-fertilisation and better services. But it can be harmful when people start to think of these sectors as interchangeable and it is already leading to confusion about what constitutes a charity in the 21<sup>st</sup> century. This can result in an erosion of perception of the distinctiveness of the voluntary sector and loss of understanding of and respect for independence.

This blurring in the public mind of what constitutes the voluntary sector is partly happening because the private and voluntary sectors are increasingly delivering public services, sometimes in cross-sector consortia; voluntary sector “spin outs” are being formed from the public sector, including public sector mutuals; and charities are being created from former public sector bodies such as British Waterways. Social enterprises can be a very effective part of the voluntary sector but the absence of any clear definition of social enterprise is also leading to some “for profit organisations” abusing the term, adding to confusion about what the sector is.

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<sup>69</sup> Charities Act 2006 Review—Call for Evidence Institute of Fundraising submission  
Fundraising: self-regulation and transparency

Blurring of public perceptions is one thing but the danger, where sectoral boundaries are actually crossed, is that the voluntary sector ends up being subsumed into the public or private sectors, or being forced to mimic the other sectors in order to qualify for public sector funding. The risk is that a gradual loss of independence will ensue, and result in voluntary organisations altering or downgrading their purpose and values to chase money or profit to aid the survival of the organisation. This will result in a move away from mission, loss of freedom of action and/or of independent voice. These changes are likely to be gradual but may prove to be fatal to the founding principles on which the organisation was formed. Services to those most in need will suffer and campaigning voices will be muted or silenced altogether. Moreover, the existence of separate tax breaks, donations and the volunteering on which the voluntary sector depends may be called into question. If the voluntary sector is not different, why should it be treated differently by the public or the state?

Partly as a result, the Panel sees evidence of insufficient respect for voluntary sector independence including:

- Insufficient separation between regulation and funders, as explored below;
- Evidence of lack of respect by public and private sector partners for safeguards for independence such as the Compact<sup>70</sup> and the Merlin Standards that apply to cross-sector consortia delivering the Work Programme;<sup>71</sup>
- A “one size fits all” approach to statutory funding and contracting arrangements in which the distinctive requirements of the voluntary sector are ignored;<sup>72</sup> and
- A growing belief that organisations that deliver public services should not campaign or criticise the government, which is also explored below.

Lord Hodgson calls for a public debate on what constitutes a charity, which we welcome, provided it does not result in a futile attempt to define too tightly what is a very diverse sector. At the heart should be a recognition that treating the private, public and voluntary sectors as interchangeable when they deliver public services is *the problem, not the answer*. Voluntary organisations are founded to serve the public good rather than profit and—although they share this objective with the public sector—the critical difference is that voluntary organisations are freely formed by individuals, generally deriving their legitimacy not from elections but from their close connection to the physical communities or communities of interest that they serve. Similarly, voluntary sector organisations sometimes look like private sector organisations, delivering the same services under contract and often adopting many of their practices. But their *primary* focus should always be on mission, values and, ultimately, the groups, causes or localities for which they were formed, rather than creating a healthy balance sheet for its own sake. Funds are raised not for distribution to shareholders but to be reinvested in achieving the objectives of the charity.

These differences bring different benefits to the delivery of public services which will be lost if the sectors are treated interchangeably and independence is eroded. For example, the private sector may bring economies of scale, a keen focus on price and customer service. Some charities also have these attributes but, at their best, voluntary organisations may bring specialist knowledge and an enduring commitment to a particular client group, locality or activity, as well as volunteers and subsidies from donations.

Some have suggested that charities that receive a high proportion of public funding should not be called charities. However, the defining characteristic of the voluntary sector should be the primacy of mission and purpose and independence, rather than the source of funding or activities. Voluntary organisations working with disadvantaged groups tend to be particularly reliant on state funding and there is a danger that redefining charities to exclude organisations that deliver public services would “throw the baby out with the bath water.”

#### SPECIFIC POINTS

The Panel would like to make the following specific observations on a number of the questions on which you seek views, taking the relevant ones in turn.

1. *To what extent has the Charities Act 2006 achieved its intended effects of:*

(a.) enabling

charities to administer themselves more efficiently and be more effective?

(b.)

improving the regulation of charity fundraising, and reducing regulation on the sector, especially for smaller charities?

<sup>70</sup> *The Compact*, Compact Voice and The Cabinet Office (December 2010), evaluated recently in the *Annual Compact Survey 2012: Results*, Compact Voice, 8 July 2012; *Central government’s implementation of the national Compact*, NAO, January 2012

<sup>71</sup> The Merlin standards are in place to protect against abuse in consortia and are monitored by the Department of Work and Pensions. These require prime contractors in the Work Programme to manage their supply chains with integrity and openness and in compliance with a Code of Conduct which requires transparency, clear communication and effective processes. Following self-assessment, prime contractors are accredited by the DWP, but are allowed a one-year period to achieve accreditation. The operation of the standards have been criticised by ACEVO, *Third Sector Work Programme Survey* (October 2011); NCVO, *The Work Programme: Initial Concerns from Civil Society Organisations* (October 2011); LVSC, *Fair Chance to Work: initial voluntary and community sector experiences of the Work Programme in London* (October 2011); Locality, *Pushed to the edge: Locality, Analysis of Community Involvement with the Work Programme* (2011)

<sup>72</sup> See the Panel’s report, *Protecting Independence: the Voluntary Sector in 2012*

(c.) providing a clear definition of charity, with an emphasis on public benefit?

(d.) modernising the Charity Commission's functions and powers as regulator, increasing its accountability and preserving its independence from ministers?

Lord Hodgson in his review of the 2006 Act rightly identifies independence as critical to the charitable sector. The Charity Commission has an important role in maintaining that independence and its own independence is also important. The Act already provides that the Commission shall "perform its functions on behalf of the Crown", but it "shall not be subject to the direction or control of any Minister of the Crown or other government department" (apart from legal obligations or expenditure controls). With strong, independent governance, this protection ought to be largely sufficient. However, it is important that the Commission receives sufficient funding to carry out its role, which includes ensuring the independence of charities, as explored below.

## 2. What should be the key functions of the Charity Commission?

The Charity Commission is admired throughout the world, both for its independence from Government and its advisory as well as regulatory role. It is important that the advisory role continues to receive adequate funding. That advisory role should include capacity to deliver its objective of maintaining public confidence and trust in the sector through policy and championship activity, as explained below.

Independence is fundamental to charitable status and a key role of the Charity Commission is to ensure that charities carry out their charitable purposes for the public benefit, serving neither private nor governmental or political interests. This involves not just regulatory activity but the linked task of promoting proper understanding of what this means in practice. Advisory work helps to forestall problems and promote trust and confidence in the sector.

The Panel recognises that no body can be immune from spending constraints but is nonetheless concerned that the Commission's ability to deliver this role may be progressively weakened as a consequence of the reduction of funds from the Government to the Commission. The Commission's budget is £25.7 million, down from £29.3 million in 2010–11, and it will further reduce to £21.3 million by 2014–15. As a result, the Charity Commission now bases its regulatory oversight on a risk and proportionality framework<sup>73</sup> and Lord Hodgson in his review already questions whether the Commission can continue with its current advisory role.

Aspects of this role are important in ensuring the independence of charities, as evidenced by the relevant guidance notes issued by the Commission on *The Independence of Charities from the State* and *Speaking out: Guidance on Campaigning and Political Activity by Charities*, as well as specific guidance, for example, on NHS charities, *NHS Charities and independence, indicators and evidence*, and *NHS charities guidance*, where distinctive issues arise because of decisions by the Government to include charitable assets on the NHS balance sheet.

As well as picking up specific issues in guidance, the Charity Commission should also continue to analyse wider trends and issues affecting independence as it has done, for example, through its report, *Stand and deliver: the future for charities providing public services*, February 2007 and *Public Trust and Confidence in Charities*, July 2010. Lord Hodgson in paragraph 3.16 of his report, rightly identified the need for the Commission to resist the temptation to act as an advocate for charities; but this work in relation to the sector as a whole is central to its statutory objective of maintaining trust and confidence in charities.

Lord Hodgson suggests umbrella bodies may be able to take over its advisory functions but it makes sense for the Charity Commission to carry out this role because of the clear link to regulation, the respect in which it is held, after 150 years, and its wide reach. There is likely to be greater trust in an independent and statutory body providing such advice rather than another third sector organisation such as NCVO. Moreover, given the general pressure on infrastructure bodies, the Panel doubts this will happen. Funding levels for an advisory role that promotes independence should continue.

## 3. How should the Charity Commission be funded?

The Commission should be funded to enable it to be independent and effective.

The Commission's own budget, and therefore its capacity to fulfil its role independently, is of course determined by government. It has been argued that an alternative and more independent funding model would be a graded levy on charities. Given that its independence is enshrined in statute, the Panel thinks that the key issue is not whether it is funded by the state but whether it has *sufficient* resources to carry out its full role, whether from the sector or Government. Charging for filing annual returns and fines for late returns, as proposed by Lord Hodgson, might be practical and incremental steps forward, *provided* this income were *genuinely* additional. The Panel certainly sees no ideological arguments against it. However, the financial stringency being faced by many charities at present might lead to resistance to any charge now; and the risk that the Treasury would simply reduce its contribution by the same amount is considerable.

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<sup>73</sup> *Strategic Plan for 2012–15*, Charity Commission, 2011

5. *How valid are concerns that there are too many charities?*

It is a feature of the independence of charities that they are freely formed (and closed) by individuals, without interference from the state, provided they meet the 2006 Act tests. Anything which constrained this freedom would be a backward step.

6. *Exempt charities, such as academy schools, are regulated by principal regulators, rather than the Charity Commission. How well is this system working?*

In the Panel's view, funders and regulators should always be separate, which is not the case for many exempt charities. There may be a case for the independent Charity Commission regulating more exempt charities.

Museums and galleries, for example, are regulated by the Department of Culture, Media and Sport, their main funder, a fact which the Charity Commission raised with the Panel in 2011 as being of concern. Similar concerns have been raised by the National Housing Association in relation to the new regulator for housing associations, the Homes and Communities Agency, which has replaced the independent Tenant Services Authority, where funding and regulation functions, formerly separated by the 2008 Act, have now been brought together. Regulation is exercised by a special Regulatory Committee appointed by the Secretary of State, with a distinct statutory function to try to assure the regulatory function has a degree of operational independence from the HCA's investment role. However, the NHF is concerned that there remains a risk its regulatory role will become subject to undue political influence.

There is a risk of the Government exercising inappropriate controls over the independent governance of charities where there is no clear separation between funders and regulators. This also adds to the confusion in the public mind on the independence of charities from the state.

7. *There has been an increase in the number of organisations that operate for the public good such as social enterprises and mutuals, which are not charities, and are not regulated by the Charity Commission. What impact may this have on the public perception of what a charity is, and how charities are regulated?*

As discussed above, the blurring of sectoral boundaries, of which the increase in social enterprises and mutuals is one manifestation, can lead to an erosion of independence where boundaries are crossed. The growing confusion about what constitutes voluntary activity can add to a loss of respect for independence.

8. *How successful has the introduction of the Charity Tribunal and its replacement, the First-Tier Tribunal (Charity), been in making it easier to challenge decisions of the Charity Commission?*

These developments have added to public confidence in the Commission and therefore in confidence in charities as a whole.

10. *Are the rules around political activity by charities reasonable and proportionate?*

Yes. It is right that charities should only pursue campaigning or political activities in support of their charitable purpose but it is also important in that context to recognise that their ability to protest and campaign is a key expression of the independence of charities. Maintaining a diversity of voices, especially on behalf of the most disadvantaged in our society, is vital to a healthy democracy and should be welcomed by Government.

The Panel are particularly concerned by a growing trend for some politicians and commentators to attack charities for exercising their independence of voice or to regard voluntary organisations receiving government funds as mere arms of the state. Examples of this worrying trend are:

- The report by the Institute of Economic Affairs, *Sock Puppets: How the government lobbies itself and why*, wrongly argues that government funded voluntary organisations are used by the Government as “sock puppets” to argue on behalf of state funded services.
- Recent attacks on Save the Children for launching an appeal to support children in poverty in the UK which was portrayed by some as an inappropriate attack on the Government.
- Government contracts in the Work Programme now include so-called “gagging clauses” which could prevent voluntary organisations from speaking up on behalf of their client groups about short-comings in the Government funded programmes they are involved in. In a democracy, it is important that restrictions are not placed on the ability of independent organisations to criticise the state. Related to this are contractual restrictions on the freedom of voluntary organisations to publish their own data on the performance of the services they provide.

**Written evidence submitted by Call to Action Progress Group (arising from the Volunteer Rights Inquiry) (CH 41)**

REVIEW OF CHARITY LEGISLATION

Volunteer Rights Inquiry and 3R Promise:

<http://www.volunteering.org.uk/policy-and-campaigns/volunteer-rights-inquiry-3r-promise>

1. This note refers specifically to the proposals about the responsibilities of individual charities and umbrella bodies in Sections 7.8–10 of Lord Hodgson’s Review of the Charities Act 2006. This is set in the context of the concerns about public trust and confidence in charities.

2. Lord Hodgson’s review finds: “It is clear that the sector must take some responsibility for addressing its own mistakes and that individual charities must in turn take their share.” He commends charities having their own processes for managing internal disputes and complaints from third parties, and ensuring “robust practices” to deal with complaints (S 7.8). He proposes such processes should contain ‘an element of independent review’ (S 7.9).

3. Lord Hodgson continues that “it would seem sensible to encourage the sector itself, perhaps led by its umbrella bodies, to set up its own body or scheme. The Charity Commission could perhaps act as a facilitator of this process but not take responsibility for running or funding it. This, again, is something the sector will need to consider, possibly in combination with the idea of a sector-led advice line” (S.7.10).

4. We are writing to the Select Committee because these points resonate with our experience and discussions, and we would wish these proposals to be carried forward.

5. In 2009 Volunteering England initiated and administered the—independent—Volunteer Rights Inquiry out of its concern at reports of unfair treatment of volunteers. After taking evidence around the country from volunteers and volunteering organisations, it considered whether to establish a new body such as an ombudsman or commission to which volunteers could appeal when their cases had not been resolved by organisations in which they volunteered. However, it concluded that the first step should focus on the management of volunteers. It drew up the 3R Promise to which volunteering organisations are invited to sign up.

6. The 3R Promise asks volunteering organisations to commit to getting it *Right*, offering means of Reconciliation when things go wrong and taking Responsibility. Our Group, which is constituted of volunteers and representatives of volunteering organisations and chaired by the representative of Volunteering England, is tasked with promoting and monitoring the 3R Promise.

7. To date over 130 organisations have signed up to the 3R Promise. You may see that signing up to the Promise demonstrates how organisations may act in line with Lord Hodgson’s wish that charities should take their share of responsibility and offer a process of reconciliation.

8. The number of organisations signed up to the 3R Promise is, however, only a small proportion of volunteering organisations, and we are concerned that we can only call on our own very limited resources as a Group to promote the Promise and to support organisations in putting its commitments into effect.

9. We have helped prompt Volunteering England and Citizens Advice to link up to provide guidance for members of the public who have problems in volunteering using the factsheet “If things go wrong”. This indicates one kind of support which sector bodies can offer to volunteers, but overall the publicly accessible resources to support volunteers in their individual concerns are very limited.

10. Thus, there remains, in Lord Hodgson’s words, the “overarching need to promote and protect public trust and confidence in the sector”, an important element of which is people’s willingness to volunteer. This puts the focus on the Charity Commission and the regulatory function which it or another body could perform. A number of the cases which the Charity Commission has regarded as outside its remit have been issues raised by volunteers about their treatment by charities, and we think it is fair to say that there is confusion in the public sphere as to why the Charity Commission has not been able to take up these issues.

11. Therefore, given the lack of resources to support initiatives such as the 3R Promise and given the lack of involvement by the Charity Commission, we would like to see explored the potential for an umbrella body or sector bodies to take on the role envisaged by Lord Hodgson. There would need to be proposals developed for the status and resources held by such a body and for its remit in overseeing or supporting regulatory action by independent charities.

12. Our contacts with individual volunteers who are unhappy or confused about their treatment by charities also support the need for an advice line, as proposed by Lord Hodgson, where they could raise problems and explore how they could be resolved.

13. Overall, then we would wish to encourage further work to develop and promote the proposal summarised by Lord Hodgson as: “Individual charities should adopt and publish internal procedures for disputes and complaints. Umbrella bodies are ideally placed to support charities with this by the development of pro-

forma procedures and support in their implementation, perhaps even taking on the role of adjudicator for their members.”

October 2012

### Written evidence submitted by Caroline Aldiss (CH 42)

#### A. SUMMARY

Although the recent Volunteer Rights Inquiry (2010–11) has not been mentioned in this review—one its main outcomes being the recognition of support for a Complaints Commissioner or similar external complaints reviewer for volunteers—I have been heartened to see in section 7 of Lord Hodgson’s report the acknowledgement of need for a sector body to provide a facility for independent review of charity complaints and also a new telephone advice line. The following points, alongside submissions from others campaigning for this change will, I hope help back up evidence of need for this new body. I believe that a new sector body must be set up to take account of concerns of those who at present do not have their need for better standards and complaints acknowledged within the charity and volunteering sector: I will put forward the view that it is long overdue time for these following groups to be taken into consideration within the framework of the charity sector:

- Volunteers both UK based and those who volunteer abroad with UK based charities/organisations.
- Smaller community volunteering groups/organisations.
- Charity Members.
- Charity Service users.

I also believe this new sector body will help charities and other volunteer involving organisations and will explain how I think this will be invaluable for the sector as a whole. I will also put forward the view that it should be a standards setting organisation and suggest a new *Charity and Volunteering Standards Board* to house a telephone helpline, sector standards and a Complaints Commissioner and auditor for our overseas volunteer sending organisations.

My concerns for setting up of this new sector body centre around the needs of the review to take into consideration section 73 of the Act which must consider the Acts impact on:

- (i) Public trust and confidence in charities.
- (ii) The level of charitable donations.
- (iii) The willingness of individuals to volunteer.

#### B. MY BACKGROUND

For a number of years I have been helping lead a campaign for improved standards with regards the rights and welfare of our UK volunteers including those choosing to volunteer abroad. In this capacity I have also served as a panel member of both Volunteering England’s recent Volunteer Rights Inquiry and now its follow up group the Call to Action Progress Group. I have volunteered extensively over many years have managed volunteers and been the proud recipient of civic awards for one of the projects I founded in the charity sector. During the course of the Volunteer Rights Inquiry I accompanied the Head of the Inquiry to meetings with the Chief Executive’s of both the Fundraising Standards Board and Institute of Fundraising. I was also the inquiry member who helped organise meetings with regards the welfare of our volunteers choosing to work overseas. In light of this experience I am putting forward some of my personal views and concerns for this Charity Act review and the suggestion for a *Charity and Volunteering Standards Board* as a suggested way to take this forward:

#### C. ISSUES

##### 1. *The sector risks losing public trust and confidence with the lack of clear signposting and accessibility to sector bodies*

- 2,000 telephone calls per year to the Charity Commission cannot at present be serviced (section 5.27 Review of Charities Act 2006).
- 91% are under the misconception that the charity commission are responsible for “investigating complaints about charities” (2012 Ipsos Mori p.2).
- 90% have not heard of the Fundraising Standards Board (2012 Ipsos Mori report p.37).
- The Volunteer Right Inquiry reported that the following organisations within the sector—Volunteering England, The Charity Commission, the Andrea Adams Anti bullying trust and Public Concern at Work—all regularly receive calls from distressed volunteers and have done for many years but can do little to help (Volunteer Rights Inquiry Final Report March 2011).

2. *The sector risks losing public trust and confidence and puts at risk charitable donations with the under reporting of fraud in the sector*

(2a) If dedicated volunteers are easily dismissed from charities has this resulted in less effective whistleblowing outcomes and therefore under reporting of fraud statistics for the sector? Should more be done to listen to feedback from these volunteers? We, on the Volunteer Rights inquiry heard from dedicated volunteers who had been instantly dismissed, which is always a concern but especially when some complaints were that the charity they were volunteering with could be overstepping a line with regards misuse of charity funds and/or that they had concerns regarding reasons for a fellow trustee's presence on the board eg some trustee's had a financial interest in being present such as being a supplier of products the charity uses. Most volunteers have said they were unsure how to take this forward did not get help from the Charity Commission and did not want to damage their charities cause as a result of pursuing the complaint further.

- *“Overwhelmingly, volunteers expressed the need for an independent means of redress when things go wrong. Deep commitment to the cause constrains volunteers from wanting to engage in “whistle-blowing” or making external complaints. Equally, a substantial investment in time and self belief in effort prevents people from just walking away” (Volunteer Rights Inquiry 2010—Interim report p.5).*
- *“Larger charities are more likely to lose volunteers and/or staff”(as a result of fraudulent activity) “in depth interviews reveal significant damage to staff morale and well being, with some staff suffering stress, feelings of betrayal, illness and redundancy”—“half of all respondents (organisations) feel fraud is a major issue in the charity sector although only 11% have an anti fraud policy” (Fraud Advisory Panel Breach of Trust report February 2009).*
- *“Charities need to be more “fraud aware” (Charity Commissions press release 27 January 2011 response to National Fraud Authority Report).*
- *“Fraud occurs across all sectors of society, however charities can be attractive to fraudsters and viewed as an easy target—some possible reasons for this are that charities have a high levels of public trust and confidence fraudsters know that working or appearing to be associated with a charity can give credence and respectability to them and their activities” (p7. 2012 Charity Fraud a guide for trustee's and managers of charities).*

(2b) Lack of whistleblowing/complaints procedures. The recent sector report, Charity Fraud a guide for trustee's and managers of charities, recommends whistleblowing policies within charitable organisations with regards fundraising. Some of the volunteers at evidence giving days for the Volunteer Rights Inquiry spoke of concern that there was no such policy at their organisation or the whistleblowing/general complaints procedures hadn't been kept up to date or followed through.

- *“Over two thirds of charities lack a complaints procedure” “of charities without complaints procedures, 80% said they didn't need one”. (RS11 Cause for Complaint Charity Commission report 2006) “the 1/3 of charities that do have complaints provision do not provide this necessarily in relation to their volunteers” (Charity Commission representative “External system of Redress for Volunteers” meeting held at Volunteering England office June 2009).*

I therefore welcome Lord Hodgson's recommendation that “individual charities should adopt and publish internal procedures for disputes and complaints” and that he also recognises the need for external adjudication.

(2c) Concerns about community fundraising. This charity review report (p91) makes it clear that there are concerns about small scale community/volunteering fundraising and the Fundraising Standards Board has also stated their concerns regarding this. The report also points out that the Fundraising Standards board needs to provide more “clarity and simplicity” to the public to become more “public facing” it is presumed that the term public also means the volunteering public as well? With 90% of the public not knowing of the activities of the Fundraising Standards board could a new *Charity and Volunteering Standards Board* point the way more effectively to its services?

3. *The sector risks losing public trust and confidence from negative press coverage and consequent reputational damage*

(3a) Dedicated volunteers are taking their concerns to the press.

- *“Earlier this year when newspapers reported serious breaches of trust between volunteers and their organisations Volunteering England was prompted to set up the Volunteer Rights Inquiry” (Sukhvinder kaur-Stubbs Introduction Interim Report Volunteer Rights Inquiry Report)*

(3b) The young and vulnerable volunteering with internships and work experience schemes—negative press coverage could deter involvement.

The young and vulnerable are especially susceptible to abuse within volunteering at this time of economic hardship there are many press and internet accounts of poor treatment of interns and concern about work experience schemes (Internships—opportunity or exploitation? Volunteering England website). Will the young be encouraged to volunteer in future if they are not treated well now? Could clearly housed standards and better signposting to complaints information and a Complaints Commissioner help these young people feel less vulnerable?



(3c) Overseas volunteering encourages volunteering back home—negative press coverage could deter those seeking this experience.

Our overseas volunteers are our ambassadors abroad we export the face of our UK volunteering with all projects undertaken and import valuable volunteering skills back to the UK with each project completed. The confidence gained from successful overseas volunteering cannot be underestimated and can only encourage people to volunteer when back in the UK. No one however can have missed the concerns expressed in the press over many years about the treatment of some of our gap year and overseas volunteers. A leading organisation in the sector Tourism Concern's report—Gaps in Development .An Analysis of the UK international volunteering sector 2007—clearly spells out the problems and dangers of unregulated organisations sending volunteers and vulnerable young adults abroad. There are ½ million or so volunteers who travel abroad each year, many of whom are young and/or gap year students, who have no clear volunteering standard to look out for when making their plans and frequent accounts of abuses to them and host communities, are regularly reported to the press and organisations in the sector. There are a few excellent UK sending organisations but otherwise the industry is rife for abuse. It is a serious concern that the Government acknowledges the need for young people to travel abroad to expand their horizons, to learn about volunteering and host communities and to bring these volunteering skills back to the UK, but do not propose this ever growing industry should be better regulated so that our young people and host communities abroad are safeguarded in the process. We should be proud of our volunteering abroad. A new International volunteering standard is virtually ready for launch but has nowhere to be monitored or housed. A new charity sector body could proudly house and promote this service. It would be a missed opportunity in the changes that are taking place in the charity sector not to look after this long overdue need.

#### 4. Willingness of Individuals to Volunteer

(4a) Volunteering Rates—should these statistic be ignored?

- “Volunteering rates have largely been in decline since 2005” (2012 Ipsos Mori report p16).
- “41% of ex volunteers in Scotland wouldn't volunteer again” (Scottish Household Survey 2007).

Is a drop in standards and lack of external complaints handling mechanism partly responsible?

(4b) Charity Members also have no external complaints mechanism—poor treatment could affect volunteering rates.

Charity Members who can also become active members (and therefore volunteers) were also represented at one of the consultation days for the inquiry as having nowhere to take serious complaint if they are treated badly by a charity. Jodie Berg, the previous Independent Complaints reviewer of the Charity Commission, wrote in her annual report, during 10 years in the role, that there was a need for a new Charity Ombudsman (or similar organisation) to serve the needs of charity service users, volunteers and members. A proper external complaints handling service for members would surely encourage a more confident happier membership more likely to contribute as volunteers for their organisations.

(4c) Poor volunteer management standards will not encourage volunteer uptake Although many organisations look after their volunteers excellently volunteer management standards have been acknowledged as needing improvement:

- “Members of the (Volunteer Rights) Inquiry felt that despite a preponderance of codes of practice and guides on managing volunteers, standards remained low, especially in the voluntary sector” (Sukhvinder Kaur-Stubbs Chair Volunteering England and Volunteer Rights Inquiry. Introduction to Interim Report Volunteer Rights Inquiry Report).
- 42% of people who manage volunteers have not received any training or learning that would help in their work with volunteers” “very small organisations (with low incomes and few members of paid staff) often exist in isolation from other organisations. It is striking that people who manage volunteers in such organisations don't feel a need for training or good practice support or advice” (Valuing Volunteer Management skills Third Sector report 2010).

(4d) The 3R Promise. The follow on group from the Volunteer Rights Inquiry, the Call to Action Progress Group, have launched the new 3R promise (an excellent piece of complaints policy best practice) to ensure organisations have proper complaints procedures in place, including the offer of external mediation if necessary, however only approx 130 diligent organisations have joined this initiative out of 190,000 or so charities in the sector.

#### 5. Suggested way forward—a new Charity and Volunteering Standard Board

(5a) The Charity and Volunteering Standards Board would clearly house:

- a *Call centre/advice line* to help steer volunteer involving organisations, volunteers, members of charities, service users and small community groups to appropriate complaints resolving information and services.

- a *Web facility* to also help signpost these groups to helpful complaints resolving information and to provide a good practice bank of downloadable “off the peg” complaints policies, volunteer charters, whistleblowing procedures, health and safety information etc. (especially helpful for community groups) and for this service to publicise the new 3R promise and the new International Standard and point the way to other accreditations such as Investing in Volunteers. Also housing a standards section for volunteers eg What’s expected of me?
- A *Complaints Commissioner* for our UK volunteers and members and an *Auditor* for our overseas sending organisations to perhaps initially deal with complaints relating to those organisations signing up to an enhanced 3R and Overseas Standard.
- *Sector standards* house, promote and educate Volunteer Involving Organisations with regards the new 3R Promise and new overseas organisations standard and point the way to Investing in Volunteers and other accreditations such as those for charity members and service users.

(5b) Who pays? Volunteering takes place in many sectors of society from the charity and public sectors to private and sporting. A Charity and Volunteering Standards Board could look after volunteers from all these sectors. Interest in this new model is being shown by regulators in the sporting sector so funding need not necessarily come just from the charity/volunteering sector. Basic set up/seed funding from Government savings from a centralising call handling facility for charity and other sector bodies and a small yearly fee from charities and other sector organisations could pay for the establishment and running costs of this new body.

#### 6. *Benefit for the Sector*

(6a) Benefits of effectively handled complaints. These unresolved complaints left unanswered by the sector are surely those from people with concerns about standards and are surely a way for the sector to get valuable feedback.

(6b) An opportunity to clearly market other sector resources. The Fundraising Standards Board and those organisations that protect financial donations have acknowledged the need to become more visible to the general public and more outward/public facing”. It would surely be a missed opportunity for all these sector regulators, including the Charity Commission, not to market their services through a more general accessible service such as a *Charity and Volunteering Standards Board* where a potential 20 million volunteers and charity members would more clearly gain access to its services and understand its overall purpose.

#### 7. *Conclusion*

(7a) The *Charity and Volunteering Standards Board* would be a cost effective way of taking the sector into the 21<sup>st</sup> century helping protect it against fraud, adverse press exposure, protracted complaints and litigation. Feedback from this easily accessible body will increase efficiency and public confidence in the sector as a whole.

(7b) During the course of the last few years I, as a campaigner, and in my capacity as member of the Volunteer Rights Inquiry and its follow up Call to Action Progress group have heard from many dedicated volunteers who have felt very badly treated by their organisations.

*“Members of the Volunteer Rights Inquiry heard from numerous volunteers recounting shocking stories of bad management, poor governance, bullying and improper behaviour”* (Sukhvinder Kaur—Stubbs Chair of Volunteering England and Chair of the Volunteer Rights Inquiry—Introduction to Volunteer Right Inquiry-Interim Report)

We have heard from charity trustees, area managers, chairmen/women of local charities, lifeboat men, grief councillors, Citizen Advice Advisors, hospice workers and overseas volunteers and many more. All dedicated unpaid people working for a cause they emphatically believe in. Most expressed their concern that there was nowhere to take complaints if the charity they volunteered with did not deal with it properly. Most expressed sincere concern that they didn’t want to go to the press or law with their issues for fear of damaging the cause they believe in. The argument that volunteers can just “leave and go elsewhere” if they have issues with their volunteering (Liz Atkins Director of Public Policy NCVO, BBC Radio 4 2008) has long been acknowledged as inappropriate especially in a climate where public services such as libraries etc. are being farmed out to the volunteering sector; the sector is finally and thankfully taking the concerns of dedicated volunteer workers seriously. I hope that the recent Volunteer Rights Inquiry, this Charity Act Review and other changes within the sector, particularly the merger of Volunteering England and the NCVO, will provide the opportunity to set up a new standards setting body the sector can be proud of.

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### Written evidence submitted by Lewis Smith (CH 44)

I sit on a committee hosted by Volunteering England seeking to promote best treatment of volunteers where there are internal disputes. However, I write this as an individual volunteer of many years experience, not representing any particular organisation.

Much of Lord Hodgson's review is concerned especially with the public perception of charities, and the way in which members of the public may if necessary express their concerns about the actions of those charities. I am particularly interested in how this concern must include that section of the public who are in practice the volunteers working for those charities.

The review makes two statements that are relevant here. At 5.27 there is reference to the 2,000 complaints made in one year to the Charity Commission of a kind that falls outside the Commission's remit. It is certain that a proportion of these complaints will be from volunteers concerned about matters internal to those charities, including their personal position as quasi-employees without any opportunity for legal redress. Then at 7.8 Lord Hodgson is clearly referring to internal disputes as well as complaints from third parties, and in 7.9 to the desirability of having independent review of such disputes.

Some disputes can be seriously damaging to individual advisers and to the charities concerned, as instanced in the interim report of the Volunteer Rights Inquiry (2010). Moreover, there is no doubt that where they are not resolved by internal means or perhaps mediation, an external adjudication is desirable in the interests of natural justice. I support the review's contention that this is best provided by the charities themselves, perhaps in their "umbrella organisations". However, as not all charities subscribe to such organisations, and as there are several, it is the case that a volunteer needing external help can be frustrated in any attempt to find the appropriate body. Consequently I consider that there is a strong case for one body to take on the role of external adjudicator.

I would hope, therefore that the committee would consider recommending

- (a.) that just one organisation should be the source of advice and if necessary adjudication where there is unresolved dispute; and
- (b.) that organisation should be concerned with volunteers internal to a charity as well as third parties.

October 2012

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### Written evidence submitted by Louisa Hutchinson (CH 45)

#### Summary

- My comments relate to chapter 7 of Lord Hodgson's review of the Charities Act 2006: *Complaints, appeals and redress*.
- I would like to recommend to the committee that in order to maintain public trust and confidence in charities it is important that all charities should have a complaints policy with an element of independent review for the use of members, volunteers or service users of charities.

#### My Background

I am a paying member of a well known charity. Three years ago following an abuse of power and misuse of charity funds by the chairman which was subsequently covered up by the other governors, I appealed to the Charity Commission who duly wrote to the charity asking for clarification. The response from the charity which I obtained through a Freedom of Information Request was false and misleading in every respect. Despite all common sense and evidence supplied by myself the Charity Commission refused to take matters further unless one or more governors wrote to the Charity Commission directly to refute the earlier misleading letter written on their behalf. I later discovered that the action of the governors was a criminal offence: "It is a criminal offence knowingly or recklessly to supply us with information which is false or misleading" (*D3 of The Charity Commission's Guidelines*) and so I reported the matter to the police (CID) who were willing to investigate. Unfortunately, the *legal* victims of the crime were the Charity Commission who decided not to support police proceedings. I am presently complaining about the Commission's failure to investigate or to allow the police to do so through the Charity Commission's review procedure.

#### Points for Consideration

1. In order to prevent the majority of abuses of power by governors and consequent time-consuming and probably fruitless applications to the Charity Commission for justice, I think it is essential not only that all charities should have a complaints procedure, but that in a serious and unresolved complaint against one or more governors that this process should contain an element of independent review. The need for this is pointed out by Lord Hodgson in his report (7.7.8–7.9), however it is not mentioned again in the recommendations at the end of chapter 7 and I believe that not enough importance has been given to what could be a very simple but effective remedy for dispute resolution.

2. The Charity Commission in its well-written and comprehensive guideline “RS11 cause for complaint,” recommends a multi- stage procedure to include an impartial person or body as best practice, but it does not have the remit to enforce this even in cases where it is obviously needed. In many cases including my own, boards of governors can act as judge and jury in complaints against themselves or unilaterally declare a complaint closed, secure in the knowledge that the Charity Commission will regard this as entirely a matter for the complainant and the trustees of the charity to resolve.

3. I am worried that in dismissing of the appointment of a Charity Ombudsman on grounds of cost without an effective alternative, most members and volunteers are left powerless in the face of misconduct by governors. As things stand exposure and litigation would seem to be the only options for members who have serious unaddressed complaints against governors. Most people have neither the courage nor the means for either of these two actions. It is quite wrong that only the very rich can afford justice when faced with rogue governors who, as long as they close ranks, can under the current system act above the law with impunity.

I am grateful to have this opportunity to make a submission to the Committee.

October 2012

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**Written evidence submitted by David Orbison (former Senior Case Officer, Charity Commission) (CH 47)**

It has been brought to my attention that the Association for Charities has recently submitted written evidence to the Committee in respect of the review of the Charities Act 2006 and the role of the Charity Commission.

Their evidence refers to myself as a “whistleblower” with the Charity Commission concerned as to the weak role of the Commission.

Currently, I am suffering from ill health that prevents me from participating in such debates as I would have liked. However, today I was able to put together a summary of the concerns that arose in my whistleblowing and subsequent events.

I am just an individual who had the misfortune to raise his hand when I thought something was going seriously wrong at the Commission. Since then I have lost my job, suffered ill health and been the subject of character assassination by the Commission using tax payer’s money.

During this time I have seen a sham charity let-off, MP’s misled, a police investigation obstructed and email between myself and my union advising me on the whistleblowing hacked into by senior management.

Throughout I have acted in good faith. Not in any self-serving manner but because I am appalled at what I have seen. The Commission runs a sophisticated and well-financed publicity machine with access to seemingly unlimited legal funds.

I will not be deterred from raising my concerns. I am not experienced in the working of the PASC. However, I would like to submit to you my concerns based on my own experience. I would be willing to appear before the committee to answer any questions or to meet with yourselves, members or officials.

1. As a Senior Case Officer within the Compliance Section of the Charity Commission one of my investigations concerned an apparent sham charity. Evidence of suspected theft, fraud, false accounting, personal use of funds by a trustee and an existing threat to the property of the charity had been uncovered resulting in a police referral.

2. The charity used a website focussed on soliciting funds from the public and using names of several Members of Parliament in support of their cause. This website then, as it still does today, falsely declares that 92% of all expenditure is in regard to its charitable objectives. Internal assessment of the investigation could find no evidence of any charitable activity.

3. The principle trustee had made numerous false allegations of racism, falsification of evidence and conducted a campaign to dissuade the Commission from in order to dissuade the Commission from taking any robust action. This included numerous appeals to MP’s and threat of Charity Tribunal proceedings.

4. My line manager, having many years of experience within the Commission, agreed with my assessment that this was a sham charity and should be shutdown. In September 2010, an independent review of my use of a s18 Order to “freeze” the account of the charity in order to protect its funds found that the s18 Order had been properly made and such was the current risk to the property of the charity, that the s18 Order should remain in force.

5. Instead, in November 2010, senior management intervened and decided to close the case by offering the trustees “advice only” by means of a voluntary Action Plan. No formal action of any kind was taken by the Commission against any of the trustees or in order to protect the property of the charity. The Commission discharged the s18 Order allowing unfettered access to the funds by trustees they had concluded were guilty of serious misconduct.

6. At that time both I and my colleagues in Compliance felt that the culture within the Commission, driven by senior management, was extremely risk adverse and disproportionately focussed on avoiding Charity Tribunal proceedings.

7. The trustees' response to the case closure was to publically chastise the Charity Commission and to confirm its refusal to meet with the Commission or to enact any part of the Action Plan. In short, the trustees refused to accept any wrong doing or to co-operate with the Commission.

8. The Charity Commission took no action in response. Indeed, they misled two MP's, now in the Government, that their co-operation was forthcoming. This simply was not true.

9. The trustees continued with their Charity Tribunal appeal. The Commission's defence to this application, was that by taking no formal action and by discharging the s18 Protective Order, the application was "outside the jurisdiction" of the Charity Tribunal. Thus, the Commission's position was that there was no case to answer as the Regulator had taken no formal action.

10. My colleagues and I were astounded at this outcome and profoundly dismayed. We felt that the reputation of the Regulator and the Charitable Sector would be at risk if the public realised how weak the Charity Commission was in such circumstances.

11. The Commission took five months to "investigate" my complaint. During this time management retrospectively sought to weaken the case for action by "uncovering" alleged weaknesses in the handling of the investigation.

12. The PID Investigation was led by an Executive Director of the Commission whereas I had appealed for an independent investigation throughout. This was denied.

13. The PID failed without reason to look into ongoing and serious concerns raised by myself as to ongoing acts by senior management. These included misleading MP's and directing me in January 2010 NOT to co-operate with a police investigation into this charity. This is wholly contrary to Crown Servant Guidance to Civil Servants.

14. Having decided that the PID delay was just part of a sham investigation, I forwarded my complaint to the Civil Service Commissioners. By this time I was feeling severely stressed. I was on medication and had received stress counselling.

15. My union, PCS, formally wrote to the Board complaining of the matters re the PID and that I felt I had been unfairly treated in respect of a number of matters. The Board did nothing.

16. The PID Report published made all sorts of criticisms of the case handling. I was provided not provided any opportunity to question any of its findings, many that were simply incorrect.

17. By April 2010 I felt ill as management instructed me to put in a grievance or "shut up". I could take the pressure no longer and was so ill I simply could not pursue the Civil Service Commissioners complaint at that time.

18. In August 2010, the Charity Commission belatedly published the SORI Report re the charity and, broadly, confirmed all the issues I had found by February 2009 in my investigation. Still no action was taken by the Commission re the sham charity.

19. I complained of bullying to my line manager. No action was taken. I was threatened with disciplinary action by the Head of the Department simply for objecting to the content of an internal report that I felt was not fair or objective.

20. Through my solicitor I sent a formal grievance. Having once agreed to investigate my concerns at long last, the Commission then choose not to do so. In July 2010 whilst ill, I was then selected to be made surplus by the very managers I had been critical of in my PID. This despite receiving excellent appraisals from other managers and an external commendation in respect of my work involving fraud within another charity.

21. My selection as surplus was overtaken by events by a colleague who left as he was "so disgusted" as to the treatment of myself and another colleague. He wrote to the CEO of the Charity Commission but again no action was taken.

22. In November 2010 the Charity Commission insisted that I meet face-to-face the Head of the Department who had instructed me not to co-operate with the police and had threatened disciplinary action earlier in the year. I objected and asked to meet an independent senior manager of their own to put forward my concerns. They refused point blank as thus, sadly, I resigned.

23. In December 2010 the Charity Commission published a damning Employee Survey which clearly shows there to be serious issues of morale within the Compliance Section. This included the staggering result that only 8% of staff felt "safe" to challenge senior management. Now I know why.

24. I fully co-operated with the Commission in respect of all medical examinations throughout this torrid time. The Commission's own Occupational Health Service doctor twice recommended that management appoint an independent, impartial manager to investigate my concerns. They did not act on this. The OHS also

recommended a specific stress risk assessment before any return to work. The Commission failed to arrange this also.

25. The Commission throughout has resorted to litigation to “defend its actions”. It repeatedly and aggressively refused to acknowledge that I had made any protected disclosures. Also, that I had acted in bad faith throughout. That I was entirely motivated by the desire to gain some fanciful windfall payout.

26. This is completely untrue, It is insulting and yet another example of the bullying that is used, using tax payer’s money when all I had done was to question whether or not we had achieved the right balance of risk when “letting off this sham charity”. My case at the Employment Tribunal has been completely self funded. It is a disgrace to suggest I had some ulterior gain.

27. In mid 2011 I was examined by the psychiatrist preferred by the Charity Commission. He found that I was suffering from a recognised Anxiety-Depression illness that was so debilitating that it had affected me from July 2010 whilst still an employee.

28. I had previously agreed to mediation. The Commission refused—committing both parties to unnecessary stress, wasted time and expense.

29. At the PHR meeting the Commission called no witnesses, not even their own psychiatrist. Yet, once more I had to endure what was tantamount to character assassination by counsel who accused me of being a fraud and even suggesting that I was an alcoholic.

30. The judge found my evidence credible. He concluded that I was indeed suffering from a disability and not an alcoholic or guilty of any other sham.

31. Despite this the Charity Commission have pressed on with their version of events, using huge resources that I could not compete with as an individual. I offered to meet the Chair and CEO of the Charity Commission prior to the ET. They declined simply stating they had every faith that the right things had been done.

32. This alone should ring alarm bells as to the Governance of the Commission. It is typical of a “close ranks” approach which severely restricts true accountability by management, especially executive management.

33. The ET was held in March-April 2012. I had to endure six days of fierce cross examination where once again the entire case of the Commission was a total denial of any wrong doing whatsoever.

34. My limited resources allowed me only to put some of the evidence I would have liked to have provided. The record shows that I was unsuccessful in proving that I had suffered any detriment by the Commission but that I had been constructively dismissed and that the Commission had failed to make “reasonable adjustments”.

35. The Commission having spent £107k to date are content to proceed with another appeal and have made public pronouncements claiming somehow that they had “won” the PID.

36. This stance says so much about the mindset at the Commission.

37. The ET found re the PID:

- (a.) That I had made several protected public disclosures, all properly made within procedure.
- (b.) That I acted in good faith throughout and rejected the outrageous arguments put Commission that I had ulterior financial motives.
- (c.) The Commission were risk adverse; senior management defensive and “did not cover themselves in glory” in respect of the handling of the charity.

38. In addition, the Commission failed to make any reasonable adjustment by compelling me, whilst disabled, to sit face-to-face with a manager whose conduct I had questioned.

39. The above is but a brief narrative as to the case of the charity and all that took place thereafter.

40. However, I think it perfectly illustrates the appalling state that exists within the Compliance Section. The Commission at the ET pulled no punches in attacking me.

41. A balanced approach to this whole case could have been achieved by appointing an impartial and truly independent investigator who took evidence from all those involved.

42. I am sure many lessons could have been learnt for all concerned in a constructive and positive atmosphere provided senior management were open to such an approach.

43. Sadly, and to my cost I see that my colleagues fears as to the typical response of management, defensiveness, blame culture, were all to true.

44. I raised the PID in good faith. There is something seriously wrong when a Regulator is so afraid of criticism that they would prefer to take NO action against a sham charity or trustees that they themselves have reported to the police.

45. Senior management run quite a sophisticated spin machine up to and including misleading MP’s.

46. I have tried to act constructively throughout. My PID was made internally. I did not run to the Press. I asked for an independent investigation into the case and my grievance—all refused by the Commission. I sought mediation and a meeting with those responsible for the governance of the Commission. Again refused.

47. The message to staff, as often repeated by counsel in my ET, was that it is not for junior staff to question what senior staff do. With due respect I disagree. We can all make errors of judgement. Surely seeking a constructive and open form of dialogue within any organisation is the better way to go than operate on an absolute faith in the infallibility of management.

48. I have worked as a General Manager in the private sector for most of my working life. By no means can I be described as anti-management. But I found my experience at the Commission, shocking in terms of their weakness as a Regulator and the vice-like hold sought by senior management in the running of this public body.

49. I raise these issues with you entirely out of a sense of public duty. Given the current review of the Charities Act 2006, it seems that now is a sensible and appropriate time in which to raise such matters.

50. There are many, many instances where my former colleagues have been prevented from using the powers given to them by Parliament. I found my colleagues to be professional and vocational in respect to their desire to ensure the charitable sector is not exploited by dishonest individuals.

51. The case of this charity simply an illustration. Whatever the rights of wrongs there are many weakness in the regulation of the charitable sector.

52. It would be irresponsible for me to raise these through the media. But given the denial approach by senior management the Commission I have detailed just some of the concerns shared by myself and former colleagues. I have listed these in Appendix 1 to this report.

## APPENDIX 1

### EXAMPLES OF WEAKNESS RE REGULATION OF CHARITABLE SECTOR

- (i) *“Proportionality”*.
- (ii) The Commission use a Risk and Proportionality Framework to determine where to investigate. This is often used to give the impression that resources are properly deployed according to the magnitude of the organisation in terms of its turnover.
- (iii) There is little, hard reliable data as to the extent of fraud within the sector. In most of the cases I have seen there is little evidence of serious issues arising within large charities.
- (iv) The criminal fraternity exploit proportionality by working “below the radar screen”. This is done simply by submitting returns showing that income was fairly low. This is seen as less than £100k within the Commission.
- (v) “Below the radar” activity is shockingly easy to achieve. There are few if any checks on the accuracy of data submitted and no formal tie in to bank information to verify false returns. So any sham raising say £200k per annum would simply need to enter £50k income on the annual return form and that would be the end of the matter.
- (vi) Sham charities are unlikely to be found out as the Commission relies on complaints. Most shams are therefore undetected and in any event if one is, if the charity is deemed to be small based on entirely the self reporting of the trustees, the complaint will almost certainly be dismissed.
- (vii) No regard whatsoever is paid to the deterrence value of exposing “serial fraudsters” and so the criminal fraternity freely exploit this with little to no hindrance. It is in sharp contrast say to the courts approach to fare dodging, petty theft. The difference being these are not one-off events by the sham charities—but a means of “earning” a living.
- (viii) *“Gap between Regulation and Prosecution”*.
- (ix) Commission staff are repeatedly reminded that the Commission is a non prosecuting body. However, in the few instances where the Commission stumble across questionable practice they are effectively “first on the scene”. Evidence of criminal activity is not always immediately obvious until well into the investigation. By this time the criminals have been forewarned.
- (x) Whatever management tell the PSAC, senior management are extremely reluctant to refer cases to the police. The police on the other hand are unaware at how the charitable sector is regulated. At the coal-face most officers believe the Commission deal with sophisticated investigations in that sector. They do not. The understanding between the Commission and ACPO do not filter down to a working co-operation between agencies.
- (xi) The Commission will rely on data to suggest that is robust in using its powers. This in my view simply an attempt at obfuscation. The important measure is how much property has been protected from theft and fraud. Parliament clearly sees that these offences are serious matters. The public have an appetite for wanting to see breaches of trust dealt with justly and those guilty fairly punished.

- (xii) But any casual inspection of the prosecutions that have resulted directly from the Commission making referrals is insignificant in any one year. It bears no relation to any estimates of fraud in that sector.
- (xiii) There are many powers that the Commission simply do not use. For example s11 Charities Act 1993 makes it an offence to mislead the Commission during a s8 Inquiry. The maximum sentence is two years. Clearly, Parliament wanted to ensure investigations were not misled. This is particularly important given that statements made are not given under PACE. The Commission simply does not enforce s11. There have been no prosecutions to my knowledge.
- (xiv) Consequently, dishonest trustees lie with no shame or any concerns that such misconduct will result in any personal sanction. Unsurprisingly this makes investigations weak and ineffective.
- (xv) *Antiquated Investigation Techniques*
- (xvi) The investigative techniques of the Case Officers, are 60 years out of date. Management require Case Officers to give advanced notice of what information is required of trustees and why; rely only on paper documents submitted by the trustees. Therefore, the investigations preclude any examination of any IT based documents—spreadsheets, accounts etc.
- (xvii) The trustee controls exactly what is provided. The only means the Commission uses is to conduct a “Book and Records” visit to the premises of the charity if the charity agrees. This must be agreed in advance, will only look at documents handed over by the trustees and is usually so under resourced that an accountant can spend just one working day on the premises.
- (xviii) Access to bank records can be obtained by use of a s9 Order Charities Act but rely on the declarations of the trustees as to where the related accounts of the charity are held. There is NO provision to check the validity of this information. Hence, if a sham charity uses five bank accounts in the name of the charity but claim only to have one account that is ALL the Commission will look at. Siphoning off funds is a simple process.
- (xix) Charity Registration: The entire focus is on speedy approvals. Basic details are not required—so no checks are conducted to see if trustees have committed any fraudulent offences; the bank account details of the charity are NOT even required to be given.
- (xx) *Weak Regulation- Target Culture*
- (xxi) As a Senior Case Officer I was struck by how many times a charity that was referred for investigation had already been “investigated” several times before. The emphasis of the Compliance Department seems to be entirely based on closing a case within a target time. Often cases were closed with unsatisfactory outcomes resulting in “letters of advice” being issued. These only to have been found to be ignored.
- (xxii) There is little, effective follow-up on cases. Even when there have been findings of serious misconduct arising from a formal S8 Inquiry, trustees are aware that there is little consequence ignoring the findings of the inquiry.
- (xxiii) The Commission acts as a “Wizard of Oz” with much huffing and puffing when it comes to the proper management of the sector but are wholly ineffective.
- (xxiv) *Politics and policy over effectiveness*
- (xxv) The Commission devote a hugely disproportional amount of its resources on spin, self publicity and policy refinement which does not reflect the public’s expectations.
- (xxvi) The primary concern of the public, seen through surveys, is that the funds donated to charities are spent for the intended purposes. Yet, the Commission spends only limited resource of this—spot checking or investigating complaints.
- (xxvii) I do not believe that the overall effectiveness of the charitable sector is much, if at all improved, by yet another revision to this or that policy guideline. The challenge facing the charitable sector does not arise from reputable charities or from those running small charities where trustees make occasional slips, but with the determined criminal underworld that regard the Commission as nothing but a joke and something that does not need to be taken seriously at all.
- (xxviii) That is the sorry state of the Commission today. The issues are not with the law or the staff but the focus of management; reliance on spin and suppression of genuine staff and external concerns that have been raised over a period of time.
- (xxix) I believe the PASC should order a fundamental review of how the Compliance function of the Commission should be strengthened. This is not necessarily a case of adding more resource but one of the Charity Commission changing strategy, through honestly appraising current weakness in Compliance and changing their approach so as to deter criminal activity in the sector and improve the public’s confidence in the regulation of the sector.



### Written evidence submitted by Marcus Anderson (CH 49)

I wish, with respect, to make submissions/comments on some of the oral evidence to the Public Administration Select Committee on 30 October 2012, specifically as follows:

- Plymouth Brethren Christian Church (PBCC) and Exclusive Brethren (EB) which are one and the same.
- The question of whether their meeting rooms and/or church services are open to the public, and used for the public good.
- Remaining separate.
- Human rights of this group.
- Reason for Charitable status.
- In Summary.

#### 1.0 GROUP NAME

1.1 At Q.240 the question is asked about who this group is, and are they the same as the “Exclusive Brethren”. Mr Hazell does not directly answer the question, so I will answer it for him. Yes, they are one and the same. The way to determine this is to ask who have been the recognised international leaders of the Exclusive Brethren and the Plymouth Brethren Christian Church—say, from 1960 to the present time. The answer for both groups is the same—James Taylor Jnr from New York; James (Jim) H Symington from Neche, North Dakota; John S Hales from Sydney, and currently Bruce D Hales from Sydney. This international leader is known variously as “the man of God” and the “Paul of our day” and his word is obeyed to the letter! He is given “gifts” of thousands of pounds/dollars from meetings around the world, and is deferred to in every facet of the lives of his adherents.

1.2 Mr Christie refers to Mr John Nelson Darby and says he was born in 1828. In fact, Mr Darby was born on 18 November 1800, and died on 29 April 1882.

1.3 There has been much international publicity of recent times regarding the Exclusive Brethren. For example, the following links relate to some of the recent publicity:

(a.)

<http://www.theage.com.au/news/national/brethren-bid-to-cover-up-sex-assaults-on-girls/2006/12/29/1166895479254.html?page=fullpage#contentSwap2>

(b.)

[www.youtube.com/watch?v=V9ggIwX7mZE](http://www.youtube.com/watch?v=V9ggIwX7mZE)

(c.)

[www.youtube.com/watch?v=4tVdoRRUT2o](http://www.youtube.com/watch?v=4tVdoRRUT2o)

(d.)

<http://www.youtube.com/watch?v=W1bfX5POiLY>

(e.)

[www.guardian.co.uk](http://www.guardian.co.uk) > Life & style > Family

(f.)

[www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10643666](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10643666)

(g.)

[www.cbc.ca/news/canada/montreal/story/2011/10/03/quebec-brethren-custody-battle.html](http://www.cbc.ca/news/canada/montreal/story/2011/10/03/quebec-brethren-custody-battle.html)

(h.)

[www.youtube.com/watch?v=WCxxuOcJDI4&feature=relmfu](http://www.youtube.com/watch?v=WCxxuOcJDI4&feature=relmfu)

1.4 There are also two very insightful books written about them—

“Behind Closed Doors” by Ngaire Thomas.

“Behind the Exclusive Brethren” by Michael Bachelard.

In 2009, David Tchappat’s book “*Breakout: My Escape from the Exclusive Brethren*” was published. The following is part of the description of that book from Peebs.Net:

*“The book is really in two parts. There is the harrowing story of life under the strict Exclusive Brethren regime and then the often shocking story of a young man desperate to try and find something or someone to hold onto in the outside world following his rebellion-fueled escape. Written in an easy-to-read style, most ex-members will recognize the difficulties of attempting to understand and integrate into a society that Exclusive Brethren members are taught is evil and doomed for hell.”*

1.5 To avoid being linked with this and other publicity, it appears they have changed their name, as if to disassociate themselves from the name Exclusive Brethren. However, please be assured, this group is one and the same. Their own website was [www.theexclusivebrethren.com](http://www.theexclusivebrethren.com), but has now undergone a brand name change.

1.6 The current leader, Bruce D Hales wrote booklet entitled “Living our Beliefs—the current way of life of the Exclusive Brethren” which is attached.

## 2.0 MEETING ROOMS PLACES OF PUBLIC WORSHIP

2.1 Mr Hazell says “The provision of meeting rooms and gospel halls, which are places of public worship, are open to the public.” This is completely untrue.

2.2 I would invite anyone to drive by their meeting rooms during the times that meetings are occurring, and see the guards on the gates, ensuring no one other than brethren enter, and once the starting time is reached both the gates and the meeting room doors are locked. They are NOT open to the public, they are not used by the public for youth groups, and other outreach activities in the community. They are most certainly NOT open to the public. Often hired security guards are on the gates when they have their extended weekend meetings known as “three day meetings”.

2.3 Should the international leader be present, security is tightened to inordinate lengths, to ensure no one other than the known followers enter. The international leader’s comings and goings are protected by security guards. In true Christian churches, renowned leaders are open, honest, ready for interviews and are only too happy to tell of their ministry. Not so this group. Their leader is revered and guarded and obeyed to the letter.

2.4 The recent “open days” where they provide meals and bibles are just that “very recent” and organised only to try and show that they relate to the community. When you look at the Exclusive Brethren or Plymouth Brethren Christian Church, whatever name you call them, ever since the early 1960’s when the leader of the day decreed that they should be “separate”, their practices have become more and more cultish and divisive in relation to families whose members don’t all belong.

2.5 At Q.224 Garth Christie says:

*“We regularly would have visitors attending our services, they are very welcome and I made this very clear to the commission. In fact I gave them an example .....”*

Mr Christie contradicts himself. He says an Iraqi family visited the Sunday previously, but then in the next breath says they had been coming to the services for over 10 years. No one is allowed to attend on a casual regular basis. No one but their own adherents is allowed to attend their communion (breaking of bread) service held at 6am on a Sunday morning. In fact, that service sets the tone for their whole lives—they only eat, socialise with, and meet with those who attend that specific service. That is their “standard”.

2.6 The Bible clearly states that Jesus ate with taxgatherers and sinners, and he certainly did not distance himself from those who were sinners, lepers, etc. When mainstream churches have events with meals, such as the Alpha Outreach which is run across the world in many different denominational churches, folk are invited to a meal and sit down with the church people, which is followed by a bible study. The aim of this activity is to convert people to the Christian faith, and bring them into the church hosting the event. The PBCC does not eat with those they invite to these meals, they do not sit down and chat over a cup of tea or coffee. They separate themselves very distinctly.

2.7 Q228, Mr Christie says “What concerns me ....full of genuine Christians, genuine believers....” That is the difference. There are many small genuine Christian churches, which reach out to their communities, invite them to their services, organise youth activities, make their meeting places open to craft groups, coffee mornings and the like. Those are the genuine ones. The PBCC do none of this and I do not believe they are “genuine Christians” because as soon as any group follows a “Man” rather than “God”, when that man’s word becomes more obeyed than the teachings of Jesus in the Bible, they are not a Christian church. They masquerade as Christians but in truth and in practice, they do not have Christian characteristics.

2.8 Under Q.234 Mr Hazell goes on to say that the Holy Scriptures are their “sole guide”. In practice, the word of the Man of God (currently Bruce Hales) is their sole guide. What he says or instructs is strictly obeyed, whether it has Scripture backing (so perceived) or not.

2.9 Under Q.241 Garth Christie answers Paul Flynn by saying that giving away free literature on the streets with street preaching is beneficial to the community. If anyone was to stand and observe these activities, they would see a good deal of the literature is either dropped or put in a bin down the street, more often than not. There is no evidence of any beneficial effect in the community as alleged.

2.10 Again under Q.245 Mr Hazell reiterates that the meeting rooms and gospel halls are open to the public. I have already addressed this above. They are clearly in practice, NOT open to the public, but well and truly guarded and locked.

2.11 Under Q247 Mr Hazell says they represent a section of the public—but they are a very exclusive section. Yes they do business with folk other than their own, they shop at public shops, they walk down public streets, they use public hospitals, but that is as far as the “public” facet of their lives goes.

2.12 Under Q.249 Mr Hazell says they give tracts and supper (presumably he means communion) to those in the last days of their life. They would NOT give communion to any other than their own members. That is the whole crux of who they are and who they do and do not associate with. They separate themselves from those who do not take their communion—which they call the “breaking of bread” or “the Lord’s supper”. They do not socialise with other people in any way. They only entertain their own people and they do not go to restaurants, cinemas, football or cricket games—they keep very much to themselves in every way. If family

members leave the PBCC, they are treated as though they had died, and communication, visiting, family meals and so on, are strictly forbidden.

2.13 At Q.252 Mr Christie confirms that Mr Halfon could come to the service on a Sunday morning and sit in their church. I asked if I could attend, and was told that people could only attend by invitation, and that I would be physically searched and scanned for electronic devices before I was allowed to enter into their church. I did not misunderstand what they said, it was clearly stated in an email to me. I have been welcomed in many churches carrying my camera and/or my cellphone, and never been told I can't have these items in my possession. This group appears paranoid about their privacy, and does not behave at all like other Christian churches, mainstream or smaller independent groups.

2.14 Under Q.253 the “free lunch” was a front, providing food—the people were not in the meeting room, but in especially erected marquees; the people were not invited to attend their services. The PBCC members did not eat or drink with their guests.

2.15 There is nothing in any of their literature or websites under the Exclusive Brethren (now PBCC) which suggests that any of their meetings are open to the public, and in fact it is quite clearly stated that they do not hire out their meeting places, or allow them to be used for anything but their meetings.

2.16 Under Q.254 Mr Christie tells of a story of a man who became a missionary in Africa. The PBCC as a group do not financially support overseas missionaries, they do not send their folk out as missionaries in third world countries as many Christian denominations do.

### 3.0 REMAINING SEPARATE

3.1 Mr Christie at Q.235 quotes 2 Timothy as their reason for being so separate from the world. With respect, most Christians would see this chapter of the Bible as a personal exhortation to those who “name the name of Christ to depart from iniquity.” In other words, for that person not to do things they would consider wrong. To take it to mean that groups of people should separate themselves from communities and people in general, would be considered a very extreme understanding of it.

3.2 Mr Christie quotes the King James Version, but the J N Darby Version, which is used by the PBCC replaces the word “depart” with “withdraw” which in their eyes appears to give them the mandate to remain separate, and “withdraw” from those who do not strictly adhere to their ways and edicts.

3.3 On this subject, just a quote from their own “meeting” as recorded in Volume 49, “Effective Service in the Economy”—Cowra—March 2006, White Book 161, page 11—their leader Bruce Hales says:

*“What we’re trying to bring is the young people through now to see that the world is, the whole principles of the world have to be scorned and disdained and just hated, really, hated. We have to get a hatred, an utter hatred of the world. Unless you’ve come to a hatred of the world you’re likely to be sucked in by it, and seduced by it. You must hate the world, every feature of the world, at every point you hate it.”*

### 4.0 HUMAN RIGHTS

4.1 Under Q.260 Mr Christie talks about human rights implications. The members of that group do not appear to understand what human rights are. Their adherents are restricted in so many ways, and in effect indoctrinated to believe that their way is the only right way. There are a number of very talented young people within their ranks who never go on to tertiary education, because it is forbidden. Lives are restricted and controlled—human rights are utterly overridden. Children are not permitted to join in extracurricular activities, join sports teams in the community, participate in any social activities outside their own group. Children therefore grow up deprived of so much, in a very narrow field of life.

4.2 When a husband or wife is “withdrawn from” (excommunicated) and there are children involved, the children are coached and refuse to have contact with the withdrawn parent. They have no say. I know of one particular case where a young woman finally left the PBCC of her own accord, and told her father that she was made to tell him that she couldn't love him “until he got right with the brethren” and this hurt her deeply as she loved her father dearly. This father finally gave up trying to see his children as he came to dread each one of the five of them coming into the room and telling him that they couldn't love him, and running off again. This surely breaches human rights of a child.

4.3 Children born into the PBCC have little or no contact with anyone other than their own people. They attend their own schools (which receive public funding, but which only take students from within the PBCC), they work for their own people, they marry within the group, and their whole lives are bound up within it. They dare not question anything, and when those who do question, and escape into the wider world they are ill-equipped to survive because of their narrow upbringing. This surely impacts their human rights.

### 5.0 REASONS FOR CHARITABLE STATUS

5.1 Under Q.225 Mr Christie talks of “our charities”. Members of the group are encouraged to give money, which money is usually collected on a Sunday morning on a weekly basis. This money is distributed to their own, their own charity (The Bible & Gospel Trust #11100085), and their “Man of God”. The printing and

distribution of literature, which seems to be possible charitable activity, has no proven or documented *public* benefit, is not used by members to work alongside people, rather just given out at random with no follow-up to the recipients.

5.2 The High Court matter referred to under Q.229 related to exemption from paying rates on buildings. As their buildings are neither commercial premises nor residential dwellings, and the PBCC objected to paying rates, it was decreed that local governments could have discretion as to the charging of rates, or not, on their meeting halls. As I recall, this did not necessarily confer charitable status on the group.

5.3 Under Q.272 Mr Christie uses the analogy of an extremist group who has views to incite violence, saying, in essence, they would not meet the requirements for Charitable status. With respect, the PBCC are so very exclusive, very inward focused, and are presently trying to “show” public good, and I believe are no better than the group in Mr Christie’s analogy.

5.4 If the PBCC “welcome scrutiny” as stated under Q.285, why are their meeting places surrounded by high fences, locked gates and for regular services, some of their own men standing on the gates monitoring those who enter, and for special occasions hired security guards monitoring the gates.

5.5 At Q.273, for Mr Christie to suggest an alignment and/or similarity with a small evangelical outreaching group in the Yorkshire Dales is nonsense. That sort of small church is respected in the community, and welcoming to all. It likely would have coffee and craft mornings for its people and the local community. Not so the PBCC.

5.6 In fact, Mr Paul Flynn’s comment at Q241 hits the nail on the head. He is so right!

5.7 Again at Q.277, Mr Flynn again makes a succinct comment, which is very accurate.

## 6.0 IN SUMMARY

6.1 There is much more that can be learned about the truth behind the Exclusive Brethren lately renamed as the Plymouth Brethren Christian Church on [www.Peebs.Net](http://www.Peebs.Net). Contrary to what some believe, this website gives balanced accounts of life within and outside the PBCC; news links; provides help to those who manage to leave or are forced to leave, and who consequently struggle to adapt to a completely different and new life, and so much more.

6.2 I believe Mr Christie failed to be clear in his answers to the Commission. I do not believe they can establish beyond reasonable doubt that they exist for the public good in any way. They are closed, segregated and have as little to do with folk outside their own as is practically possible. They certainly do not consider their meeting places are open to the public, there are no signs inviting folk to attend, but to the contrary the meeting places are surrounded by high fences with locked gates.

Thank you for taking the time to consider my submission.

November 2012

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## Written evidence submitted by Clothes Aid (Services) Ltd (CH 52)

### SUMMARY

- Clothes Aid hereby submits evidence which considers the Charities Act 2006 from a perspective of a Commercial Participator working alongside charities to raise revenue for their respective charitable purpose.
- The submission concerns predominantly the regulation of fundraising.
- Current fundraising regulation is outdated and Part 3 of the Charities Act 2006 is not practical to implement.
- Legislation should not add an extra burden on legitimate fundraisers whilst allowing purely commercial operators to compete in the same field, for example collecting used textiles, without similar legislative restrictions.
- Ensure resources are available to enforce any strictures.

### 1. BACKGROUND

- (a.) Clothes Aid is a social business which collect goods door-to-door across the country, to raise money for a range of UK charities including the NSPCC, Macmillan Cancer Support, Make-A-Wish Foundation UK, Zoë’s Place Baby Hospice, Noah’s Ark Appeal, Yorkshire Cancer Centre, Leeds Children’s Hospital, Papworth Hospital Charity and the Children’s Hospice Association Scotland.
- (b.) Households across the UK are asked to give clothes, fashion accessories and other goods which are weighed and then sold in shops in nearby countries. After costs are covered, the profit is shared with our charity partners. The collection arrangements are governed by detailed Commercial Participator Agreements and require zero investment for the charity. To date Clothes Aid have passed on over *£7 million of unrestricted funds to UK charities.*

- (c.) Clothes Aid only makes door-to-door and other bespoke arrangements for collections of goods and not direct debit, cash collections or street collections, therefore this submission will only relate predominantly to door-to-door collections of goods.
- (d.) Clothes Aid itself makes applications to over 403 local authorities for house-to-house permits to collect. The actual number of single permits granted during 2011 numbered just over 1,200 with a further 806 notifications of collection for our exemption holder charity partners (following best practice guidance issued by the Cabinet Office).

2. The current licensing process requires a substantial resource to enable our operations to function. These include operational planning, making the actual application using the proscribed form, applying for certificates of authority (HMSO Green Badges), issuing permits to collectors and preparing return statements of accounts for each of the 1,200 permits and also exemption holder collections.

In 2008 the resource was estimated at being close to £250,000 however, it is currently between £100,000 and £150,000. Licensing procedure is labour intensive and reduces the amount that can be paid in Royalty to the charity. Our exemption order charities receive a higher royalty rate per tonne because of this single fact.

### 3. SATURATION

- (a.) During w/c 26 March 2012 Clothes Aid made 1.2 million visits to households (charity collection bags distributed), received only 36 complaints against 45,000 households who chose to give a full bag of clothes.
- (b.) Therefore we believe that any issue of public nuisance is more closely related to 'bogus collectors' than legitimate organisations making bona fide collections. Public perception is being damaged by lack of enforcement, bogus collectors and theft. If unregulated door-to-door collections were prevented and standards raised within the door-to-door collection sector, saturation levels would drop substantially and a lot of the concern from homeowners and potential donors would reduce concomitantly.

### 4. INCONSISTENCY AND EXAMPLES

- (a.) Many councils have straight forward licensing application process but around one third (circa 140 councils) have their own very different policies. The most challenging of these are Birmingham and St Albans councils, both with differing but equally difficult positions.
- (b.) Tandridge, St Albans and Kettering are regimental in applying local licensing policy criteria in a well meaning but misguided effort to curb bogus collections. Along with an almost complete lack of in the field enforcement, this means legitimate charities and collectors face an extra legislative burden whilst bogus and commercial collectors not aligned to a charity, gain an advantage as they are rarely if ever punished for unlicensed collections.
- (c.) Conwy council have in the recent past required only a letter and not full application.
- (d.) Communications from Gateshead Licensing implies no h2h permit is needed, "*you will not require a licence as householders are not canvassed in person...[and donors are]... voluntarily leaving sacks on doorsteps*".
- (e.) Lack of regulation for non-aligned commercial collectors provides them with a distinct competitive advantage.

### 5. USE OF PERCENTAGES AND ARBITRARY FIGURES

- (a.) Current system is resource intensive with Clothes Aid Group suffering additional operational costs attributed to the extra effort and complex way of working due to the inflexibility of the licensing regime, eg trying to plan around licences as short as just one day, the huge amount of planning required to maximise an already low potential of collections, maintaining flexibility to adjust distribution area at the very last minute are some of the challenges. For example having to change on the day a planned collection area due to the presence of bogus collectors.
- (b.) We believe that former Home Office Guidance for exemption holder charities advised that 75% of the proceeds should be applied to charitable purposes. There are two issues that come out from this in relation to the 1939 Act, the foremost being that local authorities have taken it upon themselves to impose % ratios for fundraising despite where charity trustees have expressed their satisfaction with revenue arrangements. Second problem is that if at least 75% of the proceeds as opposed to the net profit is meant to be applied to charitable purposes, then the Act should have used language such as "the majority of proceeds" or "all or most" rather than "inadequate". In addition "inadequate" must surely be a lower test than what is reasonable.
- (c.) The trustees of a charity have a duty to ensure that any fundraising is efficient and effective and are responsible for the stewardship of the assets of a charity. They will assess fundraising costs against a broad range of fundraising activities. If the trustees have determined that the amount received is reasonable taking into account any investment required and the level of risk, then the question can be asked that on what basis can the Council's Licensing Committee rule that this is inadequate?

- (d.) The 1939 Act did not contemplate the collection of clothes as opposed to the collection of cash nor did it contemplate the new varied and sophisticated means of fundraising that charities engage in varying from licensing their name and logo, cause related marketing to face to face fundraising. When 1939 was passed there was no external regulation of charities by the Charity Commission and the disclosure rules for professional fundraisers and commercial participators had not come into force.

#### 6. STATEMENTS: PART II, SECTION 60 OF THE CHARITIES ACT 1992

- (a.) Clothes Aid believes that transparency is very important in terms of public disclosures, but the notifiable statement and guidance available on S60 of Charities Act 1992 is complex and challenging and does not really help in a simple and clear way. One challenge is reconciling the statements with certain local authority's policy when making licence applications under 1939.
- (b.) The statutory requirements in relations to statements are complex and hard to understand and therefore need simplifying.

#### 7. LACK OF ENFORCEMENT

- (a.) *Licensing*
  - (i.) Lack of robust enforcement of current regulations stands out across the entire current statutory arena, this is the same with codes of conduct and best practice. Whilst there are quite clear regulatory tools and guidance in place, there is hardly any satisfactory enforcement of these items. Unscrupulous operators take advantage and are able to operate with impunity.
- (b.) *Bogus collectors*
  - (i.) What must be recognised is that the bogus collector problem (those that are clearly fraudulent or for whom their business operations fall into in a grey untested area) and the theft issue has been allowed to fester and grow because of the lack of enforcement and presents a unique problem.
  - (ii.) The Charities Act alone cannot stop bogus collectors. What we believe is needed are for relevant government departments and agencies to consider again the problem with a view to tackling the problem holistically. Any action taken by the review alone will not likely be sufficient in isolation and could prove counterproductive.
  - (iii.) Clothes Aid have worked closely with City of London Police, National Fraud Intelligence Bureau (and currently sit on the Charity Fraud Resource Desk), Trading Standards Institute and HMRC and have brought arrests and worked on prosecutions together with these organisations, we would be happy to be part of taking this forward.

#### 8. SELF-REGULATION

- (a.) We believe there must be some regulation of fundraising mainly to maintain standards. Regardless of whichever body takes this role going forward, self-regulation must be universal and every fundraiser included. Current policy of self-regulation is about right.

#### 9. SUMMARY OF RECOMMENDATIONS

- (a.) Introduce national system of applications
  - (i.) Local authorities should not be able to set their own systems especially making judgments upon fundraising ratios.
- (b.) Support Institute of Fundraising position over problem of setting arbitrary percentages and ratios. Both Business in the Community and Institute of fundraising state that they never recommend percentages for fundraising. The Charity Commission also refuse to set benchmarks. Neither does National association of Licensing officers' (NALEO) guidance for House to House licensing procedures.
- (c.) Strict enforcement of Institute of Fundraising Codes of Conduct or fundraising best practice.
- (d.) Strict enforcement of licensing infringement with deterrent sentencing for unlicensed collections.
  - (i.) Nationally agreed procedures and education on this matter.
- (e.) Keep exemption orders. To abolish would increase the burden on charities, collectors and licensing authorities.
- (f.) Joined up planning by Government departments to ensure bogus and poor practice are correctly dealt with (eg HMRC, Police, Trading Standards, Licensing etc. working together).
- (g.) Reliance on the charity carrying out due diligence (Trustees responsibility) over fundraising returns.
- (h.) Must be some self-regulation of fundraising mainly to maintain standards. However, whichever body takes the role it must be universal (compulsory) and every fundraiser included.
  - (i.) NB in terms of door-to-door collections, without regulating purely commercial collectors this point will be moot.

- (i.) Current policy around self-regulation is probably about right, but we need a universal body to oversee fundraising and that could be the FRSB under the IOF.
- (j.) Self regulation needs teeth and enforceable powers.
- (k.) Tougher sanctions for bogus and stronger deterrent sentencing.
- (l.) Abolish green HMSO badges.

September 2012

### Written evidence submitted by Peter Luxton, Professor of Law, Cardiff University (CH 54)

#### SUMMARY

- Before the Charities Act 2006, to be charitable, an institution had to have purposes that were exclusively charitable and for a sufficient section of the community
- The Charities Act 2006 did not change the previous law on public benefit: the “descriptions of purposes” listed in section 2(2), in paragraphs (a) to (l) are inherently for the public benefit, as are purposes falling within paragraph (m). The reference to “public benefit” in the Charities Act 2006, section 2(1)(b), is therefore to public benefit in the sense that the particular purposes of an organisation must not restrict the section of the community to benefit to a private class
- The Charities Act 2006, section 3(2), had no legal effect, since there had never been any presumption that “a purpose of a particular description” (meaning the purpose of an institution) was for the public benefit
- Charities have never been required “to operate for the public benefit”
- To the extent that the judgment of the Upper Tribunal in the *ISC* case is inconsistent with the foregoing, it is incompatible with the previous case law
- The obligation on the Charity Commission to publish guidance on public benefit has led to guidance that is too detailed and voluminous to assist non-lawyers involved with charities
- Public benefit is too complex to be statutorily defined, but the Charities Act 2011 should be amended in specific ways in order to minimise the scope for uncertainty

#### A. The current perceived problems with “public benefit” in the law of charities

1. Public benefit has always been implicit in the concept of a charitable purpose. In the century before the Charities Act 2006, it had been established that, for an institution to obtain charitable status, it had to have an exclusively charitable purpose or purposes and be for the public benefit. An exclusively charitable purpose is inherently for the public benefit; so that, in expressing an additional requirement of “public benefit”, the courts were referring to the requirement that the particular purposes of an institution be capable of benefiting a sufficient section of the community. Thus, whilst “the advancement of education” is itself for the public benefit, a trust for the education of a named person’s children, or for the children of employees of a specified company, is not charitable because, by restricting those who can benefit directly to a private class, such a trust does not benefit a sufficient section of the community.<sup>74</sup> In the advancement of religion, however, there can be a benefit to a sufficient section of the community even if the class of persons to benefit directly is limited to adherents of a particular religious group: provided the members mix with the public, there is a sufficient indirect benefit to the public.<sup>75</sup> There has never been any requirement that a charity must “operate” for the public benefit: as a charity’s purposes are necessarily for the public benefit, it is enough that a charity merely carries out its purposes.

2. There are primarily four reasons why, since the coming into force of the Charities Act 2006, Part I, public benefit has become controversial.

(a) *The erroneous view of the Upper Tribunal in R (Independent Schools Council) v A-G*<sup>76</sup> (the *ISC* case) that public benefit is not inherent in the categories of purposes listed in the statute

3. There was, before the decision in the *ISC* case, a considerable body of academic commentaries on public benefit under the Charities Act 2006 (none of which was either mentioned by the Upper Tribunal or apparently cited to it). These included analyses that demonstrated that the recognised categories of charitable purposes are necessarily for the public benefit.<sup>77</sup> Unfortunately, no such argument was presented to the Tribunal: there was, after all, no doubt that the purposes of the independent schools that the *ISC* represented came within paragraph (b), “the advancement of education”.

4. Without the benefit of argument on this important issue, the Upper Tribunal nevertheless held that the purposes listed in the Charities Act 2006, s 2(2), were not inherently for the public benefit. It mentioned “a

<sup>74</sup> *Re Compton* [1945] Ch 123; *Oppenheim v Tobacco Securities Ltd* [1951] AC 297

<sup>75</sup> *Gilmour v Coats* [1949] AC 426; *Neville Estates v Madden* [1962] Ch 832

<sup>76</sup> [2011] UKUT 421 (TCC)

<sup>77</sup> Hackney, J (2008) 124 *Law Quarterly Review* 347; Luxton, P, [2009] 11(2) *Charity Law & Practice Review* 19; Luxton, P, *Making Law: Parliament v The Charity Commission*, (2009) Politeia

school for pickpockets” as an example of a trust that is for the “advancement of education” but not charitable because it is not for the public benefit.<sup>78</sup> On a proper reading, however, it is evident that the judge who had provided this example in an earlier case had considered that the absence of public benefit would prevent the purpose from being for the advancement of education in the first place.<sup>79</sup> As the Tribunal decision requires some mysterious additional “public benefit” to be shown under every category of charity (not merely in respect of new purposes sought to be introduced under paragraph (m)), the Tribunal has massively widened the scope for arguments over public benefit.

5. In this respect the Tribunal’s judgment is incompatible with the established case law, which shows that a purpose falling within one of the recognised categories is necessarily for the public benefit. Under such case law, arguments over public benefit were restricted to two sets of circumstances only: first, where it was argued that a new purpose should be recognised as charitable<sup>80</sup>; secondly, where there was doubt whether the particular purposes of an institution could be fitted within one of the existing recognised categories.<sup>81</sup> As the Tribunal’s decision is based on a misinterpretation of the case law, it is not surprising that the Tribunal could not indicate clearly what its additional “public benefit” must be. Its reasoning is also at variance with the Charities Act 2006, section 3(3), which provided that the meaning of “public benefit” was unchanged.

(b) *The uncertain effect of what is now the Charities Act 2011, section 4(2)*

6. The Charities Act 2006, section 3(2), provided that “it is not to be presumed that a purpose of a particular description is for the public benefit.” Although the earlier part of the sub-section was slightly reworded in the Charities Act 2011, this does not appear to affect its meaning; and there is also an assumption that a consolidation Act does not change the law.

7. The Charity Commission maintains that there had previously been a presumption that the first three heads of charity identified by Lord Macnaghten in *Pemsel’s* case<sup>82</sup> (the relief of poverty, the advancement of education, and the advancement of religion) were for the public benefit, but that such presumption had been removed by section 3(2). The Upper Tribunal in its *ISC* judgment, however, said that public benefit had never been presumed under any head of charity, so that the sub-section had not changed the previous law.<sup>83</sup> Nevertheless, having denied in the *ISC* case that the sub-section had any “reversing” effect, the Upper Tribunal, in its later judgment on the charitable status of trusts for poor employees and poor members of a club, contradicted this by speaking of “the abolition of the presumption of public benefit.”<sup>84</sup>

8. As the courts are unwilling to become involved in matters of religious doctrine, they recognise that the advancement of religion is for the public benefit as a matter of law, the only exception, also a matter of law, being where the doctrines are “adverse to the very foundations of all religion” and “subversive of all morality”: *Thornton v Howe*.<sup>85</sup> In *Re Watson*,<sup>86</sup> the judge stated that, as the court does not distinguish between one religion and another, the exception in *Thornton v Howe* is the only way in which an assumption of public benefit can be rebutted. In *Holmes v A-G*,<sup>87</sup> a case on the advancement of religion, the court referred to a “presumption” of public benefit. The criteria in *Thornton v Howe* relate, however, not to public benefit, but to what ranks as “the advancement of religion”. What is meant by “the advancement of religion” was unaffected by section 3(2). The decisions of the courts before the Charities Act 2006 remain law and so binding on the Commission. The Commission therefore had no legal basis for denying the Gnostic Centre charitable status on the ground that its purposes lacked public benefit, whilst registering the Druid Network, which had satisfied the Commission of public benefit.<sup>88</sup>

9. For the Commission to disregard decisions of the courts is not only unlawful but suggests that the Commission is pursuing its own agenda, and is simply looking for an excuse not to apply decisions that are binding on it but that inconveniently stand in its way.

10. It is unfortunate that the Upper Tribunal in the *ISC* case, having (correctly) denied that there had previously existed any “presumption” of public benefit under any category of charity, and having stated that it was dealing only with public benefit in the advancement of education, nevertheless, went on to state that section 3(2) meant that there is no presumption that religion generally, or Christianity or Islam, or the Church or England, is for the public benefit.<sup>89</sup> As the arguments in the *ISC* case concerned only the advancement of education, these observations on the advancement of religion were made without the benefit of proper argument. Read out of context, they have the potential to render uncertain the charitable status of any organisation whose purpose falls within “the advancement of religion”; and, indeed, the Tribunal’s comments have since been used

<sup>78</sup> *ISC* case, paras. 48 and 52

<sup>79</sup> *Re Pinion* [1965] Ch 85, 105 (Harman LJ)

<sup>80</sup> As in *National Anti-Vivisection Society v IRC* [1948] AC 31

<sup>81</sup> As in *Re Pinion* [1965] Ch 85

<sup>82</sup> [1891] AC 531

<sup>83</sup> *ISC* case, paras 68, 71, 83–86

<sup>84</sup> *A-G v Charity Commission* (2012) (FTC/84/2011), para. 39

<sup>85</sup> (1862) 31 Beav 14, 20

<sup>86</sup> [1973] 1 WLR 1472

<sup>87</sup> The Times 12 February 1981

<sup>88</sup> *Gnostic Centre* (2009) 16 December, Ch Com Decision; *Druid Network* (2010) 21 September, Ch Com Decision

<sup>89</sup> *ISC* case, para. 84g



by the Commission in an attempt to justify its refusal to register the Preston Down Trust. The Tribunal's loose words also reveal the folly of denying that the purposes listed in the statute are intrinsically for the public benefit. They are another instance in which the Tribunal, by effectively widening the meaning and scope of "public benefit" beyond the established case law, has opened Pandora's Box, so that the Charity Commission considers itself free to threaten the charitable status of many religious bodies.

11. To accord charitable status only to those religious organisations that the Commission considers satisfy its public-benefit test is not only contrary to the law established in *Thornton v Howe*, but might also be in breach of various Articles of the European Convention on Human Rights, notably 9, 10, 11, 14, and Article 1 of the First Protocol. In contrast to the Commission's very wide approach, the exception set out in *Thornton v Howe* seems to fit easily within the qualifications in the Articles (eg Article 9.2).

(c) *The erroneous notion that a charity must "operate for the public benefit"*

12. All references to "public benefit" in the Charities Act 2011 relate to an organisation's "purposes", not its "activities". Nevertheless, whilst the Tribunal said that an institution cannot lose its charitable status merely because of the way its trustees carry out its purposes, it considered that a charity must "operate for the public benefit".<sup>90</sup> On analysis, there is no authority in the case law to support this; the Tribunal purported to rely on *IRC v Educational Grants Ltd*,<sup>91</sup> but the decision was based on the narrow point that most of the charity's income had been applied to a private class and so not for exclusively charitable purposes.<sup>92</sup>

13. The Upper Tribunal's view that a charity must "operate for the public benefit" may have been influenced by the Attorney-General's "loaded" Reference questions, which were based on the false premise that a charity does have to operate for the public benefit. A danger in the Tribunal's widening of the scope of public benefit is revealed in its answer to one of the questions in the Reference that asked whether there would be public benefit if a fee-paying school were to fund an academy. This question comes close to trying to align public benefit with the pursuit of the government's political agenda. It is regrettable that the Tribunal did not adopt a more robust approach and state explicitly that most of the questions in the Reference were based on an assumption that was false.

14. The upshot of the Upper Tribunal's decision is that every charity must show "public benefit" in carrying out its purposes, and that registered charities (of which there are nearly 200,000) must satisfy the Charity Commission annually by providing a statement on their "public benefit" activities. Although the Tribunal said that this was primarily a matter for the trustees rather than the courts or the Commission, the latter can hold the trustees to account if it considers that a minimum level (which, given the wide variety of circumstances, cannot be specified) has not been reached. There is therefore little comfort for trustees, who cannot know what precisely they must do to provide sufficient "public benefit", and yet might be personally liable for breach of trust if the Commission considers that they have not provided enough. This is hardly likely to encourage persons to volunteer as trustees, and it runs counter to the spirit of the Big Society. The Commission should not be spending its reduced budget on a legally doubtful, uncertain, and largely pointless paper exercise; and charities should not have to waste their funds on having to comply with it.

(d) *The statutory obligation on the Charity Commission to issue "public benefit" guidance*

15. This statutory duty has led the Commission to produce voluminous amounts of guidance of questionable accuracy. Its mere length undermines the object of explaining the legal principles in a simple way for those not versed in charity law. It has also led to the Commission's using the guidance as if it were itself law, so that the Commission seems content to make decisions by relying merely on its own guidance without referring to the case law on which such guidance is (or at least purports to be) based.<sup>93</sup>

## B. HOW THE PROBLEM OF "PUBLIC BENEFIT" MIGHT BE RESOLVED

16. There is no intrinsic problem with the concept of "public benefit": it is, after all, the hallmark of charity. The courts long ago reduced the scope for argument over public benefit by identifying purposes that are, as a matter of law, for the public benefit and recognised as charitable. All the "descriptions of purposes" listed in the Charities Act 2011, section 3(1)(a) to (l), are therefore for the public benefit. This means that the difficult task of weighing up different sorts of perceived benefits and perceived detriments, both direct and indirect, against each other is required only in respect of new purposes, these being capable of emerging under paragraph (m). As this process depends on the particular purpose specified, it is unlikely to be aided by any statutory attempt to define public benefit. There should therefore be no attempt statutorily to define "public benefit".

17. It is important, however, to clarify that the categories of purposes listed in the Charities Act 2011, section 3(1), are inherently for the public benefit. This could be achieved by adding a sub-section stating that the "descriptions of purposes" listed in paragraphs (a) to (l) of section 3(1), and purposes that fall within paragraph (m), are deemed to be for the public benefit.

<sup>90</sup> *ibid.*, para. 194ff

<sup>91</sup> [1967] Ch 993

<sup>92</sup> For further discussion, see Luxton, P, (2012–13) 15 *Charity Law & Practice Review* 27

<sup>93</sup> E.g. the Commission's decisions on the Gnostic Centre and the Druid Network; see Luxton, P, and Evans, N, [2011] *Conveyancer* 144

18. In view of the uncertain effect of the Charities Act 2011, section 4(2), that sub-section should be repealed.

19. It is still necessary that the particular purposes of a governing instrument do not restrict the section of the community to benefit to a class that is not sufficient for the law of charity. The Charities Act 2011, section 2(1)(b), should be re-worded so that, instead of referring to “public benefit”, it provides that a charitable purpose is one that is for the benefit of the community or a sufficient section of the community.

20. It would be desirable (though this might prove difficult) to find a form of wording to capture the point that public benefit relates only to purposes, not to activities, so that it is enough for charity trustees to carry out the organisation’s purposes. In any event, the Commission’s public benefit objective should be abolished, together with the requirement for trustees to submit a “public benefit” statement in their annual reports.<sup>94</sup> The Commission’s statutory duty to issue guidance should also be repealed.

November 2012

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### Written evidence submitted by John Weightman (CH 56)

#### COMMENT ON CURRENT CHARITY SITUATION OF EXCLUSIVE BRETHERN

##### 1. BACKGROUND

1.1 In the summer of 2012 the Exclusive Brethren were denied charitable status specifically in relation to their meeting room owned by the Preston Down Trust.

1.2 There has been considerable public discussion including newspaper articles and participation in TV shows. Parliament debated it (13 November 2012) and it was discussed by the Public Administration Committee of the House of Commons on 30 October 2012 under the chairmanship of the Rt Hon Bernard Jenkin MP;

##### 2. PUBLIC BENEFIT

2.1 The Charity Commission have decided that the Meeting Rooms owned by this particular Group of Brethren (until November of this year known as Exclusive Brethren and so described on their own website but now described by themselves on their new site as Plymouth Brethren Christian Church) are not properly open to the public.

2.2 For some 50 years, denial of public attendance at meetings has been absolute with a handful of exceptions. Contrary to the pictures displayed on the current website, main meeting rooms are surrounded by high security fences and locked gates. These gates are locked at all times except for access prior to scheduled meetings: they are also locked during meetings. Larger or special occasions also use security guards.

2.3 The notice boards, until about September of this year, have indicated no meeting times or welcome.

2.4 There has been no interaction with non-members for half a century apart from the minimum to survive. Over the last 15 years or so children have at first been increasingly home-schooled and now in Brethren Schools. Even sharing a cup of tea with non-members—including immediate family—has been disallowed for half a century.

2.5 The “Universal Leader”, Mr Bruce David Hales of Sydney, Australia, declared in March 2006

*“We have to get a hatred, and utter hatred of the world. Unless you’ve come to a hatred of the world you’re likely to be sucked in by it, and seduced by it. You must hate the world, every feature of the world, at every point you hate it.”*

2.6 The Exclusive Brethren now maintain—as stated on their website—that they provide food for the poor. Reality is that since Summer of this year following the indication that they were losing charitable status, they have organised what are known as “Free Pie and Bible Days”. These do not make any bias towards the poor. Some see them, given their novelty, as an attempt to persuade the authorities that they are for public benefit.

2.7 Public Benefit must also include the freedom of individuals to leave without loss. This cannot happen. Everyone who leaves loses all or almost all contact with family (including spouse, children and parents if they remain members) for all time. It will most often include loss of employment and home since employment is generally within the church membership and funding for homes is provided by church membership.

2.8 Implicit in the term “Public benefit” must be the absence of harm.

2.9 Misleading information: whilst it is of course legitimate to change a name and reconstruct a website, it should not be done in such a way as to make it appear that it involves an entirely different organisation. Despite the claim that Plymouth Brethren Christian Church is the historic name (<http://www.plymouthbrethrenchristianchurch.org/>) it is an entirely new invention. Two months ago that name did not exist. At least one member of the House of Commons has been misled. Mr Ian Paisley Jnr (North Antrim DUP) praised the work of the brethren in setting up the “every boys rally” and “every girls rally”

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<sup>94</sup> Charities (Accounts and Reports) Regulations 2008

which attract tens of thousands of young people. This relates to the Open Brethren, an entirely different organisation and one which has no connection whatever to the Exclusive Brethren apart from the 1828 founder.

### 3. INFORMATION TECHNOLOGY

3.1 For many years the Exclusive Brethren banned the use of computers. It was stated on their original website—of all places—that they did not use the internet. One of their spokesman claimed in a BBC Everyman programme in 2003 that they did not use computers or the internet because of the association with the “Mark of the Beast” and “666”.

3.2 The Exclusive brethren were able, on the basis of their conscience, to claim exemption from filing returns to HMRC electronically. They were also able, exceptionally, to complete Government Surveys such as the Labour Force Survey carried out by the Office for National Statistics in paper form.

3.3 In recent years, they have reversed this position and Mr Hales’ company actually sells IT equipment. Indeed, generally this is the form of hardware which Exclusive Brethren must buy.

3.4 There is nothing whatsoever wrong with people including religious groups having a change of view. This has happened down the ages and will continue and is generally held to be a good thing. The difficulty arises in the following ways:

- Where no admission is made of a change (whether in the use of IT or the opening up of meeting rooms to the public) but it is represented that nothing has changed and it was always that way.
- Where people who anticipate the changes are disciplined for their actions. For example, I am aware of and can document individuals who owned computers prior to their being permitted and who, when discovered, were consequently excommunicated. This meant, for some, loss of spouse (who chose to remain within the church) and children.

### 4. EDUCATION

The Exclusive Brethren provide education within their schools. There is nothing wrong with this in itself but the prospectus for their schools states that they assist students to reach their full potential (<http://www.focus-school.com/>). The icon button for education on the Exclusive Brethren current website is, somewhat ironically, a graduate’s academic cap. Since University education and obtaining a degree is absolutely banned it is difficult to see how a student’s potential can possibly be achieved or that any member of the Exclusive Brethren will graduate.

### 5. SCRUTINY

5.1 During the questioning by the Commons PAC, Mr Garth Christie, one of the UK Brethren leaders, made this statement:

“We do not mind any of the questions. We welcome scrutiny, that is not a problem to us. If any of the members have further questions they would like to send in or approach us about, we welcome it. We have nothing to hide.”

5.2 When considering this statement it should be understood that the Exclusive Brethren have had closed down 3 websites where ex-members have exchanged news and information, asked questions or expressed views and criticism. The current website which ex-members use has had restrictions placed on it by the Brethren. They often appear to be portrayed as David in a David and Goliath confrontation but this does not really tell the story. Due to massive wealth they have been able to pursue legal cases as far as they wish and well beyond the resources of their opposite number. Currently, a number of former members are in receipt of lawyer’s letters in an attempt to silence them and a piece of academic work has also been challenged. This can also be seen in the huge international building programme which has taken place over recent years amounting to many millions of pounds. Churches with much larger attendance would not be able to even begin such a programme.

### 6. THEOLOGY

6.1 It is understood that it is generally not the role of either the Charity Commission or Government to take a view on doctrine; however, the consequences of doctrine are important. For example, it would be right to be concerned if a church banned a member from benefitting from life saving medical procedures, such as happens with Christian Scientists and Jehovah’s Witnesses.

6.2 The Exclusive brethren have always cited as their charter verse (this was on their old site but not their current one) this verse from St Pauls 2<sup>nd</sup> letter to Timothy, chapter 2:19 which states:

*“let every one that nameth the name of Christ depart from iniquity.”*

Apart from the odd use of one verse over all others to define themselves, they have interpreted this as being separate from everyone who does not share exactly their own views and is a member of their church. This interpretation is eccentric and unique. It is a significant misuse of the Greek word ἄδικος which is translated *iniquity* or *unrighteousness* and relates to separation from wrong acts, not people with whom you disagree.

This misunderstanding is unsurprising given that there is no higher education allowed and no Exclusive Brethren leaders have any training or even minimal knowledge of Greek.

6.3 It is difficult to understand how, given such a view of the world outside their own persuasion, Exclusive Brethren can be for public benefit since by its nature that would require engagement with people.

## 7. THE VIEW OF OTHERS

7.1 It is worth considering the view of others:

[http://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren\\_1.shtml](http://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren_1.shtml)

<http://www.bbc.co.uk/news/uk-england-shropshire-12182333>

[http://en.wikipedia.org/wiki/Exclusive\\_Brethren](http://en.wikipedia.org/wiki/Exclusive_Brethren)

<http://www.reachouttrust.org/shop/FreeDownloadsPDF/F013Exbreth.pdf>

## 8. PERSONAL NOTE

It is over 30 years since I left the Exclusive Brethren fellowship as an adult. 20 years after I left—20 years during which I never once was able to see my parents—my mother died. I had not even been informed that she was ill until about an hour before she died. Three years later at the time of the BBC Everyman documentary there was a slight softening of the rules and I was able to visit my father three times before he, too, died including a visit the week before he died. I received a call at about 11.30 one evening to inform me of the funeral service which was to take place at 6.30 the following morning. Since I live over 400 miles away attendance was made impossible. Apart from one brief visit with my daughter before my father died, my children never knew their grandparents. I have an unknown number of nephews, nieces and great nephews and great nieces. I have never seen them.

*November 2012*

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### **Written evidence submitted by Kevin Curley CBE (CH 57)**

I understand that your Select Committee is considering Lord Hodgson's proposal that it should be made easier for large charities to pay their trustees. I am strongly opposed to this proposal.

I write as the Chair of two small charities: Sengwer Aid which raises funds to support village development projects in western Kenya and Hull Children's Adventure Society which runs a Family Centre in Pickering, North Yorkshire. I am also a trustee of Community Action Derby, Charity Finance Group and NCVYS (National Council for Voluntary Youth Services).

Unpaid trusteeship has served charities well for several centuries. In my experience a charity that is doing effective work and which is run well has no difficulty attracting able and committed trustees. If a charity is not effective and well run it does not deserve to be supported and paying its trustees as a means of recruiting them would be a waste of donors' funds.

It is already possible for a large charity to get permission from the Charity Commission to pay its trustees. It seems to me right that the regulator—charged in part with sustaining public confidence in charities—should need to give consent, on a case by case basis, for such a potentially controversial change.

If it becomes easy for large charities to pay trustees I am sure that some will do so. I believe that this will damage the reputation of charities generally and do serious harm to public trust. Unpaid trusteeship distinguishes charities from private sector boards and many public sector bodies. It is a distinction which we should cherish and protect.

I hope your Select Committee will not support Lord Hodgson's proposal.

*December 2012*

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### **Written evidence submitted by Hilary Wells (CH 58)**

To suggest paying trustees of charities and voluntary organisations is a preposterous idea.

Trustees do their jobs so effectively precisely because they are not paid. I speak with a great deal of experience having served on numerous committees and boards and I happily still do this as a volunteer.

I would not feel independent if I was paid by someone.

Please do not put the independence of charitable boards at risk by paying trustees.

*December 2012*

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**Written evidence submitted by David Jennings (CH 59)**

**RE. GREENFINCH CHARITABLE TRUST (IN LIQUIDATION).**

I am writing to you in your role as an interested organisation/person, Member of Parliament and or a member of the Public Administration Select Committee, with responsibility for the oversight of the Charity Commission along with other Boards responsible for holding the Charity Commission to account for their inactions both strategically and operationally in discharging its statutory duties.

I am aware of the current review regarding the Charity Commission's service delivery and potential future remit, the attached case seems to exemplify some of the issues being considered and how these are being translated into operational practice within the CC at this time.

I remain an interested person regarding the above named charity and the "ongoing investigation" by the Charity Commission (CC) into the charity controllers, please see enclosed supporting information.

Given the duration of the CC ongoing involvement (since November 2008) I have provided a synopsis of events and concerns along with a small sample of the papers and documents in this matter as these underpin the serious concerns I hold about the conduct and practice of the Charity Commission from a complainants perspective. The above concerns are now also echoed by staff from within the CC own Compliance Units (see attached article from Third Sector magazine), along with many others who hold a detailed understanding of the CCs poor practice and inability to act appropriately as sector regulator.

I sent the attached letter to the Charity Commission dated 18 November 2008 (investigation still ongoing almost four years later) it sets out the extensive concerns about the charity's controllers which had been identified by myself with the assistance of a specialist firm of solicitors (see attached list of people involved at that point in 2008), as you will see there are considerable concerns regarding the "transfer" of the charity's fostering business to the same people who were running the charity, leaving it without income, staff or services after it was made a private limited company (Oct 2004) owned and controlled by the same people running the charity.

After the CC received my referral reporting a catalogue serious incidents of mismanagement and financial abuse back in 2008 it took until July 2009 (some 9 months) before the CC went to interview anyone including the charity's controllers ( an then in the presence of the accountancy firm's advisor who is also the personal financial adviser to the principle controller and her families associated businesses) or myself as a complainant, this is at the very start of the concerns about what was to follow from that point and up until now. The CC also took from early 2009 until March 2010 to send a full referral to Kent Police who reviewed some of the papers at that point Kent Police took until October 2010 to take a view and concluded a crime had taken place but they had neither the staff or resources to investigate it( see email to/from Kent Police who were then keen to back track on the above when senior officers became involved, hence reporting they were content for the CC to progress the investigation), please see attached email exchanges, as they make alarming reading.

The CC have never approached other staff who have knowledge of the concerns, the "trustee" who was involved in the transfer of the fostering business back in 2004, the lawyers that undertook extensive investigations into the activities of the charity's controllers or the trustee's who were removed from the Board of the charity in October 2008. One is bound to ask why?

It is clear from the catalogue of concerns (see response to ICR report) about the CC practice, internal capability and leadership style which is described as oppressive and bullying, along with professional standards and practice deficits the CC's "organisational agenda" being one of avoiding cases being taken to Tribunal or section 8 Enquiry at all costs, the Charity Commission was unable to properly argue cases and strategically did not want to spend their budget on overt regulation or becoming involved in matters that could be questioned and then challenged externally, hence the significant decline in s8 statutory inquiries and reliance on "light touch advice for trustees" or treating investigations as "compliance cases".

Even when matters were clearly so serious to have ongoing involvement now approaching 4 years post referral( November 2012), combined with those same "trustee's" retaining control of the charity, ( see CC 30 September 2011 and my response) the CC still attempt to say the matters although criminal finically abusive and contrary to the Charity's Governance and law the activities of the charities controllers should be seen as "in the past", thus they get to keep the charity's fostering business, many tens of thousands in misapplied funds paid to themselves and significant financial gains from their controlling the charity such as rents, expense accounts, private healthcare and cars purchased in France to name but a few of the gains made by the controllers . This was then combined with the CC knowingly providing "selective" information to agencies such as Kent Police, the Parliamentary Ombudsman Service and ICR all of which were intended to either attempt to "pass the buck" to another agency or "script" their perception of events to ensure the CC position was seen in a favourable light, again at all costs even if it was to include deliberate misquotes of case law and judgements (see attached letter to Sir Richard Scott).

Given the above issues the Greenfinch matter was never going to be properly investigated by the CC as at that time the leadership within CC clearly was applying unacceptably high thresholds for section 8 enquires that "drove" the CC compliance staff to make Public Interest Disclosures and report matters to the press.(please see attached articles). CC managers are described as bullies something I have experienced at first hand, as

when I challenged one of their managers I was sworn at, later to be told the officer was “clearing his throat”, much in the same way sinister old accounts of injuries caused by the person walking into a door, it defies belief in this day and age such nonsense is still used as a defence, something I find repugnant from a regulatory body. Yet this happened in a conversation with a senior officer of the commissions Compliance Unit (see ICR report) in November 2010 when I asked him to account for the serious concerns known to the CC but not acted upon, he then reported openly the CC would not open a section 8 Enquiry as they did not want external scrutiny of their practice or decision making, when I asked about the ICR he laughed and clearly said they would not challenge the CC in any robust manner. His tones were deliberately scoffing and dismissive in that the CC could not be challenged and could act with impunity. These were the actions of a senior member of staff within the CC Compliance Unit in London.

The processes I have attempted to use in trying to call the CC to account for their inaction have been far from satisfactory as it is clear the ICR back then only reviewed files/papers the CC had passed to them as do the Parliamentary Ombudsman Service, you will see from my comments on the ICR report the factual inaccuracies are clear, extensive and lead to a view that a conclusion had already been reached by the ICR, that being the complaint should not be progressed further, it was nothing less than an attempt at containment.( see letters from CC and POS), this was also the case with the Parliamentary Ombudsman as both agencies have extremely limited abilities to challenge the CC, hence the ICR maintains a position of not commenting on practice or decision making within the Compliance Units at the CC. Both organisations are content to superficially consider administrative process (solely based on the information they are provided with by the CC, something I find difficult to understand) but not operational practice or the CC management decision making.

The entire process of attempting external challenge of the Charity Commissions practice is convoluted, extremely time consuming and lacking any real opportunity to scrutinise their actions, thresholds for intervention or decision making, as a member of the public would not have the time or potential inclination to question or challenge the CC response, especially when the CC knowingly use obfuscation, prevaricate, misquotes of case law and are running an agenda that seeks to “play down” concerns.

Further, as the CC continues its policy of inappropriately restricting the majority of its statutory work they will be able to manipulate and “manage” complaints and information so avoiding transparency to suit their cause without threat of challenge.

I can not see how a member of the public could either initiate or argue for Judicial Review given the tactics deployed by the CC to delay process and massage outcomes to fit their preferred conclusion. I also wonder at the extent of the problem as like many things what we see on the surface is only the tip of the iceberg with the CC strictly applying a managed information policy that avoids transparency at all costs.

I have been told the CC will not correspond with me unless they have a statutory duty to do so, the reasons being from my perspective are the questions asked by myself are both difficult and organisationally embarrassing for the CC, combined with the CC now unclear how they conclude matters and justify their refusal to provide an explanation why this case has been subject to “investigation” for almost four years yet still without conclusion, they are in effect hiding behind the guise of investigation and seek to conclude matters without publishing any account or report of their intervention or practice, this is the reason I have written to you as I would respectfully ask that you in your capacity call the CC to account for this gross abuse of their position and inaction that has allowed a serious miscarriage of justice to be enacted by the sector regulator.

I am also more than aware of the need for the public to remain confident in the regulation of the charity sector given the national economic dependence on charitable giving. This point in my view is extremely worrying as the current direction being taken by the CC provides for both significant adverse publicity when eventually issues come to light in that the CC has not been regulating the sector robustly, but has unwittingly provided a “thieves charter” for those who wish to exploit charitable status. The “light touch or self regulation” referred to is worryingly close to the statements made about the financial deregulation of the banking industry, just before a major crash and discovery of significant wrongdoing.

The situation outlined above is something the CC play to in terms of them being “the” regulator for the sector, as from my experience of the organisation it is one of distrust, and concern they hold such a position of influence that is not justifiable by their practice or behaviour (they knowingly prevaricate and deliberately mislead, see letter to Sir Richard Scott) they neither have properly defined practice standards , transparency or desire to do the job we the public expect of them, instead they seem content to provide “lip service” to massaged performance indicators while deliberately curtailing their regulatory activity in the name of “efficiencies” meaning “budget cuts in real terms”, in my view their inaction and current position is both dangerous while blatantly misleading the public and sector in terms of their role and function.

The longer term implications are extremely serious as the “light touch” proposed by the CC is also providing a “blue print” for crime within the sector. Please see the FOI information regarding section 8 enquiries that show the number going from 300 plus 3 years ago to less than 12 in year at this time.

I have been told by a manager within the Compliance Unit that the ICR and checking system will not challenge the CC practice further and more alarmingly the CC now have an unwritten policy of keeping cases out of statutory enquiry as this avoids the CC being open to scrutiny and challenge regarding its decision

making as current investigation standards appear unable to withstand cross examination or the scrutiny by Tribunal processes.

I believe this case and the current direction of travel being taken by the Charity Commission are highly questionable and will at some point cause reputational damage to the public confidence and perception of the charitable sector. The above may well prove catastrophic for many charities and public confidence in the sector.

Whilst one can see the need for more efficient service delivery and regulation by the CC my concerns would be the regulatory function if devolved will become fragmented, there will be disputes as to what agency is leading investigations, indeed in this case the question would be has the IP's regulator the technical and financial resources to progress any number of these cases, should the creditors pay for the progressing a an investigatory role that should be discharged by the CC. It is clear many agencies such as Kent Police are applying "gate keeping" policies to preserve their resources by using highly technical argument to try and redirect them becoming meaningfully involved. The brief outline above are just some of the dynamics that have impacted this case, if scaled up I would fear nothing less than a free for all as all agencies would "pull up the drawbridge" in terms of their function unless they were both funded and resourced to undertake this work, this would then need to be clear within legislation and guidance, however the above said one would then have to question the role of the CC as it would appear to be little more than an expensive register of charitable organisations with little use other than providing informal consultation and advice to charities who may be seeking to exploit their status or manipulate what the CC are told.

I do appreciate the time it would have taken you to read this letter and review the supporting documentation. However, I do at this point believe the Charity Commission is "an accident waiting to happen" it is now clear from the rising voices of concern about practice and direction, just to be clear at this point the CC would cast me as a vexatious complainant, this is simply not the case I just can not standby and watch the issues outlined here go unaddressed for a multitude of reasons but predominantly due to the perversity of the CC's practice and behaviour, further it was not until the Third Sector Magazine reported the Orbison issues I realised the extent of the concerns about the inabilities of the CC to discharge the requirements of its core business go far beyond my local issue. It is now clear the CC are knowingly feeding yourselves misleading information while systematically dismantling the regulatory framework which they are currently disregarding, as I have said in correspondence to the CC, one is left to wonder who they serve as their current direction seems to be confined to "self service and self interest".

Should require any further information please do not hesitate to contact me.

*September 2012.*

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### Supplementary written evidence from Louisa Hutchinson (CH 61)

#### SUMMARY

- Update since my last submission CH 45 in October.
- Concerns relating to Nick Hurd's interim response to Lord Hodgson's Review of the Charities Act 2006 under the heading **Complaints, appeals and redress**.

#### UPDATE

Since my last submission CH 45, I have completed the process available for the consideration of my complaint by the Charity Commission against a charity of which I am a member, and there are no further routes through which the outcome of the case can be reconsidered by the Commission. An appeal to the First Tier Tribunal is not open to me as it can only be applied to if the Charity Commission has made an investigation in the first place. I can approach the Parliamentary and Health Service Ombudsman which considers certain complaints about the service provided by a range of bodies, including the Commission, although I have little hope that the PHSO will overturn the Charity Commission's decision not to investigate. I wrote to Her Majesty the Queen as Patron of this prestigious charity asking if it would be possible for the governors to be prevailed upon to include in their complaints policy an element of independent review as recommended by Lord Hodgson. After making enquiries, the Deputy Private Secretary to The Queen was informed by the Board that my complaint is being handled through their Complaints Policy- a statement which is totally untrue. I have been denied access even to the inadequate Complaints Policy that exists at the time of writing.

Due partly to the fact that the charity in question has no option for an element of independent review in serious complaints against governors and partly due to the ineffectiveness of the Charity Commission as a regulator, the charity has been able to get away with an abuse of power, a misuse of thousands of pounds of charity funds, deliberately misleading the Charity Commission (a criminal offence), other members, the press and finally the Palace.

#### POINTS FOR CONSIDERATION

1. Point 3. of Lord Hodgson's Recommendations following chapter 7 **Complaints, appeals and redress** of his review is:

Schedule 6 to the Charities Act 2011 should be removed and the jurisdiction of the Tribunal reformulated on the face of the legislation as:

- (a) A right of appeal against any legal decision of the Commission.
- (b) A right of review of any other decision of the Commission.

2. However Nick Hurd in his initial response states: “In principle we support the rationalisation of the appeal rights in Schedule 6 to the Charities Act 2011, provided it can be done in a way that does not expose the Charity Commission to challenge where it decides not to intervene in a charity in line with its risk and proportionality framework”.

3. The majority of appeals to the Charity Commission regarding malpractice by boards of governors are dismissed on the conveniently flexible grounds of “risk and proportionality” which appears to be used as a method of preventing accountability both of any dubious, dishonest or criminal actions of trustees and the Charity Commission as regulator. Therefore I think it essential that there should be a right of review of any other decision of the Commission as Lord Hodgson recommends.

4. Nick Hurd welcomes Lord Hodgson’s recommendation not to establish a new charities ombudsman or extend the remit of an existing ombudsman to consider complaints about charities, adding that in the current financial climate creating a new ombudsman would represent an additional cost for charities or the taxpayer, neither of which is attractive without a compelling need. Well there is clearly a compelling need for some sort of alternative and I don’t believe it has to be expensive.

5. Although Nick Hurd supports Lord Hodgson’s recommendation that charities should have their own internal complaints procedures, he has failed to mention Lord Hodgson’s earlier points 7.8 and 7.9 in which he recommends that complaints processes should have **an element of independent review**. If the latter was a universal element in charities’ complaints policies it would prevent most complaints from escalating in the first place, do away with the need for fruitless applications to the Charity Commission and/or costly court fees. Without this essential element, dishonest or abusive trustees can in effect “mark their own homework” leaving their victims with no recourse to justice.

6. I very much hope that the Committee will take note of the whole of chapter 7 of the Hodgson Report, consider carefully the woeful lack of justice afforded to victims of rogue governors at present, and make recommendations to remedying the situation.

*December 2012*

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**Written evidence submitted by Christine Parsons (CH 64)**

I understand that the Charity Commission is now looking to clarify the law on what constitutes a “public benefit” for charitable purposes and how this applies to some religious groups. This will presumably have implications for those groups, including the Plymouth Brethren, who hold charitable status at present.

I must challenge the implication that the Brethren are somehow totally separate and do not benefit the wider community around them, without any interaction with non Brethren people and that as a result they should not have charitable status. In my own experience this is definitely not the case.

I have worked for a company owned by a Brethren family for almost five years, and in that time, have had constant interaction with both the family and other members of staff who are also Brethren. There are also a number of staff members who, like me, are not Brethren and we are all treated with the same level of consideration and courtesy—Brethren and non Brethren alike.

Over the last three years I have gone through a lengthy separation and divorce and at all times the level of support and compassion provided by my employers and other Brethren members of staff has been immense and has made a huge difference in how I have coped with the overall process. I honestly do not feel I could have gone through this experience without the understanding and above all, the kindness I have been shown throughout.

Recently I attended an open day at a new Brethren hall which has been built—in the main by the Brethren themselves, with help from essential contractors—and was made to feel very welcome, served a pleasant lunch and was also given a bible—this was not “forced” upon me, and I was certainly able to refuse the gift if I had so wished.

To say that the Brethren do not interact with others in the wider community is untrue. To say that they do not benefit the wider community is also untrue. Brethren companies employ many non Brethren staff and buy and sell amongst non Brethren companies, therefore spreading considerable wealth into their communities. When involved in building projects, local companies are used. Many Brethren members go out into the community to spread the teachings of Christ, and non Brethren are also welcome to attend Brethren Sunday meetings should they wish.



I know that the Brethren also contribute to other charitable concerns—our company recently provided some free stock for sale at a charity auction to raise funds for the Pace Centre in Aylesbury—a centre for disabled children—and again for a local Catholic school Christmas fund raising event.

In my opinion to suggest that the Brethren somehow hold themselves apart from the community in which they find themselves is without foundation. Yes, they worship in their own way, and together, but this applies surely to any religious group—including the so called “mainstream” religions—Church of England and Roman Catholic, to name but two. But there is no “seclusion” no keeping totally apart.

We regularly see wives of staff members—and the children—and we all chat together, laugh together and sometimes work together.

I have worked for a number of companies, national bodies and government agencies, and can truly say that I am now working with some of the friendliest, kindest, generous and most welcoming people I have ever met.

I hope that the conclusion of the Charity Commission will be that the Brethren are just the same as everyone else—doing their best, living with their neighbours, being part of the wider community.

I also hope that since—in a recently televised debate—it was admitted that the Brethren had been targetted because it is a relatively small group—this will highlight how unfair this whole procedure is. If the aim of the Charities Committee is to establish fair and equitable means by which religious groups can be deemed a charity or not—surely a wide range of organisations should be equally reviewed and judged, not one group of people only who are seen as possibly a weaker target.

Throughout the world and throughout history, small groups have often paid dearly for being different simply because those in authority feared tackling larger and more powerful organisations, or saw them as easy scapegoats.

Please do not let this be the case here.

*December 2012*

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#### **Written evidence submitted by James Farrant (CH 65)**

Firstly may I thank you for the way you have been conducting the debates over the Charity Commission and the Charities Act 2006—they have been equitable and probing and very informative.

I write as a member of the Plymouth Brethren Christian Church who is appalled at the decision of the Charity Commission in regard of the Preston Down Trust. Not only does the decision seem biased when looked at in the light of other decisions the Commission has made, but it also appears to totally ignore a previous High Court Judgement and threatens to remove the assets of the Church.

The process and cost of appealing this decision is burdensome and a massive diversion of donated funds that could otherwise be used for charitable purposes.

May I urge you to continue to follow this matter through with the Commission robustly and make recommendations to ensure that this injustice is both righted and prevented from re-occurring to other genuine Christian Charities?

*December 2012*

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#### **Written evidence submitted by Peter Hamilton (CH 66)**

RE. THE CHARITY COMMISSION FOR ENGLAND AND WALES:

Following the decision of the Commission to refuse charitable status to the Preston Down Trust, I have been following the reaction of Parliament with interest. I am particularly impressed by the sympathetic way in which your Committee has conducted your investigations.

After a life-time among the brethren I am shocked that a British institution, such as the Charity Commission, has allowed itself to be persuaded to act in such an unfair manner. The reactions of the Commission’s chairman and CEO, under questioning from members of your Committee, betrayed an almost callous disregard of the rights or feelings of adherents to this church. Despite the Commission Chairman’s assurances, there appeared to be a bureaucratic insouciance which seemed to fail to grasp the significance of their decision, first of all to refuse recognition and then to refuse reconsideration.

This failure of the Commission to reconsider the facts presented to them leads one to fear that there is a certain bias at work, possibly stemming from unsubstantiated rumours and accusations.

The Plymouth Brethren Christian Church has been in existence for almost 200 years. It is not founded on some particular religious principle taken out of context, but is based on the whole scope of Scriptural principles accepted as “The Word of God”.

It is inescapable to conclude that acceptance of the Commission's actions will inevitably impinge on the charitable standing of every Christian institution, even if that was not the Commission's original intent.

Furthermore, the declaration of the previous Commission chairperson that the assets of charities refused charitable status, could be confiscated, suggests an ignorance of the true position of religious charities when compared with social or educational charities. Religious charities do not, as a rule, raise their funds by public appeal but from their members. These funds are then used in support of the charity's aims which frequently include assisting the wider public beyond its membership. Non-religious charities, in contrast collect funds directly from the public for some specific aim or cause.

This threat was clearly stated to your Committee and is, I believe contrary to the intent of the legislation passed by Parliament. The Commission clearly intends to act as judge and jury, abrogating to itself powers never intended by Parliament.

By forcing the Plymouth Brethren Christian Church to defend its charitable status before the Tribunal is diverting charitable funds from their original purpose and is a sad reflection on the Commission's ability to carry out their function, especially when it found it necessary to publish over twenty pages justifying the decision to grant charitable status to the Druids and only two or three to deny it to a Christian charity.

As I said above, I respect the integrity of your Committee and trust that you will use your best endeavours to set right this manifest wrong by all the means at your disposal.

*December 2012*

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**Written evidence submitted by Ian Evershed (CH 67)**

RE. THE CHARITY COMMISSION & PLYMOUTH BROTHERS CHRISTIAN CHURCH

As a practicing member of the PBCC, I would like to put on record my deep concern relating to the Charity Commission's current refusal to register one of our trusts as a charity. It is clear that this decision has very wide implications and that the Commission intends to remove the Charitable status of all our trusts.

It is obvious to any right thinking person that the PBCC is being discriminated against due to a bias being followed by the Charity Commission under its previous chairman. The fact that the Druids have been given Charitable Status during the same period of time that the specific PBCC trust was refused Charitable Status, proves that there was injustice working, resulting in inequitable treatment against Christianity which is in itself the base of all Charitable activity.

As one who has been re-included in the PBCC, having spent 4¾ years out of the fellowship, I can assure anyone who is genuinely interested in the way that we live, that the affection and care for the moral, spiritual and physical welfare is exemplary. Far exceeding any contacts I had whilst away from them.

I have lived in Middlesbrough for the last 18 years and during that time have joined in the regular preaching of the Gospel about Christ in the town centre at mid day. The preaching of the gospel itself is to give needy persons an awareness of the Saviour Jesus and the irrefutable benefit of believing on Him. It is an established fact in law enforcement circles that it has the effect of the promotion of good and a restraining influence against the rising tide of sin and corruption we all are aware of. This is indisputably a public benefit.

*December 2012*

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**Written evidence submitted by Evan and Evelyn Reynolds (CH 68)**

RE. PRESTON DOWN GOSPEL HALL TRUST

As members of the Plymouth Brethren Christian Church, we write to express our great appreciation of the honest concerns raised by yourself and by many of your cross-party fellow-members of the Committee, during your two most recent sessions reviewing the operation of the Charities Act 2006.

From the evidence you have seen, it is very clear that our minority mainstream Christian Church is now being unfairly discriminated against by the Charity Commission.

We earnestly hope that the PASC, having weighed all the evidence taken, will send a very definite report to the Government, as we are sure our situation scarcely reflects the broad intentions of Parliament when drawing up the 2006 Act.

With many thanks indeed;

*December 2012*

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**Written evidence submitted by Richard Browning (CH 69)**

I have been following intently the recent meetings of your committee relating to the Regulation of the Charitable Sector and the Charities Act 2006, and indeed attended the meeting on November 6. As a member of the Plymouth Brethren Christian Church, I am very disturbed at the decision of the Charity Commission to refuse charitable status to the Preston Down Trust.

Their decision has far reaching consequences for the Christian religion. This week I was speaking to the pastor of a Free church in Salisbury (not Plymouth Brethren), and of his own volition he brought up this decision. He said that it has serious implications for us all, the Commission has no right to dictate that the Plymouth Brethren are not for public benefit, they preach the gospel in the streets and that is the finest example of public benefit. This man has his own congregation, and said that they would not admit just anyone to their communion service.

As to the doctrine of separation, which is based on Holy Scripture but which some persons abhor, the actions of the government and the Royal family in the 1930s when the former King Edward VIII was ostracized for breaking the code of conduct, are an interesting consideration. The pain inflicted on our King and Queen at that time and the dishonour to the Crown led to a separation which lasted for decades. Separation within families is intensely sorrowful, and is often a private matter only understood by the persons involved.

I am confident that you will make a balanced report. It has been most interesting to witness your skilful chairmanship.

*December 2012*

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**Written evidence submitted by Jim Fidler (CH 70)**

I write as a member of the Plymouth Brethren, to protest against the Charity Commission's refusal of charitable status to the Plymouth Brethren Christian Church.

It would seem that the Charity Commission has formed the opinion that the members of the Plymouth Brethren Christian Church are reclusive, have no contact with the general public and that our services are also closed to the public.

I am very angry at this totally unjustified view which only highlights the bias and lack of research of the Charity Commission.

I live in Horndean (near Portsmouth) and for many years have been going to local shopping centres to preach the glad tidings and to give away (free of charge) gospel tracts to those passing by. I am not aware of any other Christian organisation in our area that engages with the wider public in this way.

We recently held a "Free Lunch and Bible Day" which was advertised by distributing around 20,000 leaflets and also erecting signs in the area. We had nearly 100 people attend and gave away 67 bibles (some just came for the food).

We also welcome visitors to our services—we had some attending on the past Sunday. There is no requirement to make an appointment—the time of the service is on the noticeboard outside and also on the reverse of the gospel tracts that are distributed through the week. We would like to invite all or any of the members of the Public Administration Select Committee to attend.

It may also interest you that our local MP, Mr George Hollingbery, referred to the Plymouth Brethren as "a stabilizing influence" in the community.

In summary I would like to repeat my strong objection to the Charity Commission's decision and would welcome any opportunity to discuss any of these points in more detail if required.

*December 2012*

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**Written evidence submitted by Mike Brown (CH 71)**

I remain concerned that the Charity Commission has continued to pursue its case for the Brethren Community's charitable status to be removed and make reference to the Oxford English Dictionary as to the origin of the word Charity: late Old English (in the sense "Christian love of one's fellows"): from Old French *charite*, from Latin *caritas*, from *carus* "dear".

My experience of the community goes back 30+ years from when I was a Lloyds Bank manager and subsequently as a Director of Corporate Finance with a major accountancy firm and more recently in my own practice.

The Community has developed beyond recognition in that time but some things have remained consistent as they are underpinned by faith and a commitment to best business practice.

Never in my experience have I ever witnessed a debt to go unpaid in a Brethren connected business which includes, of course, the inevitable problems with businesses owned by Brethren members. In all cases the community members have given their time and money to ensure no bankruptcy or liquidation takes place. I can think of five cases in the last 10 years where this action has resulted in the re-launch of the original business resulting in the retention of the employees as well as the employment of further staff as growth ensued. It is never easy to put a figure on these things as there are too many variables but if I was to consider just two recent cases one would be looking at

- Banks £900,000+
- HMRC £70,000+ (this is low because both businesses would have incurred losses although VAT was all repaid)
- Suppliers £500,000+

It was the PB Community that absorbed these outgoings either from their own personal resources or via UBT in the form of fees and expenses (UBT being a PB run Universal Business Team that aids and supports Brethren businesses globally with research, advice and guidance as well as funding via members if need be). Neither would have survived and the wider social impact would have been on employees.

Historically, the Brethren members have not pursued further education at University level so many of the non-Brethren staff they have employed have been in senior technical roles. It is my experience that all individuals delight in working for the Community members not just because of the pay and conditions which are always exceptionally good but because of the ethical nature of the governance of those businesses. This type of governance is rare today as most governance seems to be directed towards driving short-term profitability prior to a sale with the inevitable consequences of redundancies post sale.

In short I genuinely believe that if modern business practice embraced the key paradigms of the Plymouth Brethren Community business practice we would not be facing such an economic crisis as we are now facing.

Outside of the business case it has been my privilege to attend the Brethren meeting place at Thaxted at which I was made welcome. I have also had the pleasure of an open day at one of the Brethren schools in Swaffham where the young people are a pleasure to engage with and I'm aware that the Community makes a considerable number of donations to Charities outside of its own. In the last 10 years I must have conversed with over 150 Brethren members and it has been very obvious to me that, far from being separatist, they enjoy engagement with us more "worldly folk" and for my part it would have been a tragedy not to have had such contact as I have learned much from them.

*December 2012*

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**Written evidence submitted by Ken Hazell (CH 72)**

I am writing regarding the situation the Plymouth Brethren Christian Church are currently in regarding their charitable status.

I am happily married, with a child amongst the Brethren, but that has not always been the case. I left the brethren in 1998 & came back in 2008. During that time I made friends with people of many faiths and went to their churches, but the Brethren always stood out in my memory as different, for their caring attitude to all men, and real family values, this love and true steadfastness to their love of Jesus drew me back.

Why they are being discriminated against is shocking, as it has been proved we do provide a benefit to public in the way of regular donations to charities, food for homeless shelters, free Bibles to prisons & open days at our hall where we distribute free gospel literature and food—just a few examples.

I've been to many other churches and I am sure they are all fearing they will be next. All churches are believers so why have the Plymouth Brethren Christian Church been singled out?

Christianity is a pillar in our society and needs to be protected.

*December 2012*

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**Written evidence submitted by Ken McLean (CH 73)**

I would like to take this opportunity to express my concern regarding the way the Plymouth Brethren Christian Church are being unjustly discriminated against by the Charity Commission.

This is an attack on Christianity as a whole and of course is not the first—the Martyrs of previous centuries where persecuted for their Christian beliefs and consciences and died for them too—but Christianity didn't die out, nor did the persecution stop.

This is now another attack on the faith, albeit of a smaller group, the PBCC, who are being singled out for persecution—but who will be next? What denomination? Well may persons tremble who attack God and his rights. I may say from conviction and experience that the light and benefits of Christianity and God's goodness

and appeals to mankind through the Lord Jesus Christ will not be extinguished. "Until he come whose right it is" Ezekiel 21 v27.

I also write as being born into the PBCC, having enjoyed the light and benefits of the Christian Fellowship, which is available to all, not just those born into it, and having been thankful for the provision made by government to freely worship according to my beliefs, without hindrance, until now.

At one time I had to leave the fellowship as I was not practising or walking in the true light as taught in the Holy Bible, namely that, "Let everyone who names the name of the Lord withdraw from iniquity" 2 Timothy 2 v19. My wife and family remained true to their convictions and remained with the PBCC during this time. Thankfully I was restored to the fellowship of the PBCC, having found profit and salvation in the work of the Lord Jesus Christ and as one of those who are washing their robes: "Blessed are they that wash their robes, that they may have a right to the tree of life" Revelation 22 v.14.

I mention this matter to throw light on the accusations of a minority, who condemn our practice of separation as set out in the Holy Scriptures and allege that the PBCC split up families, whose views the Charity Commission seem to have endorsed and believed without finding out the truth first.

Please could I ask the PASC to consider the points I have raised in the investigation which they are undertaking, of the Charity Commission's actions in questioning the public benefit of Christianity, the unjust persecution of the PBCC and indeed this further attempt to snuff out Christianity.

*December 2012*

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#### **Written evidence submitted by Charles and Monica Arnett (CH 74)**

We write to resister our concern at the decision of the Charity Commission to refuse to register the Plymouth Brethren Christian Church as a charity, which has recently been discussed by the Public Administration Select Committee.

Christianity has had an indisputable advantageous influence on the whole of Europe and its outgoings for many centuries. The Plymouth Brethren Christian Church has had charitable status since the early eighteen hundreds and has followed the same principals and doctrines since that time, seeking to follow the simple Christian truths set out in the Holy Scripture as taught by Our Lord and his Apostles.

We are deeply concerned that this decision of the Charity Commission could affect many other Christian Denominations and feel it is an attempt to marginalize Christianity itself and ignore its many benefits which have been the backbone of the law and many social reforms in this country.

It seems unfair that what is a comparatively small group of Christians, should be singled out and treated in this way forcing it to have to spend a great deal of money defending itself. Money which could otherwise have been used for charitable uses.

As committed Christians we have ourselves donated many thousands of pounds, after selling our business, to help finance a new church hall in Melton near Hull, which serves many in Hull and the East Riding of Yorkshire. We do not now know what the future holds for this hall in the light of this decision.

We would urge the Committee to do all it can to rectify this unfair and unjust decision.

*December 2012*

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#### **Written evidence submitted by C J Bourne (CH 75)**

I am writing in connection with the Brethren's challenge to their charitable status by the Charity Commission.

As background I am the Senior Partner at a firm of Chartered Accountants in Gloucester and have had dealings with members of the Brethren for a period of some 20 years.

I understand the main point at issue is the Public Benefit test which I fully appreciate is one of the core requirements of any charitable body.

I wish to highlight two specific cases which I believe shows very strongly the public benefit of actions by the members of the Brethren.

The first related to a business Gloucestershire Paper Products which needed support to continue.

The second case was a business Cotswold Fasteners which again required assistance going forward.

In both cases the Brethren community came together as one to support these businesses which were not necessarily in their own areas. A vast amount of time was spent in the giving of support and negotiating a way forward for the business.

The ultimate outcome in these cases is that the businesses survived and most importantly the following public benefits arose:

- the community in which the businesses were based were retained;
- jobs were saved through the actions of the Brethren;
- other businesses from far and wide who traded with the businesses did not lose out and in fact enjoyed increased trade in many cases; and
- taxpayers money was saved through the payment in full of all liabilities and the avoidance of having to meet any redundancy costs.

I trust my comments will be of some assistance in confirming the vast amount of public benefit shown by the Brethren.

In conclusion my firm opinion is that the support and fellowship of the Brethren community has over the years of my involvement with them had an immense public benefit.

If I can be of any further assistance to anyone in this matter please do not hesitate to contact me.

*October 2012*

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#### **Written evidence submitted by David Meatyard (CH 76)**

I have been following your investigation of the Charity Commission's treatment of the Plymouth Brethren Christian Church with interest. Government and it's departments are of God, and every Christian should pray for it. We are thankful for the perception that has marked the Committee.

My family has been in the fellowship of Brethren since 1922 when my grandfather who left the Royal Navy after WW1 emigrated to Canada. He picked up a gospel booklet that someone had disgarded and was converted, he then returned to this country, coming into fellowship with Brethren after contact with one. After a teenage crisis which many have, I married in the Brethren, our children also did. All our grandchildren and great-grandchildren are happily in fellowship. This is quite typical of Brethren families.

The Brethren started in the early 19th century because they felt that Christianity had greatly deviated from what Christ and his apostles had set up. Early Christians faced rejection by the world and persecution but when Christianity became popular, it declined and became part of the world system. There have always been faithful individuals but the public Church declined. Brethren separated from the world and have done so ever since although loving everything and everyone that served God. Brethren have had distinctive leadership since J.N.Darby and none of them have taught anything that is inconsistent with the Holy Bible.

The action of the Charity Commission has forced the PBCC into the public eye which none of us would have chosen. We have given our money and our time to building meeting rooms. We did this as doing it for God and we now find ourselves in a position where everything can be stripped from us. That is what happened to our brethren in Germany under Hitler. All that we have is held for every Christian and all who seek God.

PBCC is the first but it will not be the last. Real Christianity is under attack in various ways. God's earthly people the Jews were under attack in the 20th century and Christianity now.

My wife joins in looking for your support.

*December 2012*

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#### **Written evidence submitted by Rosanna Gomez (CH 77)**

I have been working for the Plymouth Brethren since September 2003 and within a few days of being in my new job with new colleagues I distinctly remember saying to my family & friends that I had genuinely never laughed so much, not only was I made to feel comfortable but immediately felt like I'd been there for ages! We worked hard but the office banter was so much fun it made our very long day enjoyable.

As time has gone on I feel that people at work are family to me. Support for work has always been great but the support and care in my personal life has been overwhelming. Advice was always readily available especially from the time I was getting married, to the time I was pregnant having a baby. Even when we moved home we were offered help with our move or the offer of food to be brought to us during this time.

Unfortunately I was diagnosed with cancer last year and work have only wanted what is best for me! I've been called before my every operation to check I'm ok! I've been visited at home to check I'm ok and been reassured that if there was anything at all that I needed, all I was to do was ask.

They continue to support me through my recovery and am very grateful that they are a huge part of my life. We could all learn a lot from them in how they treat other people and not just their own this is done with genuine love and care.

*December 2012*

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### Written evidence submitted by Priscilla Calder (CH 78)

As a member of the Plymouth Brethren and a happily married mother of seven children, *respected* mother-in-law to their spouses, and a grandmother to 19 children, I was aghast at the light in which the Plymouth Brethren are currently being assessed by the Charity Commission!

Where has this idea come from that we are not involved in charitable work? I have enjoyed my entire life amongst the Brethren where we were brought up “*to lead a quiet and peaceable life in all godliness and honesty*” (1 Timothy 1 v 2) and to “*not be weary in well doing*” (Galatians 6 v 9); it has been with some dismay that we have had to bring our charity work and good deeds into the glare of publicity simply because of the ineptitude of the Charity Commission. Have they been told lies about the lives of the Plymouth Brethren?

My husband and I have regularly given money to charities, both inside and outside our own trusts and “community”; now, to my dismay, I find that our “giving” may not be eligible for *gift-aid* on the basis of “*not being charitable*”! “Charity”, by definition, embraces “*acts of kindness, love of ones fellow, liberality to the poor, the sick and the helpless*”, and a charitable organisation is “*a type of non-profit organization centering on non-profit and philanthropic goals as well as social well-being eg charitable, educational, religious, or other activities serving the public interest or common good*”. You only have to read the booklet that the Plymouth Brethren have been obliged to produce (at great expense to themselves) to discover that this is **exactly** what the Plymouth Brethren are!

What about our meeting rooms? Are we to forfeit these on the basis of “not qualifying for charitable status”? We have put a lot of money into these buildings over the years, and this also includes the provision for non-Brethren visitors.

To add insult to injury, I also realised that the Druids have been granted charitable status at around the same date in which this was withdrawn from one of our meeting rooms belonging to the Preston Down Trust. According to a recent BBC documentary, the Druids are “*a secretive bunch. They don’t write down their ideas nor do they have Holy Book.*” and “*to understand Druidism, you need to immerse yourself in ancient history, fantasy, myth and mystery*”. Against a background of violent clashes with the police and the public, alleged drug-taking and alcohol-related offences, the Druids have been given charitable status where a Christian group, in a Christian country, has been denied this freedom and respect.

On what basis have the Plymouth Brethren been treated differently and discriminated against? Is this not prejudice ...bias and segregation? The vast sums of money being spent on defending our position could be used for furthering our charity work, which in itself is not cheaply carried out! Where is the intelligence and fairness in this? Isn’t Great Britain, our country, rightly proud of its reputation for its courts of justice and also for its Christian history and culture?

Has the Charity Commission considered what the consequence and long-range effect of this appalling injustice could be? What about the thousands of other Christians in other denominations? They must fear that eventually they will suffer the same treatment if the Charity Commission is run by persons who are evidencing anti-Christian bias! Is it not an act of cowardice to start on a relatively small group such as the Plymouth Brethren?

As Winston Churchill observed “*Christianity has died many times and risen again for it has a God who knew his way out of the grave*”; if only Winston Churchill were around today—**he** would **not** stand back and allow Christianity to be trampled on. My family and I will continue to pray that the Charity Commission becomes answerable to Parliament, and that true “*statesmen*” within the Charity Commission will have the courage and conviction to stand up for justice and repel this anti-Christian activity. In the meantime, we await what Churchill described as “*God’s good time*”.

December 2012

### Written evidence submitted by James Remmington (CH 79)

The decision of the Charity Commission to refuse registration of the Brethren’s Preston Down Trust is most disturbing. Indeed it smacks of discrimination and a lack of equity. The consequences for other brethren trusts and their assets and many other Christian groups, are even more disturbing.

For some years I was a trustee of a Brethren’s Gospel Hall Trust, providing facilities for partaking of the Lord’s Supper, bible reading, prayer meetings for all men and gospel preachings. I could name a number of persons, other than brethren, who attended these meetings.

In those years there was a similar threat to our status, and in conversation with our then local MP (Sir Victor Goodhew) he said “this sounds to me very much a case of discrimination”.

Are all our efforts to provide, from our own finances, gospel halls and simple Christian activities, to be nullified and our assets threatened with takeover?

Is it fair that Brethren should be singled out and have to spend large sums to defend themselves when this money could be directed to charitable purposes?

Meanwhile, the Druids have been granted charitable status. Does such a decision bespeak fairness?

Please put my comments and questions before all members with my respect.

*December 2012*

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**Written evidence submitted by Jim Turner (CH 80)**

It is with a great sense of urgency and concern that I am writing to you as to the attack and manifest discrimination against the Plymouth Brethren Christian Church by the Charity Commission.

I am a member of this long established fellowship the practices and beliefs of which are well known to many and are based on the teaching of Christ and His Apostles expressed in the Holy Bible.

We have enjoyed charitable status for a great many years and are now refused registration on a Gospel Hall in Paignton. The reason given for this refusal was non participation in Holy Communion and not sufficient Public Benefit.

Considerable expense has been involved in publishing a book on our Public Benefit activities and it has been made clear that the public can attend our church services.

The determination of the Charity Commission to pursue this through the legal process involving huge costs seems to point very strongly to bias. What a great waste of money that could be used for our many charitable causes! This bias is further underlined by the granting of charitable status to the Druids.

I personally with many others have given considerable money towards the building of our Gospel Halls, which could be repossessed if we lose our charitable status—is this fair justice?

Having had to do with many other Christian faiths I find almost without exception a deep concern with them not only as to the refusal to the Plymouth Brethren Christian Church but as to their own position should the Tribunal decide against us.

I feel compelled to add that further to the Charity Commission's terms of refusal it seems that they are taking on board bitter accusations against the Brethren by persons who wish to recriminate them. Are the Charity Commission looking for a further basis to turn down our charitable status?

I appreciate your concern to consider this issue fairly and trust the above comments will assist you in helping us to maintain our charitable status.

*December 2012*

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**Written evidence submitted by Stephen Juby (CH 81)**

I have always considered the Charity Commission (CC) and all Government bodies to be fair, equitable, and consistent in their decision making process. I am a firm believer in Government and fully respect persons in authority—whatever their beliefs.

However, as a relatively young member of the Plymouth Brethren Christian Church (PBCC) I feel my responsibility to succinctly display my dismay and deep misgivings and feelings of injustice about the CC decision making process in relation to the Preston Downs Trust. These personal feelings have been further compounded by other successful applications which on investigation, do not correlate with the brutal and draconian pressure that is being unfairly applied on the PBCC, and were recipients of Charitable Status on a very simple basis, thinking specifically of the Druids. It would appear the CC has forgotten the most basic principles that define a charity.

When any organisation is singled out and feels it must resort to: documenting every act and gesture of good will of its members, details every gift and donation its members make monetarily, details of time spent in a charitable way by assisting neighbours, visiting the sick and elderly, and defend itself against unfounded and unjust statements. It is clear the CC has made a serious error of judgement of seismic proportions. We are fortunate that all our Trusts have foundations rooted in the Holy Bible and the Christian cornerstone of "Faith Hope and Charity" to all mankind. Therefore we will sustain the attack and this will be countered for the sake of many other charitable and religious organisations that fear they will be next.

I am an individual in the PBCC and at no point have I been pressurised to continue as a member—just decisions I have taken at specific points of my career to continue in this organisation. I feel it a privilege to be part of a community supporting, law abiding, authority respecting, donation giving, honest and transparent Christian Church that has earned the right of charitable status with the rich heritage. I feel responsible to continue at all costs.

The CC might have felt they could snuff out a minority group, which they thought was an easy target due to its beliefs—nothing could be further from the truth as the flame has always been burning bright for



humanity—as Ridley the Christian Martyrs final words “we shall this day light such a candle, by God’s grace, in England as, I trust, shall never be put out!”

We would urge a review of the case before proceeding to the Tribunal.

December 2012

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**Written evidence submitted by Ross Markham (CH 82)**

I am writing to you, as opposed to Mr Shawcross, as I believe you were involved in the decision to refuse the Plymouth Brethren Christian Church, charitable status for our counterparts at the Preston Down Trust.

As a former non-member of the Plymouth Brethren Christian Church, I have experience on both sides of the fence and would like to share some of my personal experiences.

Addicted to drugs, destitute, rebellious and a liability to society, is how I would best describe myself before I found Jesus as my Saviour. A long history of self will that led me into a lot of trouble and sorrow and would shock you if you knew the half, is now a distant memory, thanks to the Plymouth Brethren Christian Church who reached out to me in my hour of need.

Since my conversion to Christianity and becoming a member of the Plymouth Brethren, I can truly say life has improved a hundred fold! I am married to a lovely woman; we have 3 little girls which bring enormous, additional joy in our lives. I have had a lot of assistance from the PBCC in starting a business which is now growing rapidly and most importantly the assurance that I have eternal salvation as sheltering under the precious blood of Jesus.

Speaking on behalf of my family, I can tell you that Christianity is our life. We are dedicated members of our local community who have set ourselves to make a real difference. We actively engage with many charities, not least the PBCC, Hereford Foodbank, and Oxfam.

Our principle desire is to spread “The love of Jesus” to all men and particular those in greatest need who like myself, once upon a time resorted to antisocial and criminal activity.

I am now a trustee of the PBCC, Hereford Gospel Trust and have personal responsibility for “Pie Days” which involve giving out food, drinks, gospel literature, Bibles etc to a wide and varied local community which includes poorer families, homeless persons and drug addicts etc.

I have personally given thousands of pounds of my own money in the past year to the PBCC, not to mention the time I have given to assist with these activities. I see it as my way of saying thank you to this wonderful organisation for all the help and support that I have received in the past.

Finally I would like to appeal to you, not to refuse Charitable Status to any PBCC trust as I believe it will be detrimental to our society. The vast majority if not all PBCC members are peaceful, law abiding, compassionate, engaging citizens of our society and it would be a gross injustice not just to members, but vulnerable persons that depend on us, if our charitable status is revoked.

December 2012

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**Written evidence submitted by Gerard Clayson (CH 83)**

I write as an *ordinary member of the public*, born in the UK, of mainstream protestant Christian religion, living in an ordinary house with my wife and 3 sons, enjoying excellent relations with good neighbours, conducting my business without fear of favour, paying taxes, meeting and dealing with men and women from many walks of life on a daily basis; on the face of it just another respectable UK citizen.

I support my local church; engage in charitable public benefit activity of many forms. For example I attend a street preaching every Tuesday lunchtime in the city centre, I have made gift aid qualifying donations to support the maintenance of our Gospel Hall, I sought to encourage a young man recently orphaned, sent to one of our Gospel preachings on a Sunday by a Christian neighbour (who attends the United Reformed Church) but just wanted him to get help.

But I find I am not apparently an ordinary UK citizen; that my church should now be prejudicially forced by the Government’s Charity Commission to defend an ordinary right we’ve had for over 150 years to charitable status, racking up legal costs of hundreds of thousands of pounds.

I find that I am a marginalised UK citizen that should be singled out, discriminated against, treated with deep suspicion, be openly attacked, ridiculed and vilified in parliament.

This shocking injustice and treatment is because I am a member of the Plymouth Brethren Christian Church.

I have followed the Select Committee process with interest. I heard Mr Shawcross say he regrets that my Church should be put to this expense; he says that there is no way that charitable status of Christian religion will be threatened. But where is the rationale, and the evidence, to support that statement?

It is patently inequitable that other *ordinary members of the public* like the Druids are not subject to such injustice. How can it be that one organisation is granted uncontested charitable status whilst another is dragged through a rotten litigious process?

December 2012

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**Written evidence submitted by J M Wells (CH 84)**

THE CHARITY COMMISSION REFUSAL TO REGISTER A CHURCH FOR THE WORSHIP OF GOD AS CHARITABLE

This action is a terrible injustice to Christianity, I am 78 years old and come from Huguenot Protestant ancestry which followed into the PBCC 170 years ago, I was brought up in fellowship and became totally committed to our way of life from boyhood, our answer to the Lord being crucified being to consider the poor and afflicted by charitable giving.

I have personally given many thousands of pounds to the gospel hall trust for the provision of Gospel Halls, I resent the suggestion that they may now be taken from us.

They are essential for the practice of our way of life gathering together with those who love our Lord Jesus. My ancestors did this and committed themselves to Christ, they suffered death, loss of property, extreme cruelty, condemned to the galleys but never gave up to protect their families and way of life, they held on because they knew they had eternal life.

Why have the Plymouth Brethren Christian Church been singled out for this attack against the right of Christian's to live their life in accord with the Holy Bible, the same happened to the Huguenots.

In this so called enlightened age this activity against a small number of Christians is unsupportable.

I appeal to you to bring in new laws that uphold Christian rights to live a life that they wish and stop moral decline in this country.

December 2012

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**Written evidence submitted by Malcolm Poole (CH 85)**

It seems to me to be undeniable that the Plymouth Brethren are victims of politically correct discrimination.

I have been attending Brethren meetings for over fifty years, and have also been present at countless gospel preachings on the streets of Britain. In fact, upon once asking a police officer for his agreement to preaching at a certain spot, I was told "We're glad you do it". Why would that be? Because Christianity is the moral bedrock of our society, and awakening the conscience has a tangible effect on behaviour in every walk of life. If that is not charitable—what is?

So what are the alleged features that make the Plymouth Brethren Church unfit for charitable status?

We are told that excluding non-members from Holy Communion disqualifies a church. This will have far-reaching effects on many other churches. Communion, by definition, includes the idea of sharing (with Christ). Can a non-believer do that? Would a believer want him to? So is Christianity, by definition, uncharitable? Are we seeing the beginning of the marginalisation, by the authorities, of Christianity?

The laughable suggestion that a church whose followers choose to live in detached houses should not be recognised as charitable is as unreasonable as the humanist's forlorn hope that there is no God.

More seriously, it has been put forward by the chairman of the Charity Commission that the doctrine of separation disqualifies a church from claiming charitable status. What is this dreadful principle that causes such horror in respectable members of society? Actually, everyone practices it to varying degrees. Every householder would know of some person or type of person that they would not want their family to associate with. They would ensure that such a person was excluded because of the influence they might have. That is separation.

The standard of separation of the Brethren is entirely based upon the Bible and has been practised since 1828. Social standards have changed in that time, but the Word of God has not changed. The Brethren put Christianity into practical expression, not only in their charitable giving to all sections of society, but in the way they conduct their lives. Is this really a basis for the refusal of charitable status?

December 2012

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**Written evidence submitted by Ben J Eagle (CH 86)**

As someone who was brought up in one of the very few Plymouth Brethren single parent households, I am somewhat concerned about the misleading statements being made in both Houses at this time that the brethren break up families.

The Plymouth brethren have a very strong regard for the sanctity of marriage and go by the scripture “What God has joined let not man separate”. I have witnessed a lot of pastoral care in this connection.

Divorce is a terrible thing for children and a scourge of society. My parents divorced when I was 9. But I witnessed a beautiful reconciliation between my father and mother a few days before she died of cancer. Contrary to what has been stated publicly, my father, who is a member of the Methodist church in Ilkley, is quite free to visit us and see his grandchildren, in fact he hopes to come over the Yorkshire Dales to see us in the next few days.

It is a terrible injustice that the brethren who must have nearly the lowest divorce rate in Western Europe are being accused of breaking up families. I guess it confirms the statement “the bigger the lie the more people believe it”.

I am very grateful for what the Members of Parliament and Government are doing to support Christianity and marriage in this country and would assure you of my prayers.

*December 2012*

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**Written evidence submitted by Chris Stutterheim (CH 87)**

Would you please assist in addressing the injustice of the decision of the Charity Commission in refusing charitable status to the above mentioned Plymouth Brethren Christian Church (PBCC) trust?

It is clearly an unfair, discriminatory decision; showing bias and/or ignorance of the facts.

When my family and I left South Africa in 1999 due to increasing crime and violence there, I felt assured that I would find security amongst Christian Plymouth Brethren in the UK. I had respected, and do respect Britain as a place where fairness, justice and respect for human rights is upheld. Britain has also over the years been a bastion of Christianity. My grandfather was in fellowship with Mr F E Raven and other Christian Plymouth Brethren in Britain when he went to South Africa in 1903 to assist with reparations following the Anglo-Boer War.

You can understand my disillusionment that, after happily living in Britain for almost 14 years contributing to society as part of a fellowship which does untiring charitable work, the PBCC is under threat because of a decision by officials of the Charity Commission. This unfair decision not only sets a serious precedent which could be a death blow to other valid charities, but to have it challenged requires a huge expenditure of precious funds which would otherwise be available for worthy causes.

For my part, I have done voluntary structural and surveying work on sixteen new church meeting rooms since coming to the UK. I have personally helped fund some of these projects. As well as public interaction following street preaching, I have on several occasions invited members of the public seeking spiritual guidance to my home. Some have subsequently found comfort and enlightenment in attending services in the very church meeting rooms which are now under threat. Surely this is an unjust decision by the CC? Are the Druids and all other CC registered organisations providing as much public benefit?

I have great respect for the work of the PASC and rely on you to hear my plea on behalf of the PBCC as I feel that the continuance of a real and significant public benefit is at stake.

*December 2012*

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**Written evidence submitted by Dudley Clayson (CH 88)**

I write to appeal urgently for your support in relation to this issue. I am a member of the Plymouth Brethren Christian Church in Leeds where there has been an active Brethren Church since 1847.

The evidence given by The Charity Commission to the Select Committee on Tuesday left me with a sense of dismay, injustice and outrage. The Commission is currently in receipt of incontrovertible evidence of the substantial, ongoing public benefit generated by The Brethren. If The Commission pursues its evident discrimination against our church, and leaves the case to go to Tribunal, they will have presided over a massive injustice to our community:—and at the same time established a lethal precedent for future prejudicial initiatives of similar character.

The Commission’s evidence on Tuesday suggested that our belief in the moral necessity to maintain separation in our way of life provides The Commission with a justification for treating us differently from other Christian denominations.

Would the Select Committee agree that it is not within the legitimate competence and purview of The Commission to pass judgement on any particular aspect of our beliefs, **when we have already demonstrated tangible, sustained public benefit arising from our engagement within the communities in which we live?**

Will the Select Committee please take account of the huge haemorrhage of our Trust funds to support our legal costs in being obliged to go to Tribunal? Those trust funds were donated on the principle of sacrifice by Church members in order to further the charitable aims and activities of the Church. Is it not shameful that such funds, voluntarily contributed by our community, should be diverted into an Appeal case for which there is absolutely no valid reason or basis—except the bias and prejudice of The Commission?

My wife and I have been donors to Brethren Trust funds for many years. Brethren Trusts have been able to claim Gift Aid on those donations. If Brethren Trusts were ruled out as being not charitable, our Gospel Halls (built and maintained by personal donations such as ours) could be taken out of the Brethren's control. We would fervently appeal to The Committee to take steps to ensure that this dreadful situation is averted.

It was stated on Tuesday that there is still a **“window of opportunity”** for the Commission to review and correct their earlier decision to leave our case to adjudication by the Tribunal. I would earnestly appeal to The Select Committee to use their power and influence to persuade the Commission that **they have no other honourable alternative than to change course and grant registration to Plymouth Brethren Christian Churches in the light of the overwhelming evidence that has been supplied to demonstrate and prove public benefit arising from our activities.**

This is an appeal from the heart. I humbly commend it to the Committee for your attention.

*December 2012*

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#### **Written evidence submitted by Gordon Wallach (CH 89)**

The refusal of the Charities Commission to register a trust of the Plymouth Brethren is having widespread repercussions. For nearly two hundred years the Plymouth Brethren have been recognised globally as a fundamental Christian church which adheres to the basic tenets of Christianity although separate from the mainstream churches. We have always preached publicly in the open-air and distributed bibles, gospel tracts and other religious literature and our meetings have been open to well-disposed persons. The facts of our public benefit have been well documented in various disasters from the Christchurch earthquake, Victoria bush fires, North Dakota flooding, support for the emergency services in many events in the UK and innumerable acts of kindness to our neighbours and others in need.

In the light of these facts, which can be verified, it is hard to understand why the Druids can be registered as a charity but not the Plymouth Brethren. It is evident to any open-minded person that bias and discrimination is working somewhere against the Plymouth Brethren.

We are reticent to publicise our charitable activities to meet the needs of humanity, believing what Jesus said that “When thou doest alms, let not thy left hand know what thy right hand does so that thine alms may be in secret, and thy Father who sees in secret will render it unto thee” Matt ch6 v3,4, but we have been forced to be open about our charitable activities because of the unjust charge that we are “not for public benefit”. In order to counter this charge and appeal against the decision of the Charities Commission we are made to spend huge amounts of money in legal expenses, money that could be better spent on charitable causes.

Many brethren have donated money in good faith to charitable trusts to provide meeting halls so that we may meet and worship in quietness and dignity and now the very ownership of these halls is being brought into question. And if this appeal is unsuccessful which other religion is next in line to be targeted?

As already stated, well-disposed persons are welcome to attend our gospel preachings, bible readings and prayer meetings. Some meetings, such as business meetings and the Lord's Supper (Holy Communion) are private. This is because we regard the Communion as a consecrated occasion where we eat the same loaf and drink from the same cup, much the same as a private family meal together where strangers would not partake.

Much more could be said but in this short note I have endeavoured to convey that the Plymouth Brethren Christian Church stands for the great tenets of Christianity as proclaimed by the Lord Jesus and His apostles coming down through the Dark Ages, Reformation, Evangelical revival and Recovery to this present time when the Apostasy is becoming more evident and we are exhorted that “we earnestly contend for the faith which was once delivered to the saints” Jude v 3.

*December 2012*

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**Written evidence submitted by Andrew Smith (CH 90)**

I am writing to your committee as it is dealing with the decision by the Charity Commission to take away charitable status from the above church.

I am in the position of having given substantial money for the building and subsequent maintenance of a Brethren Meeting Room and now understand that this property as owned by one of our charitable trusts could be taken over should charitable status not be restored. Could this be considered as a fair act of charity by the Commission?

I am appealing to you for help please, as the PBCC has been singled out for discriminatory treatment by the Charity Commission which appears to be showing fairly blatant bias against it. As a result we have had to spend hundreds of thousands of pounds to defend our charitable status; money which would have been far better put to public charitable causes. If we are finally successful in our appeal we will have saved all other Christian denominations the need to fight this unjust decision as the Commission's basic stated premise is that Christianity per se is not necessarily of public benefit.

Over against the above, charitable status has been freely given to the Druids. I ask—what public benefit can be attributed to their organisation which cannot be attributed to the PBCC and all other Christian churches?

*December 2012*

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**Written evidence submitted by James Walker (CH 91)**

I am compelled to write to you regarding the refusal by the Charity Commission to grant charitable status to our church. To think that the meeting hall that we built with our own hands and financed with our own charitable donations could be expropriated by the Charity Commission is preposterous.

Genuine and sincere Christians of all ages and from many diverse backgrounds and walks of life now feel intimidated and discriminated against because of this ruling by an unelected quango. In the face of our refusal I understand that the Druids have recently been granted charitable status. This is tantamount to outright derision and ridicule by the Commission of a mainstream Christian Church.

Money which could have been used for charity is now being consumed on costly legal defence fees to appeal this decision and to establish the public benefit that our Christian faith contributes, something which has been correctly a presumption for decades.

What I want to know is why the Plymouth Brethren Christian Church has been singled out for such inequitable and biased treatment. This is a gross injustice and a stain on our country's reputation for upholding religious freedom and its recognition of human rights. We shouldn't allow founding principles of our constitution to be revoked or challenged by a minority group of secularists, humanists and anti-Christians.

Where will this end? If we were to lose our appeal against this decision who is next? Other religions are right to fear the same treatment.

*December 2012*

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**Written evidence submitted by A B Guest (CH 92)**

I have been following with interest the Charities Commission's response to the Preston Down Trust and the involvement of the Select Committee in this matter.

I feel that a great injustice has been done for whatever reason or motive and the waters have been further muddied by persons claiming actual or supposed historical complaints against the Plymouth Brethren.

Surely in ascertaining whether an organisation *is* a charitable body, the commission should be looking at the organisation as it is today and perceiving the benefit to the public in its current activities not looking in depth at historical accusations that may or may not have any foundation.

Mr Shawcross made reference to the 'Doctrine of Separation' as being the stumbling block. All organisations would have 'Doctrines' that others find offensive. The Roman Church would hold dogma that the Church of England would repudiate and vice versa. Separation is held and practised by every man whether consciously or unconsciously. In the simplest terms it is the choice of association and non-association. It is what causes one person to support a cause that another vigorously opposes, to give to one charity and not another, to leave estate to one family member and to exclude another, one person to happily talk to the double glazing salesman and another to register with the telephone preference service. It is an incontestable human right. I would ask whether it is the Charity Commission's function to sit as arbitrator on whether a personal right of association is acceptable or not in English Law?

In the case of the Plymouth Brethren they seek to be guided by the Holy Bible in making these choices. The separation practised by them is not one of isolation; they live and work alongside other persons of all walks and denominations and do not look down on those less fortunate than themselves. It is rather a keeping apart

from practices and influences that have proven to wreak havoc to family relationships worldwide, the family unit being a foundational part of the organisation. It is what has kept families happily together and actively in their Christian faith. As James puts it in his epistle: 'pure religion and undefiled before God and the Father is this, To visit the fatherless and widows in their affliction and to keep himself unspotted from the world.'

It was stated to the Select Committee last week that this case related to the Preston Down Trust application itself and did not extend to other trusts and yet I understand the HMRC has withheld gift-aid to other trusts awaiting the outcome of this case. Is this either fair or equitable?

Many persons have given money to the Plymouth Brethren Christian Church on the understanding that it was a charity and registered this on their tax returns as gift-aid donations. How is this to be viewed? I would urge the Select Committee to use their power and influence as far as they are able to rectify the current injustice and address the inconsistencies in their approach to application for charitable status.

*December 2012*

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#### **Written evidence submitted by Richard Marks (CH 93)**

I write to offer my full support to the Plymouth Brethren Community following the recent decision to withdraw their charitable status. In my opinion it would appear that this decision has arisen from individuals that have formed a very negative opinion of the community, with suggestions that it operates as a "closed group" and not letting outsiders into their circles,

1. I have personally been dealing with The Brethren community for the last ten years, firstly as a Bank Manager at Barclays Bank, more so as a Financial Adviser, for which I am a Director of my own company.

2. I have had the pleasure of dealing with Brethren from all parts of the country. Every family that I have assisted have acted on the utmost good faith, honesty and integrity. I have always been welcomed into their homes, been referred to their friends and family and associates and I have established good friendships over the years.

3. As a member of the Church of England, my faith has never been a barrier or an issue with any of the Brethren that I have dealt with. I admire the Brethren community for the way they live their lives and the way they respect and are courteous to everyone they deal with on a daily basis, irrespective of their religious background.

4. I am also aware of the generous charitable contributions the Brethren community make to various charities.

5. I am concerned that the Commission's decision to turn down the Brethren's application for charitable status is a terrible injustice and appears to be singling out one religious community, or does this set a precedent meaning all religious communities are to have their charitable status withdrawn too?

6. I also understand that there are concerns by some that the Brethren community do not openly invite new members into their faith and will exclude those that do not follow certain principles. Whilst I am not aware of the substance behind these concerns, I wonder how the commission views the Freemasonry movement, where clearly one can only become a member on invitation, and likewise will be excluded if codes of conduct are not adhered to? Perhaps the fact that Freemasonry is the largest raiser of charitable funds in the UK may make them exempt from such scrutiny.

7. I fully support the Brethren's request for continued charitable status. I understand that the withdrawal of it will have devastating consequences to their church, schools and community. That is something that, as a friend, I would not like to see.

8. I sincerely hope that the forthcoming tribunal will take into account positive contribution that the Brethren make to ALL communities and that the Charitable status for the Brethren will continue.

Thank you for taking the time to address my concerns.

*December 2012*

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#### **Written evidence submitted by Malcolm Holmes (CH 94)**

I am constrained to draw your attention to the injustice of the way the Charity Commission have refused to grant charitable status to the Preston Down Trust, a Plymouth Brethren Christian Church (PBCC) meeting hall, which is currently under dispute. This refusal will impact on meeting halls throughout England and Wales, and by extension will set a precedent that could be used against other religious organizations, which they themselves fear. Who will be next?

Since the early days of charitable law, the PBCC has enjoyed charitable status, even confirmed in case law—*Holmes v Attorney General*, this begs the question as to why the change. This is clearly a case of discrimination, through what appears to be biased influence. Equity in Government administration is implicit in the British

constitution, indeed in the western world, why therefore has the PBCC been singled out, over against the Druids?

Large amounts of money has been donated for the building and maintenance of Brethren meeting halls, over many years or more, on the understanding that as a charitable trust, gift aid would be claimed; I personally have been included in this. The reality of the current situation is that the property so financed could be sequestered by the state, in the process huge amounts of money spent in defense of meeting halls set apart for lovers of the Lord Jesus to Divine worship. This money could be used so much more profitably for other charitable purposes.

I await your response to this submission please, after due consideration.

*December 2012*

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**Written evidence submitted by Andrew S White (CH 95)**

I write as a member of the Plymouth Brethren Christian Church who has been following the interrogatory sessions of your Committee in relation to the activities of the Charity Commission.

During this week's session, the Chairman of the Charity Commission indicated that the granting of charitable status to the Preston Down Trust has been withheld because the Charity Commission has reservations about some of their Christian beliefs. These sincerely held beliefs are based entirely on the teaching of the Lord Jesus and His Apostles, contained in the Holy Bible which is the inspired word of God. Does this mean that it is within the remit of the Charity Commission to pass judgment on Christian doctrine?

Last year the 400th anniversary of the publication of the Holy Bible authorised by King James was celebrated by Parliament. Its benefits for the English nation and all humanity were extolled by the Prime Minister. It therefore defies all logic that a body of Christians who desire that all men should be saved and come to a knowledge of the truth (1 Timothy 2: 4) and who have for generations in their daily lives carried out the example of St Paul to support the weak and remember of the words of the Lord Jesus, how He said it is more blessed to give than to receive (Acts 20: 35 AV), should be denied charitable status.

Why should the Plymouth Brethren Christian Church be discriminated against in this way, while the Druids were granted charitable status? Why has the Charity Commission given rise to a situation where a member of your Committee could insult Christians and Christianity by equating them with the Pastafarians who worship a blob of spaghetti in the sky?

The Minister, Nick Hurd, in his evidence to the Committee, seemed to indicate that there is a way that this unjust and very expensive matter can be concluded, without the need for it to come before the Tribunal. Surely the time for this has come.

Further to my letter of 8th December 2012 I wish to add the following points.

Surely it is unfair for the Charity Commission to take a decision in secret and then invite a small body of Christians to challenge it at Tribunal at a huge financial cost.

In particular the Charity Commission appears to have taken the position of doctrinal arbitrator and is proposing that the doctrine of separation as practiced and believed by the members of the Plymouth Brethren is reason for withholding charitable status.

The doctrine of separation is not exclusive to the Plymouth Brethren but is set out in the Holy Bible, as used and enjoyed by all Christians, right from the first chapter of Genesis when God divided between darkness and light through to the last chapter of Revelation where there is a final appeal from the narrator to wash and thus have right to the tree of life.

It is thus incumbent on every Christian as of the faith of Jesus to consciously decide between Darkness and Light, Good and Evil, Right and Wrong, Truth and Untruth, Purity and Impurity and Holiness and Unholiness.

It is our belief that the Holy Bible sets out the moral teaching which is the foundation of the Christian faith and which was exemplified in the life of our Lord Jesus who went about doing good and healing all who were oppressed of the devil (Acts 10 v38) and who gave Himself for our sins that He might deliver us out of the present evil world (Galations 1 v4).

Ultimately at stake in this is the principle of Civil and Religious Liberty which has been at the backbone of Britain's Parliamentary democracy established over centuries by Parliament and which was fought for in the recent World Wars at the cost of millions of lives.

*December 2012*

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**Written evidence submitted by Richard J Devine (CH 96)**

In relation to the current assertion by the Charity Commission that the Plymouth Brethren Christian Church is not providing a public benefit, I would be grateful if you would please allow me to acquaint you with a brief account of some of my own experiences.

I was born and brought up within the Plymouth Brethren Christian Church and so was my wife. Sadly, I had the experience of being out-of-fellowship for a number of years when our children were quite young, during which time my wife separated from me and I was not permitted to take the Lord's Supper.

Whilst never in any sense condoning the evil I had done to occasion this, none of the Brethren ever attempted to turn my wife and children against me personally during the time that we were living separately, despite the deplorable situation I had got us into. The Brethren always held in view that reconciliation may become possible one day.

My wife and I are now in our mid-forties and our children are now young adults. I am once again fully integrated amongst the Brethren and although I daresay some would remember my seven-year absence more than others, we are not conscious of there being any stigma.

Had the Brethren not protected and nurtured us all and held the situation so positively, it is easy to see how there would have been no cohesive family position to be reconciled to. My wife and children were cared for by Brethren as though they were close family and even now my children are still recounting to me their happy, carefree experiences that I knew nothing of at the time.

Given my experiences, I cannot understand why it is being asserted that the Plymouth Brethren Christian Church does not provide a public benefit.

Thanks to the support of the Brethren, our family was preserved from being left to draw on the nation's resources and live on the breadline. Our children did not have to remain underprivileged and therefore susceptible to a lifestyle of low achievement. I can only take low ground, however they have the rather developed into well-adjusted young adults through the care shown to us.

As a matter of fact, I also believe that any who do find themselves currently out-of-fellowship could find the same benefit from the Brethren that I have, if they were looking for it in earnest.

I have an electrical qualification and have recently given up a lot of my spare time to help with building a new Gospel Hall in Carshalton, Surrey. I understand that if the Brethren Trusts are refused charitable status, the Charity Commission will take away assets such as this new Gospel Hall and give it to another organisation that they hope has a "similar purpose."

Surely this cannot be allowed to happen! In our experience there was nothing on earth that gave the support we needed like the Plymouth Brethren Christian Church. It is essential that its work in such a variety of different directions is fully acknowledged by the Charity Commission.

*December 2012*

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**Written evidence submitted by Anthony Scott (CH 97)**

I am writing in respect of the Plymouth Brethren Christian Church, as I understand their charitable status is coming under scrutiny, and is being reviewed by the Charity Commission.

I myself am non-Brethren, but have known members of the Plymouth Brethren for the past 25 years or so. I went to school with members of the Plymouth Brethren and have been employed by members of the Plymouth Brethren for the past 15 years. My Father in law was a supplier to members of the Plymouth Brethren for 18 years until he sadly passed away last year. I have also been neighbours of members of the Plymouth Brethren Christian Church in the past.

I hope my brief history goes some way in expressing my full support for this church, and qualifies me to justify my reasons of support. I have witnessed unlimited kindness and huge generosity in the past both directed to myself and to others and my family. As an employee I have always been looked after well financially but it extends beyond this. In particular with regards to my family. When my mother in law was diagnosed with cancer it was one of her last wishes to have a family holiday. Despite having no annual leave remaining, I was encouraged to spend these precious last moments on holiday with my family which I know meant everything to my wife and her parents. Perhaps more significantly, as an act of huge charity, was when my father in law died. He passed away suddenly whilst in Spain. Members of the Plymouth Brethren offered to fly me out immediately by the quickest method possible and offered help to get him re-patriated to British shores. Due to the Spanish authorities it wasn't as easy as we thought and without support and help from my friends in the Plymouth Brethren I would have struggled.

We regularly hold fundraising at work, mainly for Macmillan cancer in the form of coffee mornings and the Plymouth Brethren always give generously both in monetary donations and helping provide supplies! Customers and suppliers who are partaking in charity fundraisers have been offered charitable support by Brethren church members, who again give more than most, and shows their kindness and significant generosity.



I could write a lot more but I appreciate your time reading this email and don't wish it to be exhaustive. I cannot fully do justice to show the good works of the Plymouth Brethren Christian Church in this email but hopefully it will contribute to their support. If their charitable status is taken away it would be a great shame, as I can only see good in what they do. I hope this short letter can be presented in Parliament and taken notice of and goes some way in helping the Church retain their charitable status, which is justified.

*December 2012*

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**Written evidence submitted by John R Edwards (CH 98)**

I have seen a recording of the proceedings of the Committee in its review of the regulation of the Charitable sector and the Charities Act 2006, and wish to record that whilst I appreciated the several members of the Committee who spoke feelingly and respectfully of the Plymouth Brethren Christian Church (PBCC), I was shocked to listen to an element that was clearly prejudiced and also supportive of the Charity Commission discrimination against PBCC.

I have been brought up as a practicing Christian and have been associated with PBCC for 85 years. During that time I have experienced the inevitable opposition and reproach that every committed Christian accepts, as the Scriptures foretold, such as St. Paul said in his second letter to Timothy, "Yea, and all that will live godly in Christ Jesus shall suffer persecution" (2 Timothy ch. 3, v. 12). But it is unjust and inequitable that the Charity Commission should refuse to register a Church property on the grounds that it is not for the public benefit, merely because the Commission considers that those who attend that Church, in answering to the clear Christian duty to "...come out from among them, and be ye separate, saith the Lord..." (2 Corinthians ch. 6 vs. 14-17), are therefore not acting for the public benefit.

For a period of more than a year in 1991-2, I worked full time without remuneration managing the construction of a large church and then for 13 years cared for the property, in the belief that its use qualified for charitable purposes but I am shocked to hear that that building could be expropriated by the Commission and given to another body. It seems to me that the Charity Commission has arrogated to itself the seemingly unchallengeable right to set aside the High Court judgment in the Holmes case, where the Brethren were deemed to be for the public benefit. The Brethren are then left to fund a hugely expensive defence, which should they fail to do or be successful in, would result logically in many other Christian buildings being similarly treated.

What seems so unfair and unjust about this decision is that the Commission's procedure has been contrary to what I understand to be their policy statements. There seems to have been no opportunity given to the Preston Down Trust to consider with the Commission what further evidence they required before they reached their decision. The Lord Jesus said "Doth our law judge any man before it hear him and know what he doeth?" (John ch. 7 v. 51). The inevitable question arises as to whether the PBCC has been victimized and I can well understand that other Christian groups feel nervous about the matter.

I protest that the Charity Commission action is unjust, biased and inequitable.

*December 2012*

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**Written evidence submitted by Samuel J White (CH 99)**

I have been watching your interviews with the Charities Commission and Mr. Shawcross and wish to protest against the injustice of their action against the Plymouth Brethren Christian Church of which I am a member.

This action is not only against the Plymouth Brethren Christian Church but against Christianity itself and carries implications for every church in this country.

No honest person could deny that Christianity has been and is the bedrock on which the law and social order in England is founded and to destroy it will have serious results for the entire country.

Following their defeat in the courts over the public schools and welfare charity issues, it seems to be that the Commission has chosen to prove their "raison d'être" by picking a fight with religious organizations and start with a small church which they thought would be easy meat. This has placed an unfair burden of cost and time wasted on the church and diverted us from our Charitable Mission to spread the gospel and try to do good in many practical ways. Besides all that, the implication that these people can expropriate the assets of the Church Charities and use them for whatever they want is horrifying. Please note that the assets have been acquired through the financial sacrifice by many thousands of ordinary members whose lives are intimately bound up with the life of the church.

It goes against all our principles to have to declare our Charitable Benefit. The scripture says "give to all hoping for nothing in return" and "let not your right hand know what your left hand does". Now, if I take a bag to a charity shop, which is only what I have been doing for years and years, I have to ask for a receipt to prove it. Same with giving to the Red Cross, Air Ambulance, Cancer Research, Army Benevolent Fund etc. etc. and any beggar that puts his hand out. This is normal Christianity and should be accepted as for the public

good. It is our way of life. Similarly we house and care for our elderly people which saves the government a lot of money. Why should all this suddenly be called in question at the whim of the Charities Commission?

There is also the ignoring of the promises made in Parliament when the law was changed in 2006 and the rejection of previous legal precedents established in the highest courts of the land.

Is nobody able to stand up against this unelected body and call a halt to their activities? I appeal to you in Parliament to do something about it as a matter of urgency. The whole future of Christianity in this country is at stake.

*December 2012*

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#### **Written evidence submitted by Mark Whiteside (CH 100)**

I am writing to you because of the unjust way the Plymouth Brethren Christian Church is being treated by the Charity Commission.

I give regular donations for the maintenance of my local church hall and it is apparent that if the brethren lose the appeal case, our meeting halls could be taken away from us and given to others. This is extremely unfair. Our church halls, as those of most religions, have only been built by the sacrifice of the congregation. Other religions fear the same treatment, should the brethren lose this appeal.

Why have the Plymouth Brethren Christian Church been discriminated against in this way? From comments by Mr. Shawcross it appears to be based on the doctrine of separation.

The principle of separation from evil runs throughout Scripture, and is nowhere seen more clearly than when God the Father abandoned his beloved Son because He had been made sin. "For He hath made Him to be sin for us, who knew no sin; that we might be made the righteousness of God in Him" (2 Cor. 5 v. 21) Jesus cried out with a loud voice "My God, My God, why hast Thou forsaken me?" (Matt. 27 v. 46) This was during the three hours of darkness when Jesus alone bore our sins in His body on the tree. (1 Peter 2 v. 24)

In the epistle of James Ch. 1 v. 27 it says 'pure and undefiled religion before God and the Father is this, to visit the fatherless and widows in their affliction and to keep himself unspotted from the world', showing how charitable activity can be combined with the principle of separation.

Persons say that the doctrine of separation breaks up families. It is perfectly true that some families have separated due to this principle, but if our accusers were prepared to state the actual statistics they would have to say that only 0.59 marriages per 1000 broke up amongst the brethren community in 2008/2010, compared with a national figure of 31.5 per 1000.

These figures are because of, not in spite of, the doctrine of separation. Indeed, I remember an article many years ago in a daily newspaper where a member of a church congregation was unfaithful to his wife and the vicar told the congregation that they should go by Scripture and not associate with the man. After a time the man was reconciled to his wife and restored to the congregation (see 2 Thessalonians Ch. 3 v. 14-15).

Much work of public benefit is carried out by the brethren, not the least being our devotion to preaching the glad tidings of the grace of God in the streets of the cities. Christians need to meet together and read the scriptures together, "that through the comfort of the scriptures we might have hope (Romans 15 v 4)" and be able to carry this message of peace to the world abroad.

It would be a sad day for this Christian country if the Charity Commission is successful in refusing our charitable status and gain the right to seize our places of worship where the Lord's Supper is celebrated and the gospel preached to all who wish to come, and give them to whom they see fit. Where will this end...?

*December 2012*

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#### **Written evidence submitted by David Howarth (CH 101)**

My name is David Howarth and I am a consultant civil design engineer. I have acted in my professional capacity on behalf of the Brethren since late 2004.

I have assisted the Brethren for some 8 years now on projects throughout the UK, both in terms of the procurement of new ecumenical facilities for worship (Gospel Halls) but also for members of the Brethren community within their chosen fields of business.

I have at all times in both dealings with Gospel Halls and personal business contracts found the Brethren to be excellent clients. They are entirely honourable, genuine, dependable and trustworthy people. They are without doubt one of a small group of my most favoured clients. At no time have I felt pressured or encouraged to become a member of the Brethren. They accept me for what I am and I certainly do accept them. Although we have a client/consultant relationship, my dealings with the various Trusts and Trust representatives have always been cordial and friendly and I am delighted to be able to call a growing number of Brethren members as friends as well as clients.

They engender a businesslike attitude to all dealings but in the context of friendship and cordiality.

Although most of my dealings with the Brethren are as providing my services to my clients, I also trade with members who supply my business with certain goods when the opportunity arises.

I have never been refused entry or access when I have requested it. indeed I have an open invitation to visit a recently constructed Gospel Hall. Yes, they do worship more than most of us but I would not criticise that. I have been asked whether they do business differently to others and, yes they do. The Brethren are certainly astute business people but with a far greater moral, honest and thoughtful attitude than many and in that regard alone I hold them in the highest esteem.

Other questions that I have been asked when discussing my Brethren clients include:-

Are they difficult *to* work with?—No

Do they look at non Brethren as somehow different?- Not in my experience

Do they have unusual business practices?—In my dealings, none at all

Do I feel embarrassed working for them?—No, on the contrary, I am delighted

Do I feel locked *out* by their religion?—No

Do they have different working practices *to* others?—Yes, they settle their bills on time which is unusual in the building industry

Am I treated differently, being a non member?—No

Would I recommend others to offer service to the Brethren?—Yes. and I have done

I hope that my letter assists the Brethren in their continuing aspirations.

October 2012

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#### Written evidence submitted by JMP Architects (CH 102)

We are a medium sized architectural practice based in Lancaster and we have been established for over 28 years. I am a director of the Company and have been involved in the practice since its inception.

We have had the pleasure of working for the Brethren Community over the last seven years. Our involvement has been as architectural advisors on a wide variety of projects including private domestic work for individual families, a large scale commercial development for Strong Developments Ltd, and we have also been involved with a wide variety of projects of varying sizes detailing and obtaining planning consents for the numerous Gospel Hall Trusts throughout the United Kingdom and Sweden.

We can confirm that all of our Brethren clients have been extremely courteous and welcoming and our professional appointment has been dealt with properly and professionally. All payments for services have been settled promptly in accordance with the terms of our appointment. To date no disputes have arisen and we would be delighted to continue providing professional services for the Brethren Community.

At no time have we experienced any prejudice or felt awkward dealing with the Brethren and our clients have never sought to impose their beliefs upon any of the professional team or other people working with them. The majority of our Brethren clients are successful business people and they conduct themselves with professional dignity at all times.

We are obviously aware that there are people within society who are prejudiced and in our opinion their prejudice is misguided. In our experience and involvement the Brethren business community is open minded, they have embraced technology and their hard work is the reason for their continuing success in business guided by a strong moral business ethic.

With regard to the Gospel Halls we confirm that we have been welcomed by the various Trusts with whom we have had dealings with and we are now responsible for detailing a number of the new Gospel Halls currently under construction. In order to do this we have gained a very strong understanding of how these buildings function and how they are used and we have visited quite a number of Halls across the country. We have been treated with a generous spirit and hope to continue our relationship with our Brethren clients.

We have no reservations about working for the Brethren Community in the future. The huge contribution their successful business community make to society at large should be acknowledged as employers and tax payers. We can confirm that in our experience many of the businesses and schools provide valuable employment for people outwith the Brethren Community and it is clearly not a closed community.

On the majority of the construction projects the appointed professional teams are non-Brethren and we have not experienced any professional difficulties working together.

Please do not hesitate to contact us if you would like further clarification with regards to our relationship with our clients.

*October 2012*

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**Written evidence submitted by Duncan Small (CH 103)**

I would like to express my very deep concern as to the total injustice being vented on the Plymouth Brethren by the Charity Commission, who appear to be seriously misinformed as to the kind of people we are. Unfortunately there are many misunderstandings as to the nature of our Christian fellowship, mainly as a result of disaffected people spreading scandalous reports about us and our way of life. It is not difficult to portray us as a sinister sect if that's what you set out maliciously to do, but in actual fact anyone who takes the trouble to really look into it soon discovers that we are genuine Christians who believe in the same wonderful truths as millions of other Christians, except that we are committed to a way of life that is in full accord with what we believe, based on Holy Scripture. This results in the fact that we are living in a way that is different to the way the world at large is going and, contrary to reports that are circulated about us, we seize any opportunity to show kindness to our neighbours or any that we come into contact with from day to day. I fully believe that it is because we are committed to whole-hearted Christianity that we are so frequently singled out for persecution.

I have watched the recent meetings of your committee on this subject and I am shocked that the top representatives of the Charity Commission would put more confidence in the story of one disaffected peer in the House of Lords than the genuine concerns of 47 members of the House of Commons, as expressed in the Westminster Hall debate. Does this not prove that there is serious prejudice and bias against us? Would it not be fair if the Charity Commissioners took active steps to hear the other side of the story? Would it not be in accord with justice if they actually invited us to talk to them and find out the truth for themselves rather than rely on lies and falsehoods?

When I spoke to Steve Webb, (Minister for Pensions), recently, along with a couple of my friends in his constituency, he was sympathetic with what we discussed on this issue, but commented that the word "exclusive" always triggers alarm bells in Parliament. We pointed out that this word is not one that we use about ourselves, but that it originated from the media and has often been used to attack us. It is true that we set ourselves to exclude defilement and moral evil from our fellowship but we do everything we possibly can to help and care for the entire community and those we come into contact with in the course of our daily lives.

I don't think that the Charity Commission have given a straightforward explanation as to why they have granted Charitable status to the Druids but not to the Brethren. I hope that through the intervention of the elected body of Parliament we shall receive fair and equitable treatment and this injustice will be reversed.

*December 2012*

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**Written evidence submitted by K Deryck South (CH 104)**

During recent evidence sessions by your committee, I have been horrified and alarmed by the recent attitude of the Charity Commission in refusing to recognise the public benefit conveyed by the Plymouth Brethren Christian Church (PBCC).

I do pay tribute, however, to the majority of committee members who also appear to share these feelings.

I am the senior partner of a small business in Derby and employ 15 persons of which six are members of the above church and nine non-members.

In 2009, the business decided to gift aid a 6-figure sum towards building a church meeting hall for the PBCC in Station Road, Spondon, Derby. Prior to building work commencing, in order to obtain a satisfactory access to the proposed site, the beneficiary charitable trust negotiated with owners of adjacent land, the Ministry of Defence, and paid in full for a completely new premises for them so that appropriate access could be obtained for the trust meeting hall.

I have been given to understand that this meeting hall could be taken over if the trust was deemed non-charitable.

You can imagine, therefore, I am seeking an explanation as to why such obvious public benefit as displayed by this church group fails to be recognised by the Charities Commission?

This would be just one example—I think there is abundant evidence for countless others.

*December 2012*

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**Written evidence submitted by James Shedden (CH 105)**

I have followed with concern the matter of the Plymouth Brethren Christian Church in your Public Administration Committee and would express real concern that there is a significant appearance of bias on behalf of the Charity Commission.

Accusations are being made against the Church by persons who remain anonymous and the Commission in their evidence have chosen to be less than open about this.

As an older person who has been in the Church for 67 years, I and my family would be ready for you to ask us any question as to our faith and, if you wish, you would be very welcome to come and sit down and do this with us at home.

One can only sadly draw the conclusion that there must be a person or persons within the Commission that are clearly biased against us. Has any other Church been put through this process?

As a family, and along with other families in Yeovil, we have voluntarily donated considerable time and money to our new local Church which is a valuable charitable asset. (Our local MP Rt. Hon David Laws is due to visit it shortly.) The commission has the power, by denying us charitable status, to impose trustees of their choice, effectively "sequester" our church asset and for those trustees to use it as they see fit, which may not even be a church. This is an appalling affront to the labours and sacrifice of old and young to have a suitable place of worship which is open to the public.

*December 2012*

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**Written evidence submitted by Samantha Spencer (CH 106)**

I would like to express my concern and objection to the Charity Commission's decision regarding the Plymouth Brethren Christian Church.

I am not a member of this church, but then, there are many churches that I am not a member of, and I see the value in all of them. I consider myself and my family to be a member of the general public, and from that stance, I myself do not object to the Plymouth Brethren Christian Church being in existence, or being a registered charity. I feel any church has a value to its congregation, and with specific regard to the Plymouth Brethren Christian Church, there have been times when they have reached out into the general public in times of need, most recently to help local flood victims.

*December 2012*

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**Written evidence submitted by Rob Furse (CH 107)**

As a member of the public my family regularly attend a meeting hall of the Plymouth Brethren Christian Church at St Austell in Cornwall. We are very concerned to hear that this church may lose its charitable status.

Over the years we have donated many thousands of pounds to the building and maintenance of this church and its charitable activities, such as food and bible distribution. I have regularly preached in the street nearly every week for the last 20 years following the ethos of the church to spread the good Christian message of goodwill to all men. We have engaged in countless public benefit activities including the RNLI, the Air Ambulance and voluntary work in many areas.

The church is having to spend hundreds of thousands of pounds of charitably given money to defend itself against a totally unfair and unjust attack by a government body that has a discriminatory bias for some reason against them.

We hear that the druid network has been granted charitable status!!! Wherever is the common sense or justice in these decisions?

This decision must be reversed immediately and those responsible brought to account.

This is the closest thing I have heard to the persecution of Christians and Jews by the Nazis in the second world war!

Please act immediately that justice may be done without wasting any more seriously needed funds.

*December 2012*

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**Written evidence submitted by Stephen Furse (CH 108)**

I have been following the Charity Commission's deplorable attempts to justify their translation of the 2006 Charity Act, firstly in the Poverty case, secondly in the Independent Schools case, both of which they have lost and now in the case of the Plymouth Brethren Christian Church.

Is it not time that the Commission is reigned in and held to account for this rampant demeaning attack on the very fabric of our society?

Without these attributes of goodness, kindness, selflessness, care, longsuffering, giving and love, we stare into an abyss of plastic political correctness, maybe ticking the boxes of cold calculations, but plucking at the foundations of society and far from meeting the crying need of humanity.

Why have the Plymouth Brethren Christian Church been singled out?

This relatively minority group are now spending huge amounts of money in legal defence of the validity of their very existence in a country which is supposed to be the bastion of religious freedom.

This is a terrible injustice, by no means equitable and smacks of bias and discrimination.

How can the Druids be charitable and not the Plymouth Brethren Christian Church?

If this case goes against them, which decent, honest, charitable organisation will be next?

*December 2012*

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**Written evidence submitted by Stephen Hill (CH 109)**

I have been a member of the Plymouth Brethren all my life and have been active in the life of the Church and its outreach to my fellow men. I am a trustee of a Gospel Hall Trust in Swansea and have given of my time and money to its work for over 30 years. I preach the Gospel in the city centre and support local and national charities that meet practical needs amongst humanity.

I have become increasingly concerned by some of the suggestions from the Charity Commission that trusts such as ours may be deemed not to be charitable trusts according to their interpretation of the Charities Act 2006 and even that our property could be taken from us if our charitable status is denied.

For hundreds of years Christianity has been a powerful influence for good in this country. It now appears, from this apparently biased move against the Brethren, that there is an attempt to suppress this influence.

Brethren are being put to considerable expense to prove a case that has been for all these years regarded as established, and if their appeal is not successful, which other Christian charities will be put through a similar ordeal? Where will the dividing line be drawn? Will it disallow more and more Christian charitable activities in an increasingly secular society?

I have followed with great interest the evidence given before your committee, and appreciated the way that a number of your members have expressed their sense of the injustice and inequity of this move by the Charity Commission, particularly in contrast to its treatment of the Druids.

The Charity Commission claims that this case is limited only to the Plymouth Brethren. It is clear, however, that many other organisations do not see it that way and are justifiably fearful of where the axe will fall next. There are other churches who have tenets and practices similar to the ones the Charity Commission have picked on as disallowing the Brethren from charitable status. Did the Charities Act 2006 set up the Charity Commission as an arbiter of religious doctrine? They are trying to narrow down the established fact that advancement of religion is for the public benefit, and seem to be saying that some religion is acceptable and some is not.

May I respectfully request that the report of your findings to the Government draws attention to an urgent need for Parliament to clarify the law in regard to Christian charities?

*December 2012*

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**Written evidence submitted by John Lowe (CH 110)**

I feel that I must write to you as it seems that the Brethren are being unfairly treated, as they are clearly providing benefit for the general public.

May I respectfully point out that the Druids are being given charitable status but the Brethren are being refused it. What is the difference from the point of view of the Charity Commission? If Brethren continue to be refused status, it will eventually have huge implications for other organisations.

May I add for the record that my wife and I have been helping homeless families in Poole, Dorset for many years. We are currently going all out to help a young woman get on her feet again and get employment after

over 10 years on the street. She needs to provide for her nervously ill partner and young child but is finding it almost impossible. This sort of help is being provided across the country by Brethren.

December 2012

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**Written evidence submitted by Gavin Sellars (CH 111)**

I send this email to the Public Administration Select Committee, House of Commons, as I am deeply concerned about the refusal and its implications for similar trusts—and indeed for Christianity.

In 2001, in consultation with the local planning authorities the Plymouth Brethren in Grimsby purchased a disused ambulance station on Westward Ho, Grimsby, from the NHS (by Public Auction) for our Gospel Hall. The property had been seriously vandalised and had become a gathering point for disaffected youths, alcoholics and drug-users. Frequent arson attempts had stretched the resources of the police and emergency services. It was an eyesore and blight on the neighbourhood.

Having obtained the necessary permissions, the community set to work to rebuild and convert the property and were able to use it as a Gospel Hall for the first time in November 2002.

The renovation and ongoing use of this property transformed the area—an observation by the then Leader of the North East Lincolnshire Council. This was only achieved through the generosity of the local and neighbouring brethren communities; generous donations of money but, even more, of free labour—thousands upon thousands of man-hours. Many persons, old and young gave up holidays, Saturdays and evenings to work on the project.

At the time the money and labour were donated, this Gospel Hall was regarded as a charity. The donations were made in good faith. Would it not be most inequitable if charitable status should now be revoked? What would happen to the Gospel Hall? Who would get use of these assets?

Was it the intention of Parliament that the Charities Act 2006 should result in such uncertainty and distress?

December 2012

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**Written evidence submitted by Donovan Payne (CH 112)**

I am a member of the Plymouth Brethren but write this letter as an individual. My wife and I, like many other Brethren, are bewildered by the Charity Commission's refusal to grant our church charitable status, which we have always had, and are simply asking "what is going on?"

We follow the teachings of the Holy Scriptures and preach the Gospel message to all men—not to become Plymouth Brethren but to find the Lord Jesus Christ as their Saviour—and engage in many activities for the public, such as free lunch and bible days, emergency support, and supporting other charitable organisations. We promote giving—both money and time—it is a fundamental principle that was set out by our Lord Jesus.

Yet we are told by the Charity Commission that we have no public benefit! Why? Apparently because of "separatist principles". It is apparent to me that the Charity Commission do not understand; but do they want to understand? It seems strange that something which in no way affects the actual benefit to the public, can be put in the balances over against the many charitable things we do, and be deemed to *outweigh them!*

The Charity Commission claim to have had constructive dialogue with the brethren, but as a "layman" it appears to me that they have led us along under the impression that all was ok, held back from giving a decision from an unacceptably long period of time (this in itself raises questions) and then refused us Charitable Status without any further consultation or asking the Brethren to explain any aspects they do not understand. This is not justified or transparent.

But does this matter to the Charity Commission? They appear to be above the law: having their own measuring scale but it is hidden from others; their own rule book but it is not open to scrutiny; their own timescales which suit their own purposes.

It would seem that for some reason the Charity Commission have singled out the Plymouth Brethren. If their original motives *were* genuine, they have now got themselves in a difficult position where they may well dig their heels in. There is a strong feeling that they will be now *trying to prove* the Plymouth Brethren not to have public benefit, rather than judging whether they do or not.

If they do not have to answer to a higher court, how can we expect an unbiased hearing? If they have not been open and honest about their actions so far, what will change this? We respect and are thankful for government and particularly the fairness of British law—is what is happening currently a contradiction to this?

There are thousands of individuals making up the Plymouth Brethren church: we have given money to this charity which may cease to exist, taking our funds with it; we have given on the basis of gift aid, which has been taken away; we have put money into churches, which could be confiscated; huge amounts of our money has been absorbed into fighting our cause where the law is not clear; vast sums of our money have been used

up that could have been put to good uses; thousands of man hours and resources that would have been employed charitably have simply *gone*.

And the Charity Commission are “sorry” that we have had to spend all this money? Do they really feel that they have been open and fair throughout? Surely it is not so difficult to work out whether we do charitable works—we have now had to document these and publicise the works which we do, and this is available for anyone to see. As it has come up, I for one am not sorry—let people know what we do—but I fear whether it will still fall foul of a biased decision.

Will the Public Administration Select Committee stand by and watch this happen? I would ask that you do all you can to help us.

*December 2012*

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#### **Written evidence submitted by Murray Walker (CH 113)**

In a so-called “Christian Country” our church, which has been established for over 200 years, has been singled out and discriminated against by the Charity Commission.

We are now faced with a Tribunal hearing which, if unfavourable, carries dire consequences for our religious community.

Personally I have given approaching £500,000 and now understand my contributions potentially stand to be sequestrated and our Meeting Halls made over to some other so-called charitable interest—this is simply outrageous.

I understand that the Druids enjoy charitable status although offering little or no public benefit at all. Why should the Plymouth Brethren Church be singled out to preserve their faith, involving swingeing costs?

Our church has had to spend hundreds of thousands of pounds in defence of our position and we feel we are being unjustly victimised by the faceless, independent and highly contentious Charity Commission body.

Can we implore you to intervene in this matter and asked the Charity Commission to withdraw their application with the Tribunal?

*December 2012*

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#### **Written evidence submitted by Jenni Thewlis (CH 114)**

I was not born amongst the Plymouth Brethren CC. I came across from South Africa 10 years ago in search of work (age 22), having lost my parents by the age of 13.

I attended various churches when I first arrived in the country, as I had found my faith in an Anglican Church in South Africa. The first 3 I attended didn’t even notice my presence and hardly took any interest in me. I then attended the Brethren church. They chatted to me and took an interest in me and my well-being. I found work at one of their businesses and after 3 months of attending their meetings I decided to join their community.

Their family care, love, the way they raise a family and utmost their love for the Lord Jesus is how I wanted to live my life.

I feel that taking away the charitable status/meeting rooms would affect the lives of so many genuine, honest and hard working Christians, with a terrible impact on family life and Christianity as a whole. The Brethren have cared for me and loved me. Without them I don’t know how I would have ended up.

*December 2012*

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#### **Written evidence submitted by Roger Napthine (CH 115)**

I feel compelled through a sense of current injustice, not only to the Plymouth Brethren Christian Church, but in a stance taken which is actually against Christianity itself.

Christianity takes its character from its leadership, “Even as the Son of man came not to be ministered unto, but to minister, and give his life as a ransom for many.” This character has marked the history of Christianity, on through the time of St. Paul until now. “And now abideth faith, hope, charity, these three; but the greatest of these is charity.” Recent testimony in Public Committees has been made to J.N. Darby, whose leadership resulted in the Plymouth Brethren movement. Testimony rendered included, “This young man had taken high honours in Dublin University and had studied for the bar....but his conscience would not let him take a brief... .He before long took Holy Orders, and became an indefatigable curate in the mountains of Wicklow. Evert evening he sallied forth to teach in the cabins, and roving far and wide over mountain amidst bogs, was seldom home before midnight...” This is all practical charity.



We now are faced with a resistance to this charity as practically expressed in our day. I give money for our Gospel Halls, pledged money for future builds, and now understand there is a threat to take these halls away and hand them over to other organizations, because apparently we are not charitable! I give some money to other charities, and have heard that gift aid is being suspended!

Then in these days of financial restriction, money is having to be spent on large legal bills, due to the uncharitable nature of the charity commission! This money could be used for charitable purposes.

We here at home were told by a household opposite, the wife stricken and terminally ill with cancer, "you are the best neighbours we have!" Not to belittle the other neighbours, none of which are Plymouth brethren, but a characteristic attitude in little practical ways drew forth this response!

It is evident there is an unpreparedness to be unbiased, which could lead to the loss of our assets and trust that these legal impediments may be successfully annulled before it is too late.

*December 2012*

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**Written evidence submitted by Hugh Liesching (CH 116)**

As a regular, sympathetic, and interested observer of the operations of the Public Administration Select Committee, I would like to say how much I have appreciated the diligent and unbiased manner in which your Committee has approached and considered the refusal by the Charity Commission of the application of the Preston Down Trust for charitable status.

The interest of the Commission in the internal doctrines of the Plymouth Brethren Christian Church intrigues me, and I can find no relevant relationship between these and the issue of public benefit. It appears that the Commission have acted in ignorance of the benefits produced by the operations in many areas of the Church, and acted on the basis of a very limited knowledge of the doctrines of said organisation. This raises the question of whether the Commission have exceeded their remit and failed to judge on the prescribed standards of public benefit.

Having seen first-hand some of the benefits provided to humanity at large by the Church in keeping with Christian tradition and Biblical teaching, I find it strange that the Commission themselves should be so ignorant of these and it does indeed look as though the Commission have been persuaded to depart from their usual standards of fairness and equity and produced an extremely one-sided, inequitable and biased result which, if extended through all religious organisations as it has the potential to be, could become a seriously destabilising force throughout the whole of the British constitution. Those of us who have the good and well-being of all men at heart, regardless of our (or their) religious persuasions, have good reason to seek to ensure that the Charity Commission are rigorously and tenaciously investigated.

I am extremely sympathetic with the task you face and hope you will be encouraged to leave no stone unturned in your efforts to ensure that justice and fairness are not only delivered, but seen to be delivered, for the good and benefit of all mankind.

*December 2012*

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**Written evidence submitted by Roy Greeno (CH 117)**

I have been following with sympathetic interest the debates concerning the attempt to remove the charitable status of the Plymouth Brethren Christian Church. Why this group has been selected for this treatment, given the fact that the church is their whole life and all their activities and business dealings are targeted to support this life. Christianity for them is not for Sundays only but it is practised every day in a way that is not seen with many other groups. We then heard the Charity Commission say that if we refuse to recognise them as a charity, they should not be allowed to hold on to their assets but should surrender them to another similar charity. How outrageous it is to consider that the accumulation of about two hundred years of charitable giving by both rich and poor, who gave of their substance to provide for the "Service of God" and for the "Preaching of the Gospel" should now in this so-called enlightened age see their heritage taken away.

If this is successful, will this unfair treatment stop with the brethren or will other churches suffer the same? I have also observed that those representing the brethren have had to endure wild allegations against them which any judicial mind must realise that the whole truth does not rest with the aggrieved person. The Brethren have always said that if there has been any wrong done by themselves they would be ready to make amends.

I would like to add that at the age of seventeen I knew nothing about the Brethren but after being converted through hearing the Gospel preached I asked to take my place at the Lord's Supper. This I was allowed to do after it was established that I had forsaken worldly lusts. (see Scripture, Titus ch. 2 v. 12) This was 57 years ago but it is the same today that if anyone wants to join with the Brethren in the Lord's Supper they can do so.

*December 2012*

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**Written evidence submitted by Alan Nunn (CH 118)**

It is undeniable that the refusal by the Charity Commission to register the Preston Down Trust at Torbay as a charitable trust, is an attack on Christianity *as a whole*, not just on the Plymouth Brethren Christian Church (PBCC). If the PBCC lose their appeal, who will be targeted next?

The grounds of the refusal, citing questions as to what benefit PBCC offer and the fact that they hold the Lord's Supper in private, have no foundation, and indicate that the Charity Commission consider they have the authority to penalise simple Christians, lovers of the Lord Jesus, who are seeking to obey scriptural commandments from the Bible, given by the Christ Himself.

There is significant concern by many Christians as to how this matter will be resolved, and I would like to thank the PASC for its approach to this issue, and the questions it is raising as to the regulation of the charitable sector. I would urge you to continue to put pressure on the Charity Commission, and the government minister that both this decision should be reviewed in the light of substantial evidence as to the public benefit offered by PBCC, and also that the costly process, by which charites may appeal Charity Commission decisions, should be reviewed in the light of the huge waste of funds and the considerable time delays incurred.

Could it be conveyed to the Charity Commission that, regardless of what they say or what their intention may have been, their decision on Preston Down has resulted in huge sums of money that could have been donated for charitable causes, now being spent in professional fees to lodge the appeal to the tribunal?

*December 2012*

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**Written evidence submitted by Iain Munn (CH 119)**

I am married with one child and live in a three bedroom bungalow in St Austell. I work hard to support this, but nevertheless between the beginning of 2008 and April 2010 I gave over 100 days of voluntary labour to help build a new hall for our Christian community, part of the Plymouth Brethren Christian Church.

Many, many other members of my church also donated their time and collectively several hundred thousand pounds to this project. We are shocked to learn that we are now in danger of losing this valuable community asset as we have been deemed a non-charitable trust.

Recently in a House of Commons committee hearing Mr Shawcross indicated that it was because of our belief in the practice of separation that the decision had gone against us. Yet he also maintained that there was "no bias" in the Charity Commission. Is the Commission biased against the belief in separation? Is it their right to question or investigate beliefs when the test of a charity is not such but the providing of public benefit? There are many different beliefs in this world, but in a Christian country to single out the beliefs of a church who base their practices on the Holy Scriptures can only be an injustice.

My local PBCC is involved in many charitable activities, and supports the employment of many members and non-members. In these tough economic times however, our resources (and businesses) are feeling the strain of having to go through this gruelling process. It is very disappointing that in these times of austerity when so many need help, valuable funding is being diverted to protect our status that could be used to alleviate the suffering and bring soul salvation to so many.

*December 2012*

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**Written evidence submitted by Mike Fox (CH 120)**

I write as a member of the above Church and would appeal respectfully to the Committee that they urgently consider the wide-ranging implications of the denial of charitable status to the Church.

The Charity Commission appear to have singled out this particular organization, and they are using extreme, unconfirmed and biased reports against the Brethren to justify their refusal. The Brethren are now having to spend large amounts of money to defend themselves at Tribunal in this matter, money which could have otherwise been used for charitable purposes. Yet the Commission seem to regard that as the "best way" of resolving these cases!

They have used the grounds that only Brethren members may take Holy Communion, yet only confirmed members of the Roman Catholic Church may take communion. This potentially extends well beyond the Brethren case.

Having given money to charitable causes for the building of meeting halls, am I now faced with these halls being forcibly removed from the Brethren's control by the Charity Commission and given to other organisations they currently deem charitable? In addition to this does it affect the tax status of my giving? This ruling is confusing, biased, unfair and unjust, and sets an ominous precedent.

If the Brethren lose this case, which church is next? The Commission say it is “only about the Brethren” and maybe it is—but only at the moment!

December 2012

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**Written evidence submitted by Alastair Munn (CH 121)**

We are alarmed and concerned by the stance of the CC towards the PBCC. What is really their reason for being so unreasonable?? That needs to be revealed.

One of the titles of our Queen is “the Defender of the Faith”. This dates back to the times of Henry VIII, when he set up the Christian Church of this country separate from the Church of Rome. “The Faith” that the Queen defends is the “Christian Faith”. Why then do the PBCC have to defend themselves when Westminster should follow the order of the Queen?

If the history of this country is examined, even only superficially, it is very obvious that this country prospered the most when Christianity was allowed to flourish and family values upheld. Just review the time of Queen Elizabeth I, Queen Victoria and more recently Winston Churchill and Mrs. Thatcher.

Why is the UK Government then not supporting the PBCC, so that the economy of this country improves for all the citizens of this country, whatever their race?

The CC is being very difficult about the matter of “Public Benefit”. Please will you take a look at how the PB businesses care for their non-PB workers? If every business in the country was as pro-active as these are, then the social security budget of this country would be greatly reduced. If this isn’t public benefit, what is?

Please use everything in your power to bring this matter, which is a slur on this country, to a final and positive conclusion.

December 2012

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**Written evidence submitted by Gordon McCreadie (CH 122)**

I wish to put on record my considerable dismay at the action of the Charity Commission in refusing to grant charitable status to a Plymouth Brethren Christian Church Trust in Devon.

I would declare an interest here as I am a member of that Church, as were my parents and grandparents before me, and as are also, my children and grandchildren.

I understand the changes introduced in the 2006 Act, which removed from religion and certain other classes, the presumption of public benefit. However, removing a per se presumption, merely introduces a burden of proof on the applicant, and where this is provided then that “test” is passed.

Inexplicably, in the case of the Preston Down Trust, despite the overwhelming evidence of the public benefit provided, the Commission refused the application.

What then was the causal thread for this extraordinary decision? This has to give rise to the deepest misgivings that in fact the Commission are singling out a particular faith group and subjecting it to overt discrimination.

These concerns are deepened, when, in the face of substantial proof of public benefit, the ground taken appears to shift to some opprobrium of particular tenets of the Plymouth Brethren Christian Church, in particular the doctrine of separation, further muddied by the allowance of anecdotal evidence from a disaffected minority.

The doctrine of separation has been shown to exist in one form or another, universally, in all “religious” faiths, whether monotheistic, for example, Jewish or Christian or Islamic, or indeed in polytheistic faiths for example the Hindu worship.

I am not a jurisprudentialist but the 2006 Act never envisaged a departure from the precedent established in law. I quote from Hansard, 26th June 2006, second reading of the bill, Parliamentary Secretary, Cabinet Office, Mr Edward Miliband, who said:

*“...the hon. Member for the Isle of Wight asked a series of questions about religion, poverty and education. In all those cases, it is right that public benefit must be shown, but I reassure him that, at least for religion, the obligation will not be onerous. We have accepted, and I think others have, too, that making provision for people to attend acts of worship is clearly a public benefit. It is clear in case law, and it will remain part of the charity law of this country. Religions have nothing to fear.”*

It would appear that the Plymouth Brethren Christian Church has a great deal to fear. Having given time and money to various Plymouth Brethren Trusts over many years, I am alarmed at the public comment made by the previous Chair of the Commission, indicating that the assets of a Trust, both financial and material,

could be expropriated at the caprice of the Commission, and distributed to others, if the Commission deem that trust to be no longer recognised as charitable.

The claim by the current Chair of the Commission, that “whilst sympathetic with the huge costs and time wasted by the Plymouth Brethren in bringing this issue to tribunal”, he thought it would not be helpful to intervene and re-examine the evidence provided, “because it would further delay matters for the brethren” rings hollow. It is like telling a man who is in prison on unsubstantiated charges that the authorities have decided to hang him, as it would “further delay matters” to examine the evidence that would set him free.

I sincerely trust that Parliament will act decisively to rein in the arrogation of powers by the Charities Commission to decide on matters of Christian doctrine, resulting in discriminatory judgments that are not a credit to the tolerant, multi-faith democracy of Great Britain.

*December 2012*

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### **Written evidence submitted by Garth Davey (CH 123)**

RESPONSE TO JOHN WEIGHTMAN

*2.3 For some 50 years, denial of public attendance at meetings has been absolute with a handful of exceptions.*

There have been an uncountable number of such attendances and we are not aware of any instances where access has been denied within the past 15 years.

*Main meeting rooms are surrounded by high security fences and locked gates*

If John Weightman took the trouble to go to his nearest meeting rooms in Newcastle he would find a stone wall with gates five foot high that have never been locked. They are never locked either during services or at any other time. Many halls have no high fences and contrary to report many rooms have windows.

Trustees have a fiduciary duty to protect the charity’s assets by sensible security measures. Good security also provides a safe area for persons attending our halls, especially children, whether these are members of the brethren or others. Some meeting halls lock gates where there has been trouble with theft of and from vehicles and also problems of vandalising.

*2.4 The notice boards, until about September this year, have indicated no meeting times or welcome*

The wording of the notice boards was agreed by the Rating office in March 1983 which shows that our gospel halls are places of public religious worship. We show the time of a preaching on Sundays but as other meeting times can vary we display a contact number for persons to phone to check the times of other services.

2.5

*There has been no interaction with non-members for half a century apart from the minimum to survive*

This is totally untrue. We meet and work with people every day in the course of our work; we employ thousands of non-Brethren and use non-Brethren suppliers. We also use doctors, dentists, public hospitals and public transport; have non-Brethren tradespeople to work in our houses; employ non-Brethren teachers to educate our children; and live alongside neighbours of any or no faith. This is a nonsensical comment.

*2.6 Hatred of the world*

Mr Weightman should know that when the Brethren refer to the world they mean the system which has built up against Christ and against Christians as under the control and dominance of Satan. There are almost 80 references to “the world” in John’s gospel, including, for example:

*“If the world hate you, ye know that it hated me before it hated you. If ye were of the world, the world would love his own: but because ye are not of the world, but I have chosen you out of the world, therefore the world hateth you.” (John 15 verses 18–19)*

To a casual reader Mr Weightman’s quotation conveys the impression that we are being incited to hatred of persons. This is absolutely untrue. We rightly hate the system which hated our Saviour whilst preaching God’s love towards persons who may be ensnared by it.

*2.7 The Exclusive Brethren now maintain that they provide food for the poor...*

The reality is that the brethren do give away food to the poor in a number of ways quite apart from the events which he refers to as “Free Pie and Bible Days”. His further comments relate to our motives and are best left unanswered.

## 2.8 *Everyone who leaves loses all or almost all contact with family*

If someone chooses to leave there will inevitably be a reduction in contact with those who remain. “*Can two walk together, except they be agreed?*” (Amos 3 verse 3)

*It will most often include loss of employment*

We would appreciate evidence to substantiate this comment. There are a number of cases in which brethren still continue to employ persons who have left the fellowship. To force a person out of employment on religious grounds would be illegal and we would not do it. We are not aware of a single case which is going to an employment tribunal due to wrong dismissal.

*Funding for homes is provided by church membership*

This is not the case, as most brethren arrange secured bank mortgages with the ‘high street’ banks.

## 2.10 *Misleading Information*

The name “Plymouth Brethren” has existed for over 170 years. Of course it is, by definition, a Christian Church and the addition of the words makes this clear for anyone who may not know. There is no attempt whatever to mislead anyone, and we deeply resent the suggestion. Others, mainly the press, especially in the last 50 years, have given us the name “Exclusive Brethren” which we have accepted but the name is liable to be misunderstood because there are a number of definitions of the word “exclusive”.

We agree that Mr Paisley appears to have confused two different organisations. Anyone can make a mistake, this one was of little consequence, and we had not misled him in any way.

## 3.2–5 *For many years the Exclusive Brethren banned the use of computers*

The Brethren were cautious about the use of computers and while the world was rushing headlong into new fields of technology we held back, mainly to protect ourselves and our young people from damage.

This was more than justified as there are now an estimated 250,000,000 pages of porn on the internet and 66% of parents are concerned about what a child may access on the internet and sexually explicit material is top of the list.

It took some years to develop safe protection systems and once we were satisfied that these were trustworthy computers have been extensively used.

We are not sure why Mr Weightman or indeed any right-minded person, especially a parent, should have an issue with us on this subject.

We are not aware of the cases he refers to (of persons being excommunicated for owning computers) but if they were unfairly handled the Brethren would want to review them.

## 4. *Since university education and obtaining a degree are absolutely banned it is difficult to see how a student’s potential can possibly be achieved*

It is not true to say that university education and obtaining a degree are absolutely banned and there are cases to prove the contrary. Higher education is strongly encouraged among the Brethren.

It is true that brethren do not generally attend university, for two main reasons. Going to University involves that you become a member of it; a university is a fellowship in its own right, and this is inconsistent with our fellowship. Secondly, campus life and other prevailing influences are often not conducive to a Christian life.

Most of our young people earn while they learn and are well on the way to owning their own houses and are ready for marriage by the time they reach their mid-twenties compared with many full time University graduates who struggle financially.

## 5. *Due to massive wealth they have been able to pursue legal cases*

The inference is that the Brethren are using money to suppress the truth. What they have been forced to do is to take steps to counter public statements which are untrue, malicious, and libellous. We would much prefer to be using hard earned money for proper charitable causes but we have a duty to counter false allegations.

It is surprising that the Brethren apparently have massive wealth when it is claimed they have no higher education etc. Isn’t this contradictory? Lacking education but have massive wealth?

## 6.2 *This interpretation (of 2 Timothy 2 verse 19) is eccentric and unique*

The Brethren rely on J N Darby’s translation of the Bible. Mr Darby was a leader among the Brethren and his knowledge is universally acknowledged, along with G V Wigram and others, as an outstanding Greek

scholar. The principles of separation from evil which Mr Darby stood for are fundamental to the whole Divine testimony. They do not rely only on 2 Timothy 2—see John 17 and 2 Corinthians 6 and many other Scriptures.

8. What happened at the death of his parents probably would have reflected their feelings but this is a family matter and was not influenced by the church.

*December 2012*

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#### **Written evidence submitted by Andrew Wheeler (CH 124)**

It has recently come to public notice that some, who once found their friends in the Plymouth Brethren Christian Church, are attacking the position they once subscribed to. It has therefore become necessary, as it is written in the epistle of Jude, “to contend earnestly for the faith once delivered to the saints” (Jude v.3).

I was born into a Plymouth Brethren household but was not privileged to grow up in that fellowship. At the age of six my parents were ‘out of fellowship’ and from that point on I grew up apart from the Plymouth Brethren. I ceased to have contact with my previous friends in the church but soon found new friends and new interests at school and in the neighbourhood where we lived. It was not long before we owned a television, and I remember the delight when we got our first colour television. We grew up enjoying everything the world had to offer including television, cinema and many other things I would have been protected from had I grown up in the Plymouth Brethren.

I have known all these things and they do not provide lasting satisfaction but lead to corruption and things you would rather forget. The apostle Paul could write, “but what things were gain to me these I counted, on account of Christ, loss” (Philippians 3 v.1), he also said, “What fruit therefore had ye then in the things of which ye are now ashamed?” (Romans 6 v.21).

I went to standard state primary, middle and comprehensive schools. We had a PC at home and I became one of only two in my school year who were accomplished on a computer at a time when few houses had them. I gained good marks in O-level and then, after deciding by myself not to go on to college, set up a business to try and sell printing. I then enrolled on a day-release printing course at Guildford Tech.

This is all pretty boring, but all I am trying to show is that we had what would be considered a ‘normal’ life. But Christianity is wonderful, and God looks after His own purposes. The Lord Jesus says, “The wind blows where it will, and thou hearest its voice, but knowest not whence it comes and where it goes: thus is everyone that is born of the Spirit.” (John 3 v.8). Many Christians in all ages have testified as to how they became to “believe on the Lord Jesus” (Acts 17 v.31).

I do not remember my parents speaking much about their faith, but around the age of 15 or 16 I started to have an interest in religious matters. I started reading some of the ‘Books of Doctrine’ published by the Plymouth Brethren that my parents still had in the house and found it gripping reading both in opening up the understanding of the Bible but also often very humorous. I committed my heart to Christ when I was 17; whilst engaged in a course of sin that could have ended up in complete degradation. I found my Saviour, the Lord Jesus Christ! After this I did make contact with elders from the Brethren, but at that time I could not have afforded to live apart from my father. Then a few months later, my father, who had been exercised for some time to re-join the Plymouth Brethren, was received back into fellowship and I and my brothers came with him. I was at that point less than a month short of my 18th birthday.

Now many years on I am married and we have five children and they are growing up happily in the Plymouth Brethren Christian Church. We are protecting them from the elements of corruption that I experienced when young. I know they are not missing out on anything worthwhile. As a Christian I would seek to protect them from the corruption that is in the world around regardless of whether we were in the Plymouth Brethren Christian Church. But thankfully we are where we are, and we are enjoying the benefits of a fellowship of Christian love where the teachings of the Holy Bible are upheld.

What we are seeing coming against the Plymouth Brethren at the current time is as the apostle Peter says, “Wherein they think it strange that ye run not with them to the same sink of corruption, speaking injuriously of you;” (1 Peter 4 v4). We are assured that God will make a way through for those who seek to do His will as in Peter’s second letter he writes, “As his divine power has given to us all things which relate to life and godliness, through the knowledge of him that has called us by glory and virtue, through which he has given to us the greatest and precious promises, that through these ye may become partakers of the divine nature, having escaped the corruption that is in the world through lust.” (2 Peter 1 v.3–4).

*December 2012*

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**Written evidence submitted by Bill Noakes (CH125)**

Your committee is currently considering the effects of the 2006 Charities Act on religion. The Plymouth Brethren Christian Church is currently having to expend enormous amounts of money as well as time to defend its charitable status as result of this legislation.

At the heart of the Charity Commission's decision not to register one of the Brethren churches as charitable, was their way of measuring net public benefit. They say they have to measure the benefits of a particular group, and then the "harm" this group is to society, and then they have to decide whether this group is a net benefit or harm.

This way of determining charitable status makes the resulting decision by the commission extremely vulnerable to any prejudices or bias that exists in those who make this decision. The fact that decisions can be referred to the Tribunal may look like there is the ability to review these prejudices, but in fact, the Lower Tribunal only deals on facts and tangible details, whereas prejudices may relate to religious doctrine or perceptions about religious groups which may be hard to prove.

Why is this so important? Well, imagine a case involving a Jewish group, and evidence from Neo-Nazis was allowed as part of the proof of the "harm" of this group. Or imagine if a Muslim charity sending money to fund terrorist activities in the Middle East was given leniency because senior decision makers in the Charity Commission had strong sympathies with the Palestinians so didn't see this as particularly harmful. These may be extreme examples, but surely an un-elected quango should not be given free-rein to make judgements based on political-correctness or anti-religious prejudice. The Commission have given themselves the ability to re-interpret case law "in the light of current social and economic conditions" which rubber-stamps the use of such prejudices. This power-grab must be reversed.

A simple change you could propose is that the Charity Commission *can only measure harm if it is unlawful*. This would ensure organisations funding terrorist activities, inciting to hatred, promoting polygamy, etc, would not obtain charitable status. This would ultimately give Parliament control over this controversial registration process.

The Commission should also be forced to refer any case which is going to set a precedent in this area of the law *to the Upper Tribunal*, so that decisions can be audited in an independent and robust manner.

Another odd aspect of the way "harm" is measured is that the Commission thinks it has the rights to delve into the doctrines of a religious group, regardless of whether these doctrines have any impact on the charitable activities of this group. Now, my family are regular visitors to the palatial Derbyshire home of the Duke of Devonshire, Chatsworth. Despite being one of the wealthiest families in the UK, when I arrive they ask me not to pay for admission, but to gift the admission fee to them so that they can claim back Gift Aid, as they are a registered charity. The way the Devonshires allow access to their magnificent estate is a public benefit. So why is the Charity Commission not insisting that the public should have a right to share the private meals enjoyed by the Duke and Duchess? Why are the extreme political views of some of the family members not being examined and used to show this charity is "harmful?"

If the Devonshire family can live their private lives without any interference from the Charity Commission, then Churches should also be able to worship freely according to the doctrine held precious by their members.

So, another simple change in the law would be to only allow the benefit or "harm" of the *charitable activities* of a charity to be measured, instead of probing into things which have no impact on these charitable activities.

December 2012

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**Written evidence submitted by Ronnie and Zoe Devine (CH 126)**

To settle public concern regarding the possible anti-Christian bias in the Charity Commission, we believe the Government should enact a thorough review of the decision to refuse charitable status to the Preston down trust.

Stephanie Biden of Bates Wells and Braithwaites Solicitors, reports in Third Sector making it clear that the basis of refusal could be used against other religious charities. Does the Government know what the charity commission are planning next? As an onlooker the commission appear to be a department empowered by Government whilst not being answerable to that Government.

For my wife and I as Plymouth Brethren with a young family this is very concerning.

In your recent committee meeting of 4th December 2012 the minister for Civil Society Nick Hurd said "the problem with the "Plymouth Brethren Case is the Plymouth Brethren". Does this not sound like a defined group being singled out? This feels like discrimination.

What was the intention of the 2006 Act? Did the Government intend the charity commission to decide the fate or otherwise of long standing accepted Christian charities which have brought prosperity to society for years?

I appreciate the complex task the committee has in hand and will continue to pray for you, and for a favourable outcome to this issue, for the peace of mind of all Christians. "that we may live a quiet and tranquil life in all piety and gravity; for this is good and acceptable before our saviour God, who desires that all men should be saved and come to a knowledge of the truth." (1Timothy 2 v2-4)

*December 2012*

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**Written evidence submitted by Andrew and Liz Furse (CH 127)**

As a member of the Plymouth Brethren Christian Church, we feel the terrible injustice of being singled out; when all we are trying to do is live a life around the Scriptural teachings of the Holy Bible. We are prepared to help anyone in the wider community.

We support many charities personally; some examples are St John's Ambulance, Cancer Research, RNLI, just to name a few.

As a community we are spending a lot of money on this current legal case which could be put to help many people, whether in poverty, medical assistance or even just a hot meal. Please can we be respected as a charity helping the general public?

*December 2012*

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**Written evidence submitted by Adrian Fowler (CH 128)**

I have been following with keen interest, this issue regarding the Charity's Commission and their refusal of charitable status to the Preston Down Trust (Plymouth Brethren Christian Church).

As a member of The Plymouth Brethren Christian Church I am somewhat confused as to the

Charity Commission's decisions. This is mainly because, in the case of the Preston Down Trust, there does not seem to be a valid or tangible reason for the refusal of Charitable status, likewise the decision to grant the Druids, a lesser public beneficial group, has on the same day funnily, been granted charitable status.

Whilst I agree wrong decisions can be made, it is clear this is a case of injustice. This decision, if it were an oversight, could and should be withdrawn and so far hasn't. So the question is who will be the next victims of this open discrimination?

The Plymouth Brethren are mainline Christians and stand for the principle of separation. This simple and yet real charter is the crux of this inequitable treatment.

The Charity Commission say they have a lot of applications to process, their budgets have been cut and resources are pushed. Why therefore is this Quango delving in to a religious group's belief while the main test they should be measuring a charity by is it's amount of public benefit?

I sincerely hope that right thinking persons can see through this unfair case and that The Plymouth Brethren Christian Church are granted the charitable status they so rightly deserve.

I would like to thank and congratulate the Public Administration Select Committee for their recent rigorous questioning and would encourage further such meetings.

*December 2012*

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**Written evidence submitted by Russell Fleck (CH 129)**

I write to you with deep concern as to the ridiculous situation in which the Plymouth Brethren Christian Church is currently found to be. The benefit to society of Christianity has been long proved and yet this particular organisation has been threatened with the removal of their charitable status and proved in the fact that the Preston Down Trust has been denied charitable status by the Charity Commission. Other similar Christian organisations have been granted this charitable status and even indeed organisations such as the Druids who have a historical record of criminal activity, so why such bias?

It appears to me that the Charity Commission are struggling to find a tangible reason to deny this charitable status, but have chosen to waste vast sums of money on litigation processes rather than accept that they have made a wrong decision. The public benefit of the PBCC organisation is undeniable. It has been proved that other religious bodies would also deny communion or taking of the religious sacraments to persons who are not of the approved congregation, so what remains is quite simply an attack on a biblically established principle of separation practised by the Plymouth Brethren Christian Church. Is the wasting of vast sums of charity's money not contradictory to the basic principles of charity? Does the Charity Commission have the right or authority to judge the principles of a particular Christian Church? Is this not discriminatory? Does not every man practise separation to a greater or lesser degree? Surely human rights allows a man to choose his own company, and yet this is being regarded as some kind of evil which removes the status of being a charity;



whereas in fact it is persons who wish to keep as separate as possible from defilement, but not people, you might say an obvious desire of every upright honest man.

This all becomes even more alarming when you discover that the Charity Commission claims the power to remove assets belonging to the Plymouth Brethren Christian Church, assets which have been purchased by the nation's tax payers who are members of the congregation, who have gifted money to charitable activities of this church. Is this fair? Is it justice that a Christian Church should be intimidated in this way?

I would simply ask that Parliament takes urgent action to address this ridiculous situation.

*December 2012*

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**Written evidence submitted by Andrew Burtenshaw (CH 130)**

I am a member of the Plymouth Brethren Christian Church at Plymouth at which I have been a regular worshipper all my life.

I understand that the end result of the Charity Commission refusing to grant us charitable status could mean the closure of this church. This seems terrible when it is known that there has been a Brethren's Church in existence in Plymouth since the early 1830's when the name "Plymouth Brethren" was first used because Plymouth was the place from which Christian literature was despatched.

Our country has been built up and shaped by Godly Christians in the past, but this beneficial influence is being denigrated and sidelined and the current attack by the Charity Commission is all part of this.

Our belief in separation (as set out in the Bible) is being given as a reason to discriminate against us, and to say we do not pass the Public Benefit test.

I believe that separation is the only way to stop the devil's infiltration into every area (ie the Marriage Institution which has been defined in scripture). However this does not prevent us from being on good terms with our neighbours and available to help them at any time.

I strongly feel that the Plymouth Brethren Christian Church has been singled out unjustly and forced to pay out vast amounts of money in its defence, which monies could have been used for charity work.

I have watched your efficient control of the Public Administration Select Committee and trust you will see the importance of the Charity Commission's decision being searched out and fairness established.

*December 2012*

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**Written evidence submitted by One Stop Bookkeeping and Payroll (CH 131)**

We are aware of recent items in accounting journals of the ruling by the Charity Commission in respect of the Plymouth Brethren Christian Church. We work for a number of Plymouth Brethren Christian Church businesses in Essex and would express our concern at the current ruling.

Before working within Plymouth Brethren Christian Church businesses and meeting Plymouth Brethren people, it would have been easy to be misguided by the adverse and inaccurate representation of the Plymouth Brethren Christian Church within the media. However, we have personally found that their attitude to both Plymouth Brethren and non Plymouth Brethren colleagues is refreshingly caring and compassionate. We have always found that the Plymouth Brethren Christian Church's beliefs, as we understand them, are not at odds with what is expected in any community which strives to maintain a loving family environment and respect for neighbours and the wider community.

Any differences in beliefs and expectations are in no way restrictive and communication is easier and more open than many non-Brethren environments. We have found that we are able to quietly respect Plymouth Brethren principles without compromising our own. Plymouth Brethren people are friendly and approachable and we have not felt that we have had their Christian beliefs forced upon us.

We have been invited to open days at Plymouth Brethren Christian Church Meeting Halls and other non work orientated events and discuss family life with each other as part of everyday conversation.

As a company, we have worked nationally with a range of ethnicities and religions and found some to be very isolated within a community—however, this is not the feeling that we get when in a Plymouth Brethren environment—it is just like being with anyone else in the community.

We would be happy to discuss this and any other aspect with any interested parties.

*December 2012*

**Written evidence submitted by Russell Pillar (CH 132)**

I write in relation to the current issue surrounding the Preston Down Trust appeal for charitable status which is awaiting the outcome of the tribunal, following the unsuccessful application for registration with the Charity Commission.

I live in Scotland where the Plymouth Brethren Christian Church currently enjoys unchallenged charitable status of their meeting halls. I have been watching with interest the proceedings in England and Wales and wanted to register my distress at what is clearly an unfair bias against the Plymouth Brethren and the public benefit that they provide.

I have been a member of the Plymouth Brethren Christian Church all of my life and have always been brought up to be open, honest and transparent about what we believe and hold to be true. It is therefore with abhorrence that we hear of persons who are publicly slandering our position with totally unproven accusations against the Plymouth Brethren. Besides being completely unfounded, these accusations have no bearing on whether or not we are a benefit to the public and it is a blatant error on the behalf of the Charity Commission that they are applying this to our case.

I have voluntarily provided both monetary and physical support for the building of some of our meeting halls in both Scotland and England and I am alarmed to learn of the Charity Commission's intent to deprive Preston Down Trust of charitable status. This could mean that these meeting halls are taken over if the tribunal rules in favour of the Charity Commission and the false allegations that they are making.

I trust that ultimately the truth will prevail in this case and I would like to take this opportunity to thank the Committee for the fair hearing that you have given the Plymouth Brethren thus far.

*December 2012*

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**Written evidence submitted by Adrian Warne (CH 133)**

I am writing to you to express my concern over the way the charitable status of the Plymouth brethren church in my local town of St. Austell and throughout the UK is being questioned.

I find it totally uncalled for that the above is being brought into question, and shouldn't be even questioned.

I started working for a company called Hentland owned and run by a family who are part of the Plymouth brethren community. When I started to work for them from the start I was made to feel like one of the family and not being a member of the brethren, I have seen the good they do for the community they live and work within.

During my time working for Hentland my wife was taken ill and had a stroke and life as you imagine for me became very difficult, and the Plymouth brethren really supported me through this period showing me great kindness and financial help.

I have never worked for a more kind family and hope to carry on for many years to come knowing I could ask them for help at any time.

With all the above in mind I trust you can now see the kindness and charitable help they have showed me and others in the communities they live and work.

I hope this letter will now change the approach you take to the good people of the Plymouth brethren churches and I would be more than happy to discuss this further.

*December 2012*

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**Written evidence submitted by Ken Price (CH 134)**

There is a terrible injustice being dealt out by the Charity Commission concerning the Plymouth Brethren Christian Group.

I have contributed to this building and maintenance and upkeep of some of the Halls for many years, only to find that the Charity Commission is refusing charitable status and likely to remove all assets.

How can it be that such a Christian community can be charged with being uncharitable? Any person truly following Holy Scripture, the words of our Lord Jesus and the great apostle Paul, will be charitable, and of great public benefit. This is because they are true and upright, obedient, law abiding, caring, principled citizens. The public benefit of this is proven both generally and specifically in the case of the Plymouth Brethren Christian group.

Christianity has been the backbone of Great Britain for centuries and as a result Britain ruled the world with prosperity—and good government.

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Now the Charity Commission is discriminating against Christianity in an extraordinary way. Are the Charity Commission going to be allowed to judge between tenets of the Christian faith to the downfall of the Country?

What about the thousands of other small devout Christian gatherings all over the country- are they next?

Will they also have to spend thousands to defend their charitable status and their very existence?

*December 2012*

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**Written evidence submitted by Keith Price (CH 135)**

Despite extensive testimony throughout the UK to the public benefit of the Plymouth Brethren Christian Church, they have suffered the gross injustice of having charitable status refused.

Against all evidence to the contrary the Charity Commission denies any discrimination, so why are these Christians who support government being persecuted in this way?

Could we ever forget the wickedness of what Hitler did to the Jews by spreading a lie?

Please seriously consider that the enemy of every true Christian will not stop at just targeting the Plymouth Brethren.

I would respectfully appeal to the Government to act now to arrest the independent and divisive course of the Charity Commission.

*December 2012*

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**Written evidence submitted by Gordon Cooper (CH 136)**

I would like to appeal to the Committee, being one of the Plymouth Brethren who is affected by the current actions of the Charity Commission.

This matter is of critical importance to us and directly affects 16,000 members of my church. However, I also believe that it is of national importance as it could well go on to affect other Christian groups if the Commission is successful in its attack against us. Unfortunately, it is clearly no good listening to assurances to the contrary from the Charity Commission, as they personally assured us that we wouldn't *have* a problem under the new legislation, but then promptly launched this attack on our charitable status as soon as the ink was dry.

This is not just about Gift Aid, tax relief or rating, as important as that is, but about the *very* ownership of our church's property. I and many others in this fellowship *have* put thousands of pounds and much time into the building of meeting rooms and we understand that these could simply be taken away from us. A snatch like this would seem unprecedented, at least since Henry VIII confiscated the monasteries.

My friends and I are *very* thankful for the interest that the Committee has taken in this matter and would request that you do all that you can to stop this persecution of a minority group.

We believe that this is really a matter of saving Christianity in this country, which is the cornerstone of our society and the basis of our whole constitutional system. It is currently under threat on many fronts.

*December 2012*

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**Written evidence submitted by Andrew Francis (CH 137)**

I write regarding the current decision of the Charity Commission to refuse charitable status to the Plymouth Brethren Christian Church Preston Down Trust because they do not (apparently) meet the requirements of the Commission as to exhibiting "public benefit".

This is a terrible injustice and an obvious attack against Christianity and against the principles of justice, fairness and morality of God-given kindness shown through His creature men and women, *and shown and upheld through several hundreds of years by the governing powers in this country.*

I write as someone who was fortunate enough to have Godly parents and I was brought up and nurtured with the Christian faith. In my teenage years I rejected my good upbringing, rebelled against it and left my parental home and the safety within the fellowship of the Plymouth Brethren Christian Church in 1967.

God, in His goodness, attracted me back to the fellowship in 1979 and I was readily and gladly received by the brethren and have remained with them until now.

After 33 years I still intensely regret leaving the safety and good company of the brethren and all their benefits for over 12 years during which time I experienced a damaging moral decline the effects of which have stayed with me throughout my life.

I would commend to anyone the way the brethren seek to live their lives (which is according to the detail of God's instructions in the Holy Scriptures).

The Christian Institute, representing thousands of churches, is especially concerned about this matter and is very busy drawing the attention of all its members to the detail of this outlandish case and its likely future effects.

After all, think of all those who must follow if this terrible injustice is perpetrated: the Church of England, the Roman Catholics, and most, if not all, Christian denominations who seek to follow the teachings of God's Word in the Holy Scriptures by helping their fellow men charitably in a kind and loving way which shows the best kind of "public benefit" and cannot sensibly be disputed.

This seems to be a bureaucratic commission who seem intent on finding damaging evidence instead of looking carefully and sympathetically in to the detail of all the wonderful, beneficial work that these God-fearing people do day after day, week after week, year after year, without respite.

This seems really unfair. God has put it into their hearts to do all this for their fellow men and this is the awfully unjust result.

Obviously, a very intense and detailed monitoring and review of the internal workings and methods of the Charity Commission is needed immediately to ensure that their decision are truly unbiased and to prevent any reoccurrences of this kind.

In conclusion, I would urge you to consider very carefully the plight of the Plymouth Brethren Christian Church in this extremely unfortunate matter.

*December 2012*

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#### **Written evidence submitted by John Carlyon (CH 138)**

Having been brought up and married in the Plymouth Brethren Christian Church and brought up four children who have remained with us along with their own families, I feel justified in writing to appeal to the Public Administration Select Committee regarding the recent decision of the Charity Commission not to grant charitable status to the Preston Down Trust, setting a precedent affecting over 300 of our gospel halls.

My own parents and three sisters all chose to seek another circle but I can vouchsafe for the complete absence of acrimony. Unfortunately a small minority who also left the PBCC at various stages in life turned bitter, and sadly some have stooped to contributing to a "hate" website. Although in certain cases there were grounds for dissent, with many it has been a case of being conservative with the facts, to say the least.

Some have sought publicity using biased accounts, for example Baroness Berridge in the House of Lords on 22 November, and a recent open letter to Parliament. To judge the lives of Christian brethren who have always sought to contribute positively to society whilst following guidance from the Lord Jesus Himself and His Servant, St Paul, without ascertaining the full facts, is surely an injustice.

The consequences of a failed appeal are incalculable. To be forced to accept that substantial financial contributions out of taxed income could all have been in vain and impounded at a stroke is devastating. To find the full enjoyment of our own company destroyed with the removal of our halls and to stop yet another avenue for the word of God being preached to needy souls is dire.

We respect and pray for government daily and call upon members of the Public Administration Select Committee to bring what influence they can to restrain the perceived intentions of the Charity Commission.

*December 2012*

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#### **Written evidence submitted by Scott Matthews (CH 139)**

I wish to write a letter in support of the Plymouth Brethren Christian Church. I would add that I am not a member of their church nor have I ever attended any of their church services.

I have however had extensive business dealings with them over the last 14 years having worked for many brethren's businesses as a result of referrals.

I am a freelance graphic designer and photographer. I typically work on the client's premises working closely with the customer on a wide range of projects.

I would like to put on record that I have enjoyed working with brethren in their businesses; I have enjoyed the atmosphere and their sense of humour, their friendliness, hospitality, and indeed their willingness to help me out when needed.

In the course my business, I have observed that the Brethren community are caring, hardworking, honest and supportive.

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While I may not subscribe to their way of life, from my personal experience I would say that as a community they are an asset to society and I always welcome any opportunity to work with them.

*December 2012*

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**Written evidence submitted by Mark Bidmead (CH 140)**

The events that I have witnessed over recent weeks where the Plymouth Brethren Christian Church have been ostracised and discriminated against by the Charity Commission has caused me to contact you in this way.

Over recent years I have donated many hundreds of thousands of pounds to the PBCC as well as other charities, for the benefit of humanity, and am now dismayed to find out that these monies are being forced to be used to defend the charitable status of the charity I donated to.

Other religions should be alerted of the devious machinations of the Charity Commission so they can set aside a budget from donations they receive to pay for the legal representation they will need when they are targeted.

I have grave doubts as to whether the way that the PBCC is being discriminated against would stand up in a Human Rights investigation and I will be suggesting that, should the case go against this Church, it is taken to Strasbourg.

To further add insult to injury, I now hear that the Druids have just been granted full charitable status!

Please intervene in this unfair situation.

*December 2012*

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**Written evidence submitted by Daniel Rosenfelder (CH 141)**

It has recently come to my notice that the Public Administration Select Committee has been reviewing evidence given by the Plymouth Brethren Christian Church in defence of their charitable status, which I understand has been called into question by the Charity Commission.

I am an architect, a member of the Jewish faith and have employed members of the Plymouth Brethren Christian Church on a regular basis for the past eight years on various projects.

I would like to take this opportunity to write to you to express my full support for this Church, as I see them to be displaying kindness and generosity throughout the various charities that they unselfishly support. Although we are of completely different faiths, I would not hesitate in asking them for assistance if I came across a situation of need.

Please ensure that this message of support is taken notice of in Parliament so that this group are able to retain their charitable status, which they rightly deserve.

*December 2012*

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**Written evidence submitted by Joe Rennicks (CH 142)**

I write regarding the recent decision by the Charity Commission rejecting the registration of one of the Plymouth Brethren's Meeting Hall Trusts, and specifically their reason that their Christian faith does not demonstrate any public benefit to the wider community.

I work as an Insurance Broker and have come to know several members of the Plymouth Brethren in various parts of the UK over the past few years. I have found each and every person that I have met within that community to be nothing less than courteous, conscientious, welcoming and generous. Having met several Plymouth Brethren "community" and "non-community" employees, it is clear that the individuals and Companies that I deal with place a great deal of emphasis on helping their local communities, including this employment which as a by-product has a significant impact on their local economy, and which helps improve the wider community spirit.

I am aware of the recent comment that the "Brethren community splits up families" which I found surprising and unfair as having known people of the community their fundamental belief of importance of the family comes across to me very loud and clear. I am a Catholic so have no religious allegiance, and would add given the current state of some other general communities in the UK I feel that a lot of people could learn a great deal from the Brethren's values.

*December 2012*

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**Written evidence submitted by Neil Payne (CH 143)**

I am writing this letter to inform you of my experiences with Plymouth brethren over the past fifteen or so years.

I am a self employed builder and have worked and dealt with many over the years and would like to say that you could not meet a more honest, hard-working and always approachable type of person that treat everybody the same and as an equal.

*December 2012*

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**Written evidence submitted by Tim Douglas (CH 144)**

I write regarding my disgust and deep concern over the Charity Commission's unjust and unjustified refusal of the application for charitable status by one of our Plymouth Brethren Christian Churches.

The way this case has evolved is clearly against this country's normal traditions of fairness. Indeed it is grossly unfair that the Preston Down Trust has been pre-judged by this unelected body and found guilty—of not measuring up to certain criteria which have never been disclosed to the Brethren.

I am a life-long member of the Plymouth Brethren and also appreciate that there are great numbers of committed Christians in our society who are not members of our church. Conversations with non-members (both religious and non-religious) highlight deep concerns elsewhere, that if this case is not resolved in favour of the Preston Down Trust, other charitable organisations would be next.

Recent public claims from within the Charity Commission that they are not biased, on the grounds that they have registered hundreds of Christian charities, do not hold water.

Kenneth Dibble of the Charity Commission quoted in a letter of 7 June 2012 "...there is no presumption that religion generally or at any specific level is for the public benefit, even in the case of Christianity or the church of England" which is deeply concerning for Christians and faiths of all denominations.

Since then (circa. 13 November 2012) the Charity Commission has stated in contradiction to this:

"... is a source of intense current concern among Parliamentarians and has been interpreted as a revocation of charitable status and even as a threat to other Christian groups. We ask you to bear in mind that this case is limited to an individual group and we have no general concerns about religious organisations".

and

"The Commission regards this case as confined to the circumstances of this individual group. The forthcoming appeal also relates to this individual organisation, not other religious groups".

This provokes the question; why is the Plymouth Brethren Christian Church being singled out for this appalling treatment and persecution? It appears that we are being discriminated against for our own interpretation of the scriptures, and our personal beliefs and convictions.

The hostility seems to be particularly aimed at our practice of Separation and the way in which we conduct the Lord's Supper. Both of these tenets of our faith are outlined in the Holy Bible for all mankind and are also practiced by various other Church groups in their chosen way.

Is it the intention of Parliament that a Christian group in this Christian country should have to spend vast amounts of time and money defending their right to religious freedom?

*December 2012*

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**Written evidence submitted by Sue Dallow (CH 145)**

I feel compelled to write to you to express my deep concern about the terrible injustice of the situation that the Plymouth Brethren Christian Church find themselves in. I refer to the decision of the Charity Commission to refuse charitable status for one of their meeting halls.

I was born into a Plymouth Brethren household and through God's mercy have continued to be a member of this wonderful company of persons ever since and it is my earnest desire to remain in this Christian Church until the Lord Jesus comes for me.

I would like to share an experience I had as a young child. When I was five years old my father was put "out of fellowship" in error. He was separated from his wife & four children for five years and was reduced to penury. In all those long, lonely years my father never lost his faith in Christ and in the brethren he loved so much. He was finally restored to fellowship, a weary and broken man but there was never the slightest trace of bitterness against his brethren. He accepted it as God's ways with him. At the age of 49 he was diagnosed with prostate cancer, 14 ½ years of anxiety, pain, severe treatments and humiliation followed. He bore all this patiently, without complaint and finally in January 2007 I was privileged to witness my father ushered into the

presence of his Saviour. My father was a wonderful inspiration to me; despite the most excruciating experiences he clung to his faith in the Plymouth Brethren and ended his days happily in fellowship without any element of vindictiveness.

The point I am trying to make is that while individuals may not always get things right, it is not fair to tar the whole organisation with the same brush and my father's testimony proves that it is not necessary for offended persons, or persons close to them, to give up their faith and turn against the church they were once happily part of, and attack it.

I am sharing this experience with you to counter the testimony given by Baroness Berridge in the House of Lords which seems to hold significant relevance with some.

*December 2012*

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**Written evidence submitted by Carl Munn (CH 146)**

I feel compelled to write a brief note to encourage your select committee's investigation into the current Charity Commission Crisis, and the subsequent attack that the Plymouth Brethren Christian Church are having to meet, to the end that true charity may be recognised and reinstated in England.

This action of the CC is absolute misguided injustice, going right against the very foundations of this country's existence. Including the Martyrs and World War Two, the history is no doubt familiar to you all.

What I would like to see is your inspection and evaluation of the Druids in the light of the Charity Commission's bias towards them, while removing the charitable status of the PBCC.

For example:

1. Do the Druids have a form of bible? Is it publically available? What is it's content and intent?
2. Do the Druids have open preachings where any member of the public can freely attend, without being vetted?
3. What is the Druids view of Nazis and how did the Druids contribute to World War Two?

I would humbly submit this contribution to your committee and trust you are able to determine the right course of action for the underlying welfare and prosperity of this nation.

*December 2012*

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**Written evidence submitted by Fiona Smerdon (CH 147)**

My husband and I, together with all our family, are Christians who belong to a worldwide Christian fellowship. We do not take sectarian ground but are generally known as Plymouth Brethren.

In 1981, my husband was a trustee of The Kingston Meeting Rooms Trust (Feltham) and in a High Court hearing, (*Holmes and others v Attorney General*), the activities of the Plymouth or Exclusive Brethren—deemed not to be of Public Benefit by the Charity Commission—were judged to be of Public Benefit and our charitable status was confirmed. Since then the public engagement in charity work has increased and in the last 12 months my husband and I have donated over thirty-five thousand pound to charities and have spent hundreds of hours supporting their work.

The current refusal to accord charitable status to the Plymouth Brethren and recognise Public Benefit is difficult to comprehend. Why have the Plymouth Brethren again been singled out for refusal?

A few disaffected persons routinely spread malicious stories, generally containing substantial fabrications and inaccuracies. Surely this hardly warrants the Charity Commission's refusal to register a Meeting Room trust? Is this not discriminatory? Other religious groups and churches are understandably feeling quite disturbed as the inequitable treatment could be applied to them.

I would simply ask that you please use whatever influence and powers you have, to prevent charity funds being unnecessarily spent in defending our position. I consider the injustice of this refusal and apparent discrimination to be totally unfair.

*December 2012*

**Written evidence submitted by Richard Dallow (CH 148)**

May I ask you to give very serious consideration to the negative impact on the reputation of this country, if the ruling by the Charity Commission to reject the application by the Preston Down Trust for registration as a charity, which is obviously a grave injustice, should be upheld.

It always appals me that the Plymouth Brethren Christian Church, which has over 16,000 adherents in the UK alone, is so readily, and inequitably, attacked in regard of the practice of separation. Separation is foundational to the position they hold as related to the celebration of the Lord's Supper on a weekly basis by simple believers on the Lord Jesus Christ, who are unequivocally, and unquestioningly, governed by Holy Scripture such as "and, let everyone that nameth the name of Christ depart from iniquity" 2 Timothy 2 v 19 and "but follow righteousness, faith, charity, peace, with those that call on the Lord out of a pure heart" 2 Timothy 2 v 22. It is not in any sense viewed by the Brethren themselves as negative, although as you will appreciate, the Scripture quoted is an uncompromising standard, and can appear too demanding to some.

I am a believer on the Lord Jesus, knowing Him as my own personal Saviour. I do not personally know too many of the Christian brethren in the Torbay area, but I am totally confident from my knowledge of those in Leicester and the surrounding area, that their Christianity is genuine, and sincere, and the public benefit of their presence in the community, totally unquestionable.

The Brethren publicly preach the gospel in villages, towns and cities throughout this country but to my knowledge do not force their way of life on others. Personally, I cannot see the ground that they hold is anything but wholly in accord with the Christian values this country has upheld, and been respected for, for centuries.

For the Charities Commission ruling to be upheld, and then transferred on to all the, presently, Charitable Trusts belonging to the Plymouth Brethren Christian Church is an unthinkable scenario, but at this juncture, frighteningly possible. We are aware of the oppression, and persecution, of Christians in other countries, and maybe feel it is out our control to do anything. This unjust discrimination against the Plymouth Brethren Christian Church is being enacted within our own shores, and it is essential that the Charity Commission are reined in before their presumption to rule against the Brethren in this case is, through a further, not impossible, misjudgement, enforced by the Lower Tribunal.

Is there not something that can be done to overrule the decision of the Charity Commission? Something that would restore the confidence of Christians in this country and additionally, and not unimportantly, spare the Brethren the immense legal and administrative costs of this case, that they are having to meet out of funds that could otherwise be made available for charitable purposes.

*December 2012*

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**Written evidence submitted by Andrew Melvin (CH 149)**

With reference to the current attitude of the Charity Commission to the Plymouth Brethren Christian Church I have been a member of the church since 1958 and have been involved in helping with the building of several meeting rooms. I have also given donations under Deed of Covenant for the funding of some of these rooms especially my local room. To hear the Charity Commission state that if charitable status is not granted to these rooms they could be claimed by the Commission is unfair when the Brethren have had charitable status for many years. There have been dispute in the past and Court rulings have stated that the Plymouth Brethren Christian Churches are charitable. This does not seem equitable and fair in the light of that status being granted to the Druids.

The fact that evangelical activities ie Street Preaching, giving away of Christian tracts and free Bibles with a meal are not considered as a public benefit surely cuts at the root of our country's status as a Christian country

The costs of challenging an arbitrary ruling are very large and impose a burden on the funds which could be used for charitable purposes.

There are meetings available for right minded persons to attend especially the Gospel preaching on Sunday which is shown on the Notice boards. Small religious bodies may well be concerned as to the interpretation of public benefit as it would apply to their activities. The Charity Commission being the arbitrator of the interpretation despite Parliamentary assurance in 2006 those religious bodies would not be affected.

We certainly feel discriminated against because of how we interpret the Bible and seek to live our lives according to the Scriptures and as believers in Our Lord Jesus Christ. We live normally among other householders, not in a secluded society, working alongside other people and taking an interest in their welfare.

We would appreciate anything you can do to help us in this critical matter.

*December 2012*

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**Written evidence submitted by Andrew Devine (CH 150)**

I note that it was stated in one of your committee meetings by the outgoing chairwoman of the Charity Commission that whilst they are depriving the above church of its charitable status, its assets are to forever remain charitable. What this actually means in point of fact is that the church faces the prospect of having every single one of its meeting halls confiscated.

This is apparently all because just one tenth of our services per week plus one a month is limited to regular attendees. Yet we are ourselves members of the public and what is taught in our churches causes us to be law abiding citizens not giving the authorities any trouble. Surely this alone should be considered as greatly in the public interest.

As a regular attendee who among many others has helped to pay for these churches, I am astounded and filled with dismay that such a preposterously unfair course of action can even be contemplated in a supposedly tolerant civilised country. It takes us right back to the Middle Ages when people were persecuted for their beliefs. I look to you to help deliver us from the Charities Commission's arrant nonsense and consummate folly.

*December 2012*

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**Written evidence submitted by Russell van As (CH 151)**

I am taking the liberty of writing to you as a believer on the Lord Jesus Christ and as one who has had the sovereign favour of being born to God-fearing parents who belong to the Plymouth Brethren Christian Church (PBCC) and as one who feels the injustice of the way our beliefs and way of life are being questioned and attacked currently.

I have, through God's mercy, been kept in the PBCC all my life and am thankful to be living in a Christian country where there is an acknowledgement of the supremacy of God. I support the authority of government as being ordained of God (Romans chapter 13 verse 1) and I seek to obey the laws of the country.

I firmly believe that separation from evil is one of God's great principles as can be shown from the Scriptures which I regard as the inspired word of God. This is introduced on the first page of the Bible where "God divided between the light and the darkness" (Genesis chapter 1 verse 4), through John's Gospel chapter 17 verse 16 "They are not of the world as I am not of the world" and 2 Timothy chapter 2 verse 19 "Let every one that names the name of the Lord withdraw from iniquity" to the last page of Scripture which speaks of what is within and without (Revelation chapter 22 verses 14 and 15). There are many other Scriptures that could be quoted in support of this great truth.

My family and I are members of the public who attend a church service every day of the week and several times on the Lord's Day (Sunday). I feel we are being discriminated against by the Charity Commission who I understand are in a position to not only take over our assets, if we lose our charitable status, but are denying our right to claim gift aid relief on the money we are giving for this purpose.

In addition the PBCC is being forced to divert a substantial amount of time and resource into fighting this case, all of which would otherwise have been used for charitable purposes. There is a fear among other religions that they may receive the same unfair treatment.

I would like to take this opportunity of appealing to you to do all in your power as Chairman of the Public Administration Select Committee of the government of a kingdom that has been known for centuries to uphold fair and equitable treatment of its subjects and which is ruled by a Sovereign who rules by the grace of God and one of whose titles is 'Defender of the Faith', as conferred on King Henry VIII by Pope Leo X and used by every Sovereign since, to ensure that the PBCC is not unfairly discriminated against and that it maintains its charitable status as heretofore.

*December 2012*

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**Written evidence submitted by Ben Sewell (CH 152)**

I write with regard to the charitable status of the **Plymouth Brethren Christian Church.**

It has come to my notice that *charitable status* of the above organisation has been refused. This is a wholly unjustified action and not one that equates in any sense with the whole idea and concept of what is charitable.

Many thousands of pounds and hundreds of hours have been invested in the PBCC for the furtherance of Christianity over the years and there was NEVER any doubt that it was and is a charitable cause.

The charitable acts of the Brethren would often equal if not exceed that of many other charitable organisations, not only in this county, but worldwide.

Please take whatever action is necessary to ensure that the charitable status of the **Plymouth Brethren Christian Church** that has been rightly enjoyed for many years, is maintained.

*December 2012*

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### Written evidence submitted by Richard Fentiman (CH 153)

#### CHRISTIANITY UNDER ATTACK

##### *Charitable Status of Plymouth Brethren Christian Church Trust in Question*

You would undoubtedly know of the Preston Down Trust having been refused charitable status and we believe that a number of persons opposed to the PBCC have fuelled the CC with adverse historic information about disciplinary proceedings within the church. You may well have received similar reports yourselves. It is quite possible that some such persons have become soured through the loss of social benefits of former days. However they would have justly lost them for reasons of principle save in certain historic cases where a review revealed some mistake in which case this has been acknowledged as a matter of grief.

However this does not impugn the body of truth which the church holds and practices. Our charter for a broken day is second Epistle to Timothy, chapter 2, verses 19—22 and confers the right of dissociation (that is separation from evil) and also very positively the right of association. It is thus that we hold the door open for any concerned believer seeking the truth to join with us in all the benefits of the Christian circle with all its warmth, care and affection. There is a wealth of proof available for inspection to show that the PBCC is truly charitable in its activities and we feel this should be defended and upheld as an established matter.

The grand fact is that the kindness and love to man of our Saviour God has appeared in the giving of His only Son to die for sinners and that the lives and well being of myriads of people have been permanently healed and transformed.

#### THE PUBLIC BENEFIT OF CHRISTIANITY

It is a matter of history that Christianity has brought in its wake huge benefits for the godly and ungodly without discrimination. The attached list sets out some of them of which you will be well aware I am sure.

#### PUBLIC BENEFITS OF CHRISTIANITY

##### *The Big Picture*

1. It upheld the **sanctity of human life**, countered the cruelty and sordid brutality of the ancient Greek and Roman world in which human life was so cheapened in abortion, infanticide, abandonment of infants and gladiatorial sport.
2. Promotion and elevation of **purity and morality**, the dignity and sanctity of the **marriage institution, husband and one wife**, and parental rights and responsibilities and the **family institution**.
3. **Charity and compassion**, leper homes, hospital and health care, medical nursing.
4. Respect for personal integrity, truth, property rights and individual freedom.
5. Elevation of education
6. **Scientific investigation** liberated by Christianity
7. The due process of law requiring **two or more witnesses**, justice for all, **innocence until proved guilty**.
8. The Christian **work ethic**, individual responsibility, the dignity of labour and **injustice of slavery**, the profit motive **honourable**, economic freedom and prosperity
9. Women receive freedom and dignity
10. **Anglo Saxon democracy** and the **American constitution** underpinned by Christian values, enormous benefit of liberation from dictators and US magnanimity in rebuilding Germany and Japan after World War II
11. After centuries of cruel tyranny **religious toleration** realised in the Western world.
12. **Freedom of speech** combats oppression and political correctness as a tool of subjugation as in Russian communism

All these benefits can be ascribed under God's hand to Christianity in the Western world.

Also in **tribal Africa** it has been recorded that Christian conversion of natives has emancipated them immensely when all other efforts have failed.

Conversely in **Russia and China** where Christianity has been cast off there have been dire results indeed.

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**DAMAGE LIMITATION**

*What disturbs us is:*

1. Our **whole way of life** is under menacing threat of annihilation together with our **property** and righteously appropriated **funds**.
2. Moreover this could well extend to embrace **all Christian churches** and members of the public are aware of this at least to some extent.

*Certain questions require an answer*

- Has not the Charity Commission **gone off the rails**? They seem to be in denial of the immense **Christian heritage** with which this country has been endowed.
- Is it just and equitable to grant the Druid Network charitable status and refuse PBCC? Is there not a **perversion of justice** in these proceedings?
- Why does the CC pick on Preston Down and why do they not deal straightforwardly with the matter, prevaricating all the way, if it is not an **engineered persecution** of one particular group?
- Why is the Charitable Commission not directly answerable to Parliament? **It has too much power**. That power should be wrested back and put where it belongs in the hands of Parliament.
- The world looks to Britain for a lead on matters of **religious toleration** and this would have been so since the Act of 1869 and the prosperous and peaceful eighteenth century. Is this all to be thrown overboard for the sake of some humanistic whims?

We earnestly appeal that the CC should be brought to book on these issues raised and that due consideration should be given to the weight and scope of the whole subject.

*December 2012*

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**Written evidence submitted by Cedric Dennis Fairweather (CH154)**

I have been employed by a Brethren family firm since April nineteen ninety four. I had dealings with them by way of procurement for the company that I worked for, for several years prior to that. By association I know of and have contact with a considerable number of other Brethren firms. They all conduct business in an honest hardworking manner with great consideration for the non-Brethren staff, suppliers and customers. In my opinion the rest of the business community would learn well by following their work ethics.

It is alleged that they live” in gated communities”. I guess likened to monks in Monasteries. This is far from factual. Christian Brethren have good interaction with the community and they employ non Brethren staff in positions of great trust. Eating and socialising does not occur between them and non-Brethren but that’s not what I would consider either unusual or different from other religious groups.

It is a big mistake to liken Christian Brethren to the Amish. Brethren mix with the rest of the community and encompass the “Modern” way of life with the use of technology and communications.

Brethren are normal friendly people. The children and young people are very well educated, well versed in business techniques, kind and considerate, and show great respect.

*December 2012*

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**Written evidence submitted by Gordon and Laura Fleck (CH 155)**

As joint members of the Plymouth Brethren Christian Church we write to express our concerns with regards to a feeling of suppression and injustice which is prevalent right now.

The Charity Commission we feel need a thorough review of their charities assessment process. How can they say with confidence that Druids are clearly showing a Public Benefit and give a 21 page report to justify their decision? The Preston Down Trust application was rebuffed with a one page letter! What can be more of a benefit as we portray to all society the Mission, Glory and Beauty of Christianity? This is undoubtedly a benefit in its own right to all mankind, as well as many other beneficial interactions with the wider community. Testimonials include those from our local state school and those we live along side only give clear evidence that the Plymouth Brethren Christian Church is clearly a public benefit. How will this in time impact other religious groups? How could the Charities Commission substantiate that this is not the thin edge of the wedge? Which religious group could be next?

A huge concern to us is the costs, monetary and time, that are being incurred with this legal defence. These funds could be used to benefit the wider community and other benefitting charities. Whilst reference has been made sympathetically from those within the Charities Commission, never the less, these costs will be irrecoverable. Surely this is unfair, other charities could possibly face a similar inquest, would they be able to meet these expenses? We can only express our grave feelings of being singled out discriminatively with no solid evidence.

We trust your full consideration is given to the above in order to arrive at a resolve of the charitable status of our church.

*December 2012*

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**Written evidence submitted by Arthur and Rachel Pallister (CH 156)**

My wife and I would like to respectfully request that you would consider our concerns with reference to the Charity Commission's act of singling out the Preston Down Trust Charity for refusal of registration as a Charity, refused on the grounds that they do not show sufficient public benefit because of the Brethren's doctrine of separation and exclusion of non-members from participating in Holy Communion. We would like to make some points as follows:

1. The Brethren do not announce arrangement of this sacred Holy Communion and remembrance of Christ, as attendance is according to personal exercise of each responsible member whereas every other meeting or service of the Brethren is prearranged and announced every week. I can verify this fact as I personally conduct verbally the announcements of meetings at our local church in St Austell, Cornwall each week.

2. We know that there is a clear unwarranted discrimination by the Charity Commission against the Brethren despite the new CC Chairman's own denial of this allegation.

3. It is also obvious that the Charity Commission has been directly influenced by persons who still retain negative opinions formed from malicious publications circulating, anti-Christian websites and misunderstandings from the past.

4. If the Charity Commission action of deregistration resulted in the Brethren losing charity assets then all donations made to date by my wife and I will be required to be returned to us with interest. Surely this CC action is a travesty of justice, unreasonable, unfair and cruel when persons have given money, labour, advice and succour to the good causes administered by the Brethren. We have a basic human right to give charity to whom we will without interference or removal of the subject in need of that giving or donation.

Look forward to your response to the above concerns.

*December 2012*

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**Written evidence submitted by David Hyland (CH 157)**

My name is David Hyland and I currently work for a company called Azure, based in Norfolk which is owned by a member of the Christian Brethren community.

My letter is in regard to the Charitable Status for the Christian Brethren which is currently under threat by the Charity commission.

I myself am not part of the Brethren community but have been working for this company close to 3 years and feel very much part of the working team every day at work. I myself am Irish and one day I knocked on the company's door enquiring about any availability on work and was told to call back with my C.V the following day, I handed my C.V in the next day and 1 week later I received a phone call to attend an interview. The interview went well and was offered a job within the company. I know for a fact on 1<sup>st</sup> hand experience that other companies that are Non- Brethren have laughed me out of the building when enquiring about employment. Since working for the company I have been treated like everyone else within the company, Brethren or Non- Brethren and have an excellent relationship with all of the Brethren people that work for our company ranging from the partners of the company to the warehouse people. This is an excellent organization to work under and feel very privileged in doing so.

I really think this is extremely unfair in an attempt to remove the Charitable Status from the Christian Brethren as not only do they give employment opportunities to people from outside of their own community, but for what they do in support of emergencies such as fires, flooding, earthquakes etc. Also I would like to mention the charitable support for the general community through Non-Brethren charities such as the RNLI and various different cancer research charities.

I feel it necessary that the Christian Brethren keeps their charitable status as they benefit the **WHOLE** community every single day wherever in the world that needs a helping hand.

*December 2012*

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**Written evidence submitted by Phill Chatwin (CH 158)**

I am writing to you regarding the Plymouth Brethren Church in St Austell, Cornwall. My employer over the past four years, Mr Rob Furse has mentioned to me his concerns that the church may be about to lose the charitable status it currently holds, and has asked me to email you in their support.

I am just an employee of Mr Furse, I have no connection with the church myself. I am aware of the good work they do in the community. They have recently held an open day offering free lunches and access to free bibles and literature at their church. I am also aware that, during the recent floods, they offered their services voluntarily in the clean-up operation to local affected businesses.

Personally, I am involved as volunteer at Mount Edgecumbe Hospice (part of Cornwall Hospice Care) which involves me having to leave work early on the days of my shift. Mr Furse has not only encouraged me in my commitment to this charitable work, but pays my wages for a full day's work, even though I leave early.

I have no hesitation in writing to you to confirm my support for the work that the Furse family are involved in at the church. They are a committed and hard working family doing excellent work in the community, doing something that clearly they passionately believe in.

*December 2012*

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**Written evidence submitted by Nick Randall (CH 159)**

I have been carrying out telecommunications work for many businesses owned by members of the Plymouth Brethren Christian Church for over 26 years. I was brought up and attended school in the same village as members of the Brethren so I know them extremely well.

In all my dealings with the Brethren, I have found them all to be very pleasant and upstanding members of the public. They are very truthful and honest people and would help out anyone in need.

I understand that the Charity Commission are turning down the charitable status of their meeting halls and would ask you to urge the Charity Commission to rethink their decision please. The Plymouth Brethren deserve charitable status.

*December 2012*

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**Written evidence submitted by Parwinder Singh Rai (CH 160)**

I have worked for over 26 years at Blackdown Growers (owned by a member of the Plymouth Brethren Christian Group), and enjoy working for this company.

I am of the Sikh faith, and have found members of the Plymouth Brethren to show a good attitude to all persons that they employ. They are extremely helpful and have shown a great deal of kindness and support over the years.

*December 2012*

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**Written evidence submitted by Ann Bassinder (CH 161)**

I understand that there is a move to take away the Charitable status of the Plymouth Brethren Christian Church of whom I have some experience.

I am fortunate to be employed in a Company well run by a family within this organisation and not only have I seen them working hard to support a number of good causes both locally and further afield, I know how much help and support they have given one of my colleagues who has found herself in a very difficult financial situation after a failed hospital operation.

I know also that their work is not just financial but also has a hands on approach helping others in difficulty during recent storm conditions.

It is most important that their Charitable status is upheld and they are allowed to carry on the good work that they do without further hindrance.

*December 2012*

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**Written evidence submitted by Terri Hazard (CH 162)**

I write with regard my experience of the Brethren Community after hearing of the matter/dispute at hand regarding their status and views within society.

I have worked at Andway Healthcare for just short of a year, where the owners/directors and many of the staff are of the Brethren Faith. I myself share a core Christian belief system although I would not consider myself religious in my day to day living.

I have found the environment to be the most supportive and understanding of my working history. I have witnessed staff members not of the faith treated with tremendous generosity, flexibility and support of character in times of need or strain to their personal lives and through issues with illness. Always approachable and interested in any staff members' ideas to help improve and grow the business, asking non Brethren staff to participate in meetings, marketing and representation of the company. There is certainly no uncomfot, segregation or prejudice felt in the working environment, we talk, joke, laugh as you would in any office/warehouse environment and to be a visitor you would not feel or see anything different to any place of business. There are basic rules or requests made by the faith but again these only reflect that standard to any professional environment in my experience.

I am happy and comfortable in the workplace, I feel supported and accepted regardless of background, I have been made to feel welcome from my very first day and it would seem very much a shame to think that a lack of understanding or presumption could impact negatively on this community.

In summary the Brethren faith appears to be a strong support system based on shared beliefs and moral grounding no different to that in other faiths which are popular and openly excepted.

I hope you feel my thoughts are helpful; an outsider to the faith, with unbiased religious views and take them into careful consideration to aid any decisions made for their future.

*December 2012*

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**Written evidence submitted by Dean Williams (CH 163)**

I have worked for six years at Blackdown Growers (owned by a member of the Plymouth Brethren).

In these six years, I have never encountered any problems with the family run business. The family are committed to their working lives and keep personal issues outside of the workplace. It has been a pleasure to work with the family and I hope to continue for many years.

*December 2012*

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**Written evidence submitted by Sarah Bayley (CH 164)**

I am writing to you in concern with the charity commission's decision to remove charitable status to the Plymouth Brethren Church.

I have worked for a company owned by a family who are members of the Plymouth Brethren for nearly two years and have never worked for a family so caring for their work force. As an example of the thoughtfulness of this company when we had a staff member who was suffering with family illness and bereavement they offered this employee support and kindness far beyond what was required and gave this employee money towards helping the family through the hardships that they faced. This I feel is just a small example of how they have helped out someone outside of their religious group and have reached out to a member of the wider community.

I myself am aware of an occasion recently when the member of the Plymouth Brethren helped out communities. Very recently when Devon and Cornwall suffered from severe flooding the Plymouth Brethren in my area were on hand to provide support to many towns and villages. They helped out providing tea, coffee, food and blankets to householders who were affected They were even mention on the social network Facebook by a police officer for St Austell, thanking and praising them for all their help and support and the rapidity that they were on hand to help out their communities. I am aware that several of the members from my office alone where helping during this crisis. I can only heap praise upon them for this selfless act and can only imagine how thankful that the home owners who suffered through the flooding were grateful of their support.

I am aware that the members which I work with are very dedicated to their church and although they have been made out to be an exclusive group I can have never found this to be the case. We have all in our office have been invited and welcomed to go to open days, and I know that these invitations have been passed out to the wider community encouraging people to visit the halls in which the brethren worship.

Having looked into the one of the charity essential as described on the charity commission website I see there is a page dedicated to the advancement of religion and what the charity commission requires to achieve charitable status. Having worked with members of the Plymouth Brethren and having asked many questions of the member who I have been privileged to work with I cannot see how they do not meet this criteria. The

work that they do in the community is for the benefit of the public and not just for their members. I believe that they are an important part of the community and have as much right to claim charitable status as any other religious group.

I sincerely hope that this wholly unjust decision can be revoked and that the Plymouth Brethren are allowed to receive the charitable status that is justly deserved for them so that they are able to continue their good work and are able to offer their valuable help and assistance to their communities.

*December 2012*

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**Written evidence submitted by Nigel Pinkawa (CH 165)**

I have been employed for many years in a company that is owned by members of the Plymouth Brethren and I would like to say that some of the statements on your website concerning the Plymouth Brethren are quite laughable and have probably been written by people wholly unaware of what the Plymouth Brethren really are.

They are devout Christians and believe that they are on earth to do God's work.

I have been invited to their church on many occasions and have always been made very welcome whenever I have had to visit any of them at home.

The members that I have met are generally calm, placid and non confrontational.

They have never tried to make me join them nor have they ever forced their beliefs on me, they have always treated my family with the utmost respect.

*December 2012*

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**Written evidence submitted by Kevin Beck (CH 166)**

I have been employed by a Brethren company for the past two years, as a warehouse manager and work with a further three non brethren employees. I was also employed by another Brethren company over 20 years ago.

I understand from recent press coverage that questions have been asked regarding the charitable status of their church, which is disappointing as I have heard of and witnessed the generosity and kindness shown by them.

I have always found them to be good employers, who treat their staff fairly and with respect.

*December 2012*

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**Written evidence submitted by Tim Doouss (CH 167)**

As a Trustee and active member of my local Plymouth Brethren Church I would like to register my concerns over the current ruling that has been issued by the Charity Commission.

That the Christian church building for which I and my fellow Trustees are responsible could be the subject of repossession is totally reprehensible.

How on earth the Charity Commission arrived at their decision is beyond me; they have either been misinformed at best or acting on an oppressive hidden agenda at worst.

What I find most astonishing is the presumption to try and "balance" between "negative public benefit" and "positive public benefit". How do you measure these? What criteria do you use? You could have the situation where a small amount of public benefit qualifies and a large amount does not, due to the so called requirement to "balance" the benefit. Where is the fairness or logic in this?

I am also concerned for all other Christian and faith groups that are active across the country; how are some of these going to be able to stand up against the draconian might of the Charity Commission? Indeed the very distraction and cost of just proving their case will be very detrimental to the essential purposes of these organizations.

When will the Charity Commission wake up and realise they have got it wrong?

*December 2012*

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**Written evidence submitted by Fiona Currie (CH 168)**

I am writing to you as a fellow Conservative & as a citizen of the United Kingdom regarding the Plymouth Brethren Christian Church, especially the shoddy treatment being metered out against a minority religious group, who from my dealings with them want nothing more than be allowed to worship in their own churches & feel safe to do this in what is ostensibly a Christian country. In the 21st century we all know how important tolerance is, not only on religious grounds but also on cultural grounds & I cannot understand why a law abiding community is being singled out in such a way, that they are made to feel ostracized in a country renowned for its alleged ability to make all races & religions welcome. Or, is that any religion except Christianity?

Why are the Plymouth Brethren being singled out (or should I say persecuted) in this way? In my dealings with many members of this Christian Church, I have found them to be engaging in so many ways, & interested in interacting with non Christians on matters not connected with the Church. We have followed their children's fund raising schemes for not only their local hospitals & community based projects, but also helping out with Christmas parcels to our very worthy front line troops. I wish that I was as involved with my community like this—perhaps they are setting a good example. Whenever we have helped with their fundraising, a wonderful thank you letter has always been enclosed, with a photographic potted history of their children's endeavours.

Please do not waste any more of our hard earned tax payers money trying to take the Brethren's churches off them, together with their charitable status. When we see on a daily basis the hate preachers allowed to reside in our country—what justification do you have for such intolerance against a peaceful Christian community, who want to be allowed to reside in our country & abide by our laws. Which minority religious group will be next, if you succeed in stripping the Brethren of their charitable status? As a non Christian I feel that you are welcoming anyone in to our country providing they are not a Christian. I would also like to know what justification you have for granting the Druid sect charitable status whilst trying to strip the Plymouth Brethren of theirs.

Do I continue to support the Conservative Party, or perhaps I should look to other parties who hold the values of Middle England dear? Perhaps you should afford the Brethren some "respect" as George Galloway advocates in Bradford for the Muslims.

*December 2012*

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**Written evidence submitted by Alan Cheeseman (CH 169)**

May I introduce myself my name is Alan Cheeseman I have been associated with members of the Plymouth Brethren Christian Church for ten years or more. At these times I delivered frozen food to many of the Brethren families on a regular basis getting to know the families very well.

I have been employed by members of the brethren now for the past two years since the company I had a franchisee with "Eismann UK" went into administration 2010.

Bruce Lynes a member of the Brethren was one of the families that I had delivered to and I was aware that they had a warehouse facility and enquired if there were any vacancies. On contacting him and explaining the situation within four days of their seeming to be no hope they were at hand to aid and assist me at this very stressful time which led to my current employment with them.

On commencing my employment I discovered that there are eight non-brethren employees.

I have found the Brethren to be the best employer I have had in my 50 years of working life they are always on hand with advice and assistance no matter what the situation. On a personal note they assisted me in obtaining a Solicitor to advice me through the Franchisee law after the administration at no cost to me.

They provide food and beverages at no cost to all of the employees on a daily basis which in these times is unheard of.

As employers and as people they are a truly remarkable individuals but as a Brethren they have the core values that are much lacking these days in the community.

*December 2012*

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**Written evidence submitted by Sean Pearce (CH 170)**

Being employed at Bradleys Metal Finishers in Ipswich and having spent several years working alongside members of the Brethren community I have personally witnessed the positive contributions to society on many fronts.

From an employee perspective, staff are treated with honour, integrity, honesty, loyalty and, above all, fairness & decency prevails.

I have noted on many occasions when Brethren community staff have used their personal annual holiday to support their numerous charitable deeds and I have personally assisted in loading many boxes destined for charitable destinations, our company vehicles are regularly made available to assist in any good cause.

Given certain aspects of society, I am hard pressed to understand why some would even question their charitable status when the Brethren community are simply trying to do some much needed good in this world. I am humbled & honoured to work alongside members of the Brethren community.

*December 2012*

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**Written evidence submitted by Martin McDonagh (CH 171)**

I feel I am obliged to write this letter to yourselves in relation to the review by the Public Administration Select Committee (PASC) and the removal of charitable status from the Plymouth Brethren Christian Church.

I am not a member of their church and never have been, however as a Chartered Accountant I have acted on behalf of a number of their businesses for well in excess of 10 years.

During this time I have had dealings with a large number of the local Plymouth Brethren Christian community and I find them and their work ethics to be of the highest standing.

They are a community that has very strong moral standards and ethics both in their working life and privately and it has been a pleasure to deal with them.

Their fundraising and volunteer work both within the community and externally is extensive and wide ranging. They have very deep strong Christian beliefs and promote these beliefs in public, however never have I felt that these beliefs were being imposed upon myself, moreover I consider the way this community conducts itself to be an example for everyone.

I have had the opportunity to present a careers talk to the members of the community's children and I found them to be extremely well rounded and polite young adults who are ready to move out into the world of work whether that be within their community or outside it.

I find the removal of charitable status from an organisation such as this to be an unfathomable decision and hopefully this will be reversed.

*December 2012*

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**Written evidence submitted by Tony Dent (CH 172)**

I am writing to you in support of the members of the Plymouth Brethren Christian Church, I have worked as a workshop foreman for nearly two years for Trevor and Kelvin Barry who are both devoted members, The company is family run and provides a good number of jobs for local tradesmen.

I can witness on a number of occasions that their attitude is one of care and always ready to help others in time of need, although they have very dedicated views as to right and wrong, they are very considerate to other person's views.

I have had two recent incidents outside of work where they have helped or offered to help. One being a misunderstanding with the Police, and they offered to help me by supplying character references etc.

The second time was during a difficult time in my life resulting in a split in marriage; they supported me through this and also lent a large sum of money to enable me to put down a deposit on a temporary house.

I believe their way of life and kindness based on their beliefs, is a benefit to all. I am very glad to work for an honest, upright & understanding family.

*December 2012*

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**Written evidence submitted by William G Hathorn and Peter Trevvett (CH 173)**

We introduce ourselves as longtime members of the Plymouth Brethren Christian Church (PBCC) who have followed the events regarding the PBCC and the Charity Commission with considerable interest, and have also watched the meetings of the P.A.S.C. on occasions where the question of charitable status has been examined.

We would like members of the P.A.S.C to know that as a result of the publicity the question has engendered, PBCC members are in contact with a large number of persons who have nothing to do with the Brethren, but know of us because they work with or for our members, or perhaps simply have an acquaintance with us as neighbours, or members of the general community. These people are indignant about the treatment the PBCC has received from the Charity Commission and many want to know where to write to express their views.

We have suggested to some that they make their views known to the P.A.S.C., especially since you are already publishing statements from persons who have a negative view of the PBCC, but we have only done this to a relatively small number, perhaps 20 or 30, so that you are not overwhelmed with correspondence. Of course many persons may also write to you direct without even approaching us.

We wanted to let you know that approximately 800 of these sympathetic persons are involved, who are not members of our community, so although you may receive only a relatively small number of letters, please be aware that these are just a sample of the strength and extent of opinion that actually exists in the general community.

We would also like to thank all members of the P.A.S.C. for their careful consideration and analysis of these difficult and sensitive issues. Our own wish is that they can be resolved quickly, and without prolonging the dispute.

*December 2012*

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**Written evidence submitted by Paul Grange (CH 174)**

I am writing to you because of your current evidence gathering on the Charity Commission.

I work for a member of the Plymouth Brethren Christian Church and feel that I should express my experiences—I am not myself in their church.

To find work I travelled 55 miles and now like it so much I am thinking of moving down nearer to their premises.

Having worked for the company for a while I realised they were different, and found out they were Christians. I asked for a Bible and realise that the Christian faith makes a big difference to person's practical lives.

My employer brings up his family in accordance with the Bible and it is refreshing to work in a safe, honest and bad-language-free atmosphere.

How can the positive effects of their lifestyle not be for public benefit?

I urge you to take this into account in your deliberations.

*December 2012*

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**Written evidence submitted by Peter Smith (CH 175)**

I understand that there is a current debate concerning the charitable status of the Plymouth Brethren movement and I would like to express my views on this matter.

For 22 years I was a manager within a Plymouth Brethren company based on the outskirts of the City of Norwich, now, having reached retirement age, I have become self-employed but continue to offer the company my services and have now worked with them in total for almost 25 years. I would note here that the change in status from employed to self-employed was my choice and not forced upon me in any way, I could, if I had so wished, have continued as a manager of the company. During my time with this company I have been impressed by their business ethics and honesty in their dealings with their employees and staff. I have been a witness to their many acts of kindness and support to employees who have been in difficulties and to their donations to various organizations within the local community. I am aware of their outstanding loyalty to employees such that during my 25 years with them only one employee has been made redundant and no employee has been dismissed.

It has been suggested in debate that the PB organisation is a "closed" organisation; on the contrary to my knowledge members of the PB actively seek new members to their church by taking their word onto the streets. They demonstrate their faith by preaching in public and by distributing leaflets with a moral story, they welcome people to join them in Christianity.

PB's are family orientated and I have had the pleasure of seeing the development of four generations of my boss's family, his sons, as young family men who are now in charge of a thriving business, their children, some of whom I work with, and now their grandchildren. All of the children are respectful and a credit to their hard working parents and their integration into the everyday life of an engineering factory shows that they are not closeted within a "closed" organisation

I personally am not a Christian and I believe that the family are aware of my views, however that has never been an issue in either business or personal activities and we enjoy a relationship that is built upon mutual respect and tolerance. During my years with them I have witnessed them building their own meeting house, a real labour of devotion, and the development of a school that, to the best of my knowledge, is thriving.

The Plymouth Brethren are an international church with a healthy interchange of ideas and from time to time has an interchange of young people to further their education and to enable them to share life with different communities

I note that the charities act of 2011 defines a charitable purpose as one that falls within a list of thirteen purposes that have public benefit. It is shown that the Plymouth Brethren are an organisation whose purpose is to promote the advancement of Christian Beliefs (noted on the list of purposes) and morality within society. They have been shown to be "open" rather than "closed". They are developing the education of children within their school (noted on the list of purposes). They benefit society by their ethical approach to business and by their loyalty to their employees. They benefit society and the local community by their charitable donations. Surely then to deny them charitable status is a gross injustice.

*December 2012*

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**Written evidence submitted by Simon Ellis (CH 176)**

I am not a member of the Plymouth Brethren but have been asked to write about my personal experience of the Plymouth Brethren as a businessman and a member of the Surrey community.

As the owner of a local Surrey business for the last 18 years, I have dealt with many businesses owned and run by Brethren members for the last seven years. We have always found business owners and staff to be honest, friendly and extremely trustworthy, we have over the years built some very strong relationships with members of the Brethren business community.

Furthermore as a resident of Redhill I have come across other Brethren members within my community, both in my local residence (I am co-chair of the residents committee) and at my daughter's primary school (I am an active member of the Parent Teachers Association). Again I have always found members of the Brethren church and their children to be very friendly and active parts of the local community.

In conclusion in my experience of dealing with Brethren members over the years have been nothing but positive.

*December 2012*

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**Written evidence submitted by Simon Coleman (CH 177)**

It has come to our attention that the Charitable Status of the Plymouth Brethren Christian Church (PBCC) is being called into question.

We have dealt with many members of the PBCC for many years, during which time we have found the PBCC and its representatives and members to be honourable and ethical in every way.

It beggars belief that an organisation with a quality presence in the general community, working in a non-discriminatory manner, that consistently provides voluntary services at no cost to the tax-payer, such as:

1. Open Air Preachings handing out gospel tracts.
2. Provision of food for the homeless and many other examples of community work.
3. Services such as path clearing and other local environmental improvements.

could be challenged as being anything other than of general and charitable benefit to our society as a whole.

It should be considered that when the Government is under extreme pressure to re-build a broken society, created by the greed of many, apparently without legislation or ethics that such an action itself is not ethical and could be considered discriminatory.

How is it that an organisation such as PBCC should be singled out, when their aim is clearly to fill the void left by others? It should be considered that PBCC achieves charitable status by giving both time and money, by way of an unconditional and voluntary approach for the benefit of society.

Our current generation and future generations will benefit from the voluntary actions of the PBCC, the same cannot be said for the perpetrators of current social and economic problems of huge proportions.

The questioning of the right to the Charitable Status of the PBCC is a terrible injustice. The idea of an ethical and giving organisation that is seeking a better life for all, (in society ravaged by brokenness) being treated this way, is frankly disgusting.

Why should the PBCC be forced to waste large amounts of money on legal defence of such a challenge, when the money could be going directly to charity as it otherwise would?

*December 2012*

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**Written evidence submitted by John Preus (CH 178)**

I am appalled to learn that the Charity Commission are treating the PB meeting houses any differently to those of other religious charities.

I have been working in this part of Norwich for 45 years as Senior Management and sometime Headteacher of a 1,500 Comprehensive School and have known the PB for some 10 years. During this time I have come to admire the impact of their lives in the local Community. They are family orientated, educate their children to outstanding level in PB schools, and employ hundreds of local people in the continuation of their many and varied businesses—some with worldwide exporting connections. They also employ hundreds if not thousands of qualified teachers in their schools.

In the course of teaching in two of their schools I know a great deal about the conduct of several others of their education establishments. Also I have firsthand knowledge of how much they give to local charities and good causes and how involved their schools are interacting with the Community of Norfolk and East Anglia. Using GCSE Citizenship as one example—part of the syllabus is to interact with the community and this usually involved supporting and promoting a different charity each year. Hundreds of children engage in these activities each year.

I have experienced nothing but Christian kindness and sincerity from these moral, law abiding, hard working families who are individually and collectively model citizens of this country.

I cannot believe that the Charity Commission are treating their meeting houses as any different to those of other religious establishments. The CC are going for the wrong people and if there is anything you can do via our truly wonderful parliamentary system to flag this up and stop it I would be very grateful.

I am still doing my bit for our society as a Correspondent of two CofE local charities, served for seven years in the Royal Navy, and have undertaken many voluntary roles during 40 years in this community so I feel I can request this of you

*December 2012*

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**Written evidence submitted by Paul Adams (CH 179)**

I am a Chartered Accountant in practice.

I am not a member of the Brethren but over the last 35 years I have dealt with a number of businesses run by members of the Brethren. In doing so I have always found them honest and trustworthy.

I have also been involved with firms that have helped other businesses who were struggling in difficult trading environments. Saving these businesses has protected:

1. The jobs of those employed in some substantial concerns.
2. The local community by keeping firms going, buying local goods and services.
3. The Revenue by ensuring that VAT, PAYE and other taxes are paid up to date.

I am not sure why the Charity Commissioners should discriminate against the Brethren especially when charitable status has been granted to such people as the Druids.

Please let me know if I can comment in more detail on any of these charitable Brethren activities.

*December 2012*

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**Written evidence submitted by Shaun Briddon (CH 180)**

I have pleasure in confirming that Atom Insurance Brokers have worked with Plymouth Brethren Community members for seven years.

During this time I have had contact with various members and not once have I been “preached” to. In fact, we have held several open discussions about the community, its aims and objectives. I have never experienced any negativity of secrecy. I am not aware, or have been made aware, of any issues with regards to the “splitting up of relationships”.

With regards to trading, this has never hindered or produced any sort of barrier to our relationship and in fact the ethical nature of the community has led me to be able to obtain more competitive quotations on their behalf.

I am aware from conversations with other community members that charitable work has been undertaken in respect of the victims of events during 2012 and prior. Whilst the Brethren do not publish these efforts, I feel that this should be brought to the attention of the wider public. However, I am respectful of your wishes if they wish to not do so.

I truly hope that they are able to continue their charitable efforts and look forward to continuing to support their aims in this respect.

*December 2012*

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**Written evidence submitted by Clifford Hilton (CH 181)**

I write because I am distressed and concerned about the withdrawal of the charitable status of the Preston Downs Gospel trust by the Charity Commission.

I am now 84 years old and first accepted Jesus as my Saviour during a gospel preaching on the night of the blitz on Sheffield. I have therefore some experience of Christianity. At about 15 years old, I came into fellowship with those known as brethren, firmly convinced as a boy that the greatest blessing anyone can bestow on anyone else is to lead him/her to know God as the Saviour of sinners.

About 30 years later, after a mistaken judgement, I found myself in a position where I was not able to gather with the brethren but this did not change my conviction that that was where I should be. When, after about a further 30 years, the brethren contacted me to put right the wrong judgement and I was able to resume my convictions, I found it impossible as a forgiven sinner myself to hold any criticism or hatred against anybody. Hatred is a strong feature in the world at large, but is totally foreign to Christianity.

In looking over the history, therefore, I cannot ignore the way over the years the monarchy and successive governments in this country have had a due regard for God. The Bible known as the “Authorised” version was so authorised by the then King James. I remember the broadcast to the nation which King George VI made at one year end, where he said “Put your hand into the hand of God”.

At the end of the war, I remember Prime Minister Churchill moving in the Commons “That this House repair to church to give thanks to Almighty God”. I also once briefly visited the small church in Scotland to which our present Queen goes when she is at Balmoral. Surely all this has been for the good of the nation and I pray frequently for the Monarchy and Government for this reason.

Much more could be said, for example the service of remembrance just recently passed for those who laid down their lives; the representation at the cenotaph bearing witness to it. Similarly, the YMCA (Young Man’s Christian Association) is remembered by thousands who were in the forces and were helped in many ways on a Christian basis by it.

If our local gospel hall loses its charitable status on the same basis and its assets are taken over by the government, where will my wife and I find Christian fellowship in our closing years?

With thanksgiving to the God who forgives repenting sinners through the blood and work of Jesus.

*December 2012*

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**Written evidence submitted by James Talman (CH 182)**

It has come to my attention late today that the charitable status of the Plymouth Brethren Christian Church (PBCC) is being threatened by the Charity Commission.

I wish to raise my strong objection over such a possibility. I have had the pleasure of dealing with Companies run by members of the PB for over 20 years in the building products sector. In the construction industry which unfortunately can have the impression at times of lacking professionalism and integrity, they stand out as beacons of good practice and the old adage of “my word is my bond”. Oh I wish we could say the same of bankers, journalists and dare I say politicians.

In my experience those who oppose such groups often don't have a true understanding of how they operate and have their own preconceived ideas. I can only speak as I find. I have always found PBCC business associates to be open and modest of their beliefs, respectful of other opinion and above all excellent company. I have found their companies to be staffed by both PB and non PB believers.

This is a typical example of political correctness of attacking “an easy target”. I leave it to others to advise on the good work done in the broader community by the PBCC. Rather than challenging the PBCC, the Commission should be engaging with the PBCC on using some of its best practice in charitable work—it could learn a lot.

*December 2012*

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**Written evidence submitted by Valerie Evershed (CH 183)**

I have been happily with the Brethren all my life (age 71) and am very distressed at the unfair way the Charity Commission are treating us.

It seems incredible that a mainstream Christian group is having their charitable status removed. We only seek to live by the truth of the Bible. (Every scripture is divinely inspired 2 Tim 3:v16) Has not freedom of religion long been established in this country?

I would like to make a few points.

We have not changed: why remove the charitable status we have had for years?

I remember the violence connected with the Druids; yet they are given charitable status and not us.

We have had to spend a lot of time and money on a booklet to demonstrate how we benefit the public. Have the Druids had to do this?

Have other churches and religious charities had to do this to retain their charitable status?

We build and maintain our meeting rooms with much labour and sacrifice. Over the years my husband and I have donated a lot of money. Is it fair that these halls could be taken over by a sectarian organization, not subject to parliament, who is attempting to downgrade Christianity to the level of any other grouping? We need to see that the very concept of charity comes from Christianity.

This attack may have started on us, but the thrust of it is an attempt to set Christianity aside. Great Britain is a Christian country and we want it to remain so.

I trust you will support us in our fight to keep our charitable status.

*December 2012*

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**Written evidence submitted by Peter Morton (CH 184)**

As a member of the Plymouth Brethren Christian Church, I have been following the saga of the Charities Commission's refusal to register the Preston Down Trust as a charity with anxiety and alarm. This is certainly not the first time where a minority Christian group has been discriminated against.

Almost 400 years ago, the Pilgrim Fathers sailed from my home town of Southampton because the government of the day refused to accept their right to worship God as the Holy Scriptures directed. They found a new life in a country where freedom of worship is recognised. The prosperity of the United States as a world power is directly attributable to the recognition and acknowledgement of God's rights.

My parents both left the mainstream churches of which they were communicants as they felt the teachings of Christ and His Apostles were not being followed. They set out to find a church where this was so and I have been thankful that their commitment in finding the Plymouth Brethren Christian Church over 60 years ago has been honoured.

I cannot understand why a group of Christians who seek to lead their lives according to the direction of the Holy Scriptures should be singled out in this way. It bodes ill for the future of this country if this decision is allowed to stand.

December 2012

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### Written evidence submitted by Lance and Reeva Tunley (CH 185)

The enquiry as to the charitable status of the PBCC has been followed with the keenest interest—with profound confidence and appreciation in the way it is being sympathetically and thoroughly debated in such an orderly fashion.

May I be permitted to respectfully bring to your notice a few salient points, which have been of concern to me and my immediate circle? I venture this because my grandchildren are the **seventh** generation to be participants of the Holy Communion as practiced by the Brethren since the beginning of the movement in the 19th century.

Those were the magnificent years of Britain's ascendancy universally and the years when England was avowedly a "Christian" country. The parallel is important for the simple reason that Christianity was the bedrock of Britain's greatness—it was, in short, of immense public benefit as God upheld the passage of British arms and spread the Gospel along with the "Parliamentary concept" from the Mother of Parliaments to so many lands!

Through the centuries England has been the shelter for a great many persecuted yet industrious Christians, such as the Huguenots, from many Continental lands, bringing their many skills with them, which enhanced our Industrial might.

#### MODERN PERSECUTION

Thus to my mind it is an anomaly that in this same England a simple God-fearing, Tax-paying, State-supporting people (we pray constantly for those in Government) are being targeted with what amounts to persecution. What price fought for religious freedom when there is clear evidence of bias, inequitable treatment and the spectacle of a small minority being **forced** to defend Christianity on behalf of every Christian in a Christian land?

It is pertinent, too, that the cost alone in defence of this truth has drained huge sums away from legitimate charitable projects.

#### CHARITABLE GIVING

I also feel personally aggrieved that having spent a lifetime contributing to this charity and, indeed, having set aside from my livelihood amounts every month in support of the Gospel—that now I am threatened with the possibility, that our little meeting rooms and chapels will be confiscated—and given to whom?

Given as a free gift from the Charities Commission to the DRUIDS perhaps, to do what with...?

#### HOLY COMMUNION

The question of Holy Communion is also very relevant. It is by its very nature exclusive. No true believer on our Lord Jesus Christ, be they RC, CofE or Dissenters will question that, as the scripture speaks—"whosoever shall eat this bread, and drink the cup of the Lord unworthily, shall be guilty of the body and blood of the Lord" 1Corinthians 11 v 27. Once this principle is overthrown, none of the existing denominations will escape!

May I in conclusion respectfully point you to a speech by Charles James Fox in the House in defence of religious liberty (1793)

*"...there are those who say...religious liberty...must be modified for the good of society; ...that which is convenient to the State... and on this idea penalties on religion are deemed expedient. This I take to be a radical error..."*

I am prayerful that the committee will be enabled to defend the rights of the minority; which is the noble legacy of our land.

December 2012

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### Written evidence submitted by Stewart Peeb (CH 186)

Re: Public Administration Select Committee (PASC) enquiry into the “Operations of the Charities Act 2006”. With specific reference to the Plymouth Brethren Christian Church in both Oral and Written evidence so far received (as of 12 December 2012)

**Preface**—I would like to put on record that I am a sincere practicing Christian, attending a local evangelical church. I absolutely believe in freedom of religion and I am most certainly not anti Christian, nor am I anti Brethren. I do however seek to speak of fact and truth. Thanking you in advance.

#### 1. Who are the Plymouth Brethren Christian Church

1.1 In written evidence supplied by the PBCC (CH 21), under section 3 they state that the church was “established in 1828 when a number left the established church”.

Then in the Oral Evidence session on 30 October, Bruce Hazell, confirms in response to Q.240 that “*While the word Exclusive Brethren in the 1960s would have been put to us, I think there is a misunderstanding and I would like to clear up that myth..... and we are known as the Plymouth Brethren Christian Church.*”

This concept has been repeated in all the Plymouth Brethren Christian Church written and oral evidence to Parliament. It has also been repeated when they have lobbied MP’s and in briefings to UK Media, and it is not factually correct.

1.2 The declared name of Plymouth Brethren Christian Church was not in fact established, until late 2012, when a large re-branding exercise took place and a new website launched, soon after the notification by the Charity Commission, prior to that they had been known as the Exclusive Brethren, both publicly and by the group itself.

May I draw attention to the following:

1.2(a) The groups previous website [www.theexclusivebrethren.com](http://www.theexclusivebrethren.com) now redirects to the new PBCC website, effective as of 8 November 2012.

1.2(b) The old website can still be viewed via “wayback” on the following link—<http://web.archive.org/web/20110718171429/http://www.theexclusivebrethren.com/>, this is fully operational and sections can be clicked on and used just as if it was actually live online.

1.2(c) Please can I draw your attention to the following attached document in case the above link (in 1.2(b)), to the “wayback” site does not work

**Powerpoint Presentation titled “Previous Exclusive Brethren Website”.** This contains the majority of the old website in screen prints

1.2(d) Please may I also draw the Committees attention to the following attached document regarding the registered name “Plymouth Brethren Christian Church”

**document titled “PBCC New Website Incorporation”.** This contains details of the trademark registration date and the registered name of the church as “Plymouth Brethren (Exclusive Brethren) Christian Church”. It can be viewed on the website -

<http://trademark.markify.com/trademarks/ctm/plymouth+brethren+christian+church/011170024>

1.3 There is no mention in any evidence written or oral, of the huge split in the Plymouth Brethren which took place in 1848 which created two very distinct groups in doctrinal practice, one called the “Open Brethren” (sometimes known as the Gospel Hall Brethren or Plymouth Brethren) and one called the “Exclusive Brethren”. May I draw attention to the following attached documents which help with this somewhat complex history:

#### **Pdf document “A brief history of the Brethren by Ian Mcdowell”**

With particular attention to Chapter 5 on page 27 “The origin of “Open” and “Exclusive” Brethren, subsequent chapters 6, 7, 8 and 10 going into some detail over the History of the Exclusive Brethren with chapter 10 being of particular note.

#### **Pdf document “History of the Exclusive Brethren by D Wright”**

This is a balanced representation by a respected researcher, of particular note are his comments in pages 8,9,10 and 11.

**Pdf document “Exclusive Brethren by The Reach Out Trust”** This is in book form so the pages may jump about. However, it is a good overview of the History of the Brethren and in particular the Exclusive Brethren

1.4 Hopefully the above documents may help with some factual information and the following BBC website link may also build a better picture of the history of this group [http://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren\\_1.shtml](http://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren_1.shtml)



1.5 The new website of the so called Plymouth Brethren Christian Church does not cover any of the History as mentioned above, in fact the contents appear full of spin and gloss. The division in the Plymouth Brethren which created the Exclusive Brethren is not even mentioned.

1.6 One of the ways of investigating to uncover who the Plymouth Brethren Christian Church really are, is to enquire and research their former leaders. These are known as “Men of God” and rule or lead the Exclusive Brethren across the world, the main areas of Exclusive Brethren being Australia, New Zealand, The UK, and the United States and Canada. These leaders are also known as “Universal Leaders”. The documents and highlighted research in the points above, will have mentioned leaders such as FE Raven, James Taylor Senior, James Taylor Junior, J Symington, J Hales and Bruce D Hales, a businessman from Australia who is the current “Universal Leader”.

1.7 The committee should note that the leaders referenced above, are mentioned on the old exclusivebrethren.com website (see 1.2. b and 1.2. c) under the section titled “The Gospel”. However, they are conspicuously absent from the new PBCC website, which in fact mentions no leaders at all.

1.8 No other type of Brethren group, or Bible based Christian Church follows these leaders apart from the “Exclusive Brethren”. What the “Universal Leader” says must be followed, edicts are usually issued via written word which is called “The Ministry”, this is printed in vast volumes, in different colours for each leader, I will refer to this “Ministry”, a little later on.

1.9 One of the Exclusive Brethren’s Universal Leaders was James Taylor Junior. It was he who introduced the “Eating Ministry” which meant that members could not eat or drink with those “outside” of the group, even if they were Christians. James Taylor Junior was at the heart of the biggest scandal in the Exclusive Brethren, the so called “Aberdeen Incident in 1970” which resulted in a large division after he was found in bed with another mans wife and intoxicated during a Brethren church meeting in Aberdeen Scotland. He had been a confirmed alcoholic since he became leader of the Exclusive Brethren, having been admitted to a drying out clinic in the USA around five years previous.

1.10 If the committee wishes to verify any of Point 1.9, can I draw your attention to the following attachments.

**Pdf document titled GBBB short for Goodbye Beloved Brethren.** This is a book written in 1972 by Norman Adams, a respected journalist at the time with the Scottish Daily Express. This book was vehemently suppressed by the Exclusive Brethren and I doubt any inside the group today have ever read it.

**Pdf document titled “Aberdeen Paper”.** This is a newspaper clipping from the Sunday Mail—16 August 1970.

1.11 Please can I draw the Committee’s attention to the following document from the Focus Learning Trust, this is the trust set up by the Exclusive Brethren to operate the separate faith schools for the Exclusive Brethren. This is a document created by them.

**Pdf document titled “Focus Learning Trust—an Overview”.** This document bears a date of 2007. On the very back page can be seen the following statement *“Focus Schools are run by Christians known as The Exclusive Brethren. The Brethren movement originated in the 1820s. There are over 40,000 Brethren, in 19 countries throughout the world. They believe in the Bible as the word of God, and follow its teachings, including those of the apostle Paul. For more information see*

*www.theexclusivebrethren.com This is the only site endorsed by the Exclusive Brethren.”*

1.12 Please can I draw the Committees attention to the following document from the Government Schools Inspectorate—ofsted, published Sept 2011.

**Pdf document titled “Types of Independent Schools—ofsted”.** On page 9 it deals with “Focus Schools”. It will be observed that it is clearly identified that Focus Schools are operated by the Exclusive Brethren and are for the members of the Exclusive Brethren. In addition it is clear OFSTED recognise the beliefs and practices of the Exclusive Brethren, as their statements are very accurate.

1.13 Summary of Section 1.

Who are the Plymouth Brethren Christian Church

This is just a brief look at the history available, but it clearly shows that to imply the Plymouth Brethren Christian Church has existed since 1828 (see point 1.1), is misleading and inaccurate. It also clearly shows that the name “Exclusive Brethren” rather than only being in use in the 1960’s, as claimed by Bruce Hazell (see point 1.1), and rather than being “a myth”, as is implied, it is a name which has been in use since the 1848 division and has been in use up until November 2012, even by the Exclusive Brethren themselves in their own documentation and on their own website !

It is clear there has been and is still being conducted a very clever, but in my view devious PR campaign designed to confuse as to the PBCC’s true identity. There is a view that this is being done to try to hide their terrible history of damage to families and to create the perception that they are either the same as or similar to the “Open Brethren”. All of this started soon after Charity Commission letter of 7<sup>th</sup> June 2012

## 2. *The 1981 Court Ruling (Holmes v AG)*

2.1 In written evidence submission to the committee (CH21) by the Plymouth Brethren Christian Church (Exclusive Brethren) Point 7 states “7 The charitable status of gospel halls was confirmed by the High Court in 1981 [1] . Due to a problem created by the Act, charities are bearing the cost of the same question being decided again”

In written evidence to the Committee the Christian Institute also states the following in Section 17 “In a landmark decision in 1981, the High Court held that the Plymouth Brethren’s Kingston Meeting Room Trust was a valid charitable trust.”

2.2 I would like to draw the Committee’s attention to the following document produced by the Charity Commission detailing this 1981 ruling.

**Pdf document titled “Charity Commissioners Report 1981”.** Of specific reference are pages 12–14 which discuss the detail of the case. Of particular note in this document are the following comments—

2.2(a) Section 22 of the document—“we would not register as a charity or make a scheme for, a trust for the advancement of religion where the doctrines specifically included that of Separation from Evil as interpreted by James Taylor Jnr, ie, the doctrines of the pro-Taylorite group”

2.2(b) Section 27 of the document—“The first question that arose was whether the Brethren were a totally enclosed type of organisation. The evidence, which was not challenged or adversely commented upon”

2.2(c) Section 27 of the document—“The Judge..... said that, although he had not been taken in any detail into the writings of the successive leaders of the Exclusive Brethren”

2.2(d) Section 29 of the document—“The Judge said that this was all the evidence he had concerning discipline and as it came from the Brethren it might very well put the matter in a much more favourable light than it wore in reality”

2.2(e) Section 29 of the document—“No evidence had been put before him concerning very serious allegations which had been made against the Brethren elsewhere and he was not, therefore, entitled to pay any regard to them judicially”

2.2(f) Section 29 of the document—“The evidence was all one way”

2.3 The name Plymouth Brethren Christian Church or the name Plymouth Brethren does not appear anywhere in the detail of this Court Judgement. Yet those are the names being attributed to it now.

2.4 The descriptive words “Gospel Hall” are not mentioned. The words “Meeting Room” and “Assembly” are mentioned. Yet the name Gospel Hall is being used now, that description is what the “Open Brethren” use which are a totally different group.

2.5 The description “Exclusive Brethren” is used throughout the article, yet the Plymouth Brethren Christian Church now say (see Point 2.1) that it refers to them.

2.6 Despite claiming the name “Exclusive Brethren” was only used in the 1960’s and is a myth (see Point 1.1) this judgement was in 1981 at which they gave evidence

2.7 The Exclusive Brethren presented evidence at this 1981 trial which was not rebutted or contested or adversely commented on!. How can that possibly be a confirmed judgment? The Judge at the time had no option but to pass Charity and Public Benefit as he had no other evidence to use. There was no real detail gone into regards the teachings and doctrines of the Exclusive Brethren and the Judge clearly had concerns. In addition there was clearly an awareness of serious misgivings (see Point 2.2.e) but there was no evidence presented.

2.8 Of particular note, now that the so called Plymouth Brethren Christian Church and others appear to be placing such emphasis on this judgment is that the details in the document clearly identify some of their practices, their leaders, and the group as “Exclusive Brethren”

2.9 Summary of Section 2.

The 1981 Court Ruling (Holmes v AG)

It is clear from the details of this judgement that it is far from a settled matter. It can not be possible to place any credibility on a judgement which has been so clearly directed in favour of one side, through lack of rebuttal or confirmation of “serious allegations” The Exclusive Brethren clearly had freedom to direct the judgement their way.

## 3. *“Ministry” and “Separation from Evil”*

3.1 In Oral Evidence given to the Committee, Exclusive Brethren member Garth Christie states the following in response to Q 227 “I am not saying numbers should come into it, but the whole focus of what we do, our belief, our confidence, our guidance for life, is the Holy Bible, the teachings of the Lord Jesus and the apostles, and we try to take that fellowship out into the wider community”

In written evidence submitted to the Committee (CH21) it is stated in Section 4 that “In accordance with our beliefs (based upon the Holy Bible), we practise separation. This is based in a moral distinction between right and wrong, good and evil”

In oral evidence given to the Committee, Exclusive Brethren member Bruce Hazel states in response to Q 234 “I would like to point you to the King James version of the Bible”

3.2 There are many other references and claims to “the Bible is our sole guide” and the responses in the Oral Evidence are of particular note such as the answers to Q 234, 235, 236 and 237.

3.3 It has been mentioned in earlier detail above that the Exclusive Brethren have “Universal Leaders”, or “Men of God”, or sometimes called the “Fathers of the Recovery of the Truth” as it is believed that JN Darby “recovered the Truth of Christianity and the Bible. The Exclusive Brethren interpret and follow the Bible only through the teachings and edicts of these “Universal Leaders” past and present. This is what is really behind the doctrine of “Separation from Evil”, twisting a small verse of the Holy Bible to make certain doctrines fit.

3.4 I would like to draw the Committee’s attention to the following document regarding the so called “Ministry” of these leaders.

Document entitled “Extracts of Exclusive Brethren Ministry” . This will begin to explain some of the basis for what the Exclusive Brethren practice.

3.5 Of particular note in the above document is the following extract.

JT Volume 73 Page 178

Ques Is active faith needed right through the service of God?

JT Quite so. The systems have not got it; that is really the truth. They have not got the service of God, because they have not developed faith; they have returned to the idea of sight, and systematic things according to man’s ways; such as Presbyterianism and Baptists and so forth. They have given up the idea of faith, and they have given up the idea of the Spirit of God. It is a terrible thing to think of, but it is really the truth, and it is making way for the terrible apostasy that is coming in, which the apostle speaks of in the epistle to the Thessalonians

3.6 Summary of Section 3

“Ministry” and “Separation from Evil”

The attached document in this section and the quote above in Point 3.5, are clear examples of the “Separation” from other Christians that is actually at the root of their doctrine and practice. In Exclusive Brethren terms, to leave their group is to “go into the world”, even if you leave to go to another Christian Church, because no other church is right and no other church is free from “iniquity”.

#### 4. “Public Benefit” v Practice

4.1 I would like to draw the Committee’s attention to the following attached documents, the contents of which cast serious doubt as to genuine public benefit. It can not be right for an organisation to claim “benefit” when its doctrines split families.

Pdf document—titled “**Newspaper articles 1992**”

Document titled—“**You Tube**” **Exclusive Brethren**”

In closing there is so much more I can say about this group, but I thank you for your time and allowing me to submit evidence.

<http://www.abc.net.au/4corners/content/2006/s1748441.htm>

Please look at the attached pdf document entitled “JND Bible from EB website”

2. The 1981 Court Ruling (Holmes v AG)

Please reference the attached pdf document titled “Charity Commissioners Report 1981”

#### 5. Practices and divided family

4.1 Please look at the attached pdf document titled “Newspaper Articles 1992”

December 2012

### Written evidence submitted by the Druid Network (CH 187)

The Druid Network (TDN) applied for registration with the Charity Commission (CC) in January 2006. At that time the advancement of religion was presumed to be for the public benefit but that could be rebutted where doubt arose due to unfamiliarity with the applicant. Through research conducted before applying to the CC it was clear that unfamiliarity would lead to such rebuttal, and so a foreword to the Constitution of TDN was produced setting out the basic principles of belief and practice of Druidry as a religious practice. This foreword was used by the CC throughout the application process to request further clarity and to establish whether or not TDN met the requirements for registration.

After nine weeks on the 6 March 2006, and then only following a prompt from TDN, we received notice that the application had been rejected. The reason given was that a paragraph within the foreword led them to believe that Druidry was esoteric or occult, that its teaching are only available to the initiated and that it held secret knowledge only available to the initiated. For that reason and that reason alone the application was rejected. We fully accepted that the wording of the sentence in question could be open to that interpretation but must be clear that their interpretation was in error and taken out of the context of the contents of the whole paragraph. Druidry is neither esoteric nor occult.

This seemed to be an easy point to address and so TDN appealed the decision on the 3 April using the CC's internal review procedure giving clarity to the point they had raised. The response received on the 14 June was that the review process would be postponed indefinitely due to other similar applications that were at time being considered, the result of those which could impact on the application made by TDN. This we objected to in the strongest terms and on the 27 July received a letter that raised questions on the whole of the application and beliefs and practice of Druidry as advanced by TDN. So began a very long journey.

The previously mentioned letter suggested a meeting might prove helpful and so on the 4 October 2006 four of TDN's trustees met with two representatives of the CC at their offices in Liverpool. We left that meeting with a clear understanding that we were dealing with lawyers who had little understanding of the breadth of religions and indeed little understanding of the religions they had already registered. Indeed under the law as it was then there were religious groups registered that did not meet the criteria of religion held by the CC, and when this was raised the response given was simply that these were historically accepted as such. It was increasingly clear that if we were to have any chance of reaching understanding I would need to gain an understanding of charity law as applied to advancing religion; a huge learning curve on my part. The areas for misunderstanding were also clear; though we shared a common language the understanding of the meaning of many words was vastly different. Partly this was due to the Cartesian and monotheistic understanding on which our language has developed. As an example I offer the word "spirit"; to the CC it is something separate from the physical, to Druids it is combined with and wholly inseparable from the physical.

On 30 October we received an email from the CC asking for clarity on points raised during the meeting. At this point it was my belief that TDN was being used as a test case for the development of the 2006 Charities Act, though this was not stated nor admitted by the CC. The 2006 Act had removed the presumption of public benefit and also broadened the definition of religion but in neither instance had it clearly defined religion nor how public benefit of religion could be proven; this was left to the CC to develop using existing common law. We found ourselves in the position of having to explain the foundations of our beliefs together with providing evidence of how this could be considered to benefit the public. It would have been simple at this point to provide the CC with an explanation that could be equated to other established and registered religions, but it was important to us that the CC accepted our true and established beliefs and not some altered or watered down version to suit the then current understanding of religion.

I have been asked to concentrate on Public Benefit and so will omit much of the questioning that related to the definition of religious beliefs, though I am happy to provide clarity if requested to do so. However, one aspect of religion as understood by charity law is the requirement that it must have public character and be beneficial to the public, in other words, it must be open and accessible to all and must provide a positive moral framework that is not detrimental to society. This was questioned extensively and in great detail. As mentioned previously, both sides had to find common terms of reference, which meant supplying clear definitions of terms that might otherwise lead to ambiguity. To their credit the CC was prepared to go through that process. For TDN it was very frustrating and time consuming, as every time we made a submission we thought perfectly clear, it was met with further questions that demonstrated further misunderstanding.

The removal of public benefit by the 2006 Act means that all individual organisations that apply for registration as charities for the advancement of religion have to prove public benefit other than those that are excepted from registration. This I agree with, public benefit should be demonstrated; it could be argued that having excepted charities provides a very uneven and unfair playing field, but that is outside of this discussion.

How such evidence can be demonstrated was not at all clear and the CC offered very little in the way of guidance as to what was required. Perhaps it was because TDN was the first such charity to which the 2006 Act applied and the CC were as uncertain as TDN. Many of the benefits of religion are intangible and subjective; can it be proven that there is benefit to the public through prayer, for example? That a religion provides a positive moral framework as mentioned previously may be seen as benefiting the public but how does an individual organisation that advances that religion benefit the public in objective and tangible ways? An organisation with a large income may find it easy in that they have the funds to spend on tangible benefits,

but for a very small charity those tangible benefits can be hard to identify and demonstrate how they relate to the objects of the charity. A good amount of time was spent on this and again it was questioned deeply by the CC. Not only did we have to state the benefits but also state how they related to the objects of TDN and who/how they are of benefit. I will place at the end of this submission a schedule that drew together the benefits that were identified as this may be of interest to the committee.

We had now reached the middle of 2010 and the review process was coming to a close; the final decision was to be made and TDN was invited to provide input if needed via telephone conference and to this we readily agreed. I was the trustee that agreed to take part in the conference and during it many questions were asked and answered. What was now clear, however, was that those asking the questions had a far better understanding of religion than the first meeting which we attended in Liverpool. In September of that year we received confirmation that The Druid Network had been accepted for registration as a charity that advances religion for the benefit of the public. A long and at times frustrating but ultimately rewarding journey of almost five years duration.

I applaud the CC for the time and resources spent in reaching the decision but at the same time must question the timescales involved. Whether that level of service could be provided with the now reduced level of funding I very much doubt. What is clear to me from what I have seen published in various forms is that there is still very little understanding of the requirements for registration and even less an understanding of charity law as it relates to religion. This has been amply demonstrated both by comments made by the committee in the previously mentioned video and by comments in the media relating to recent cases.

A question I would like to raise is the use of resources, both of the CC and the applicant. I spent a large amount of time in gaining an understanding of the law that underpins the definition and advancement of religion. Equally the CC spent a good deal of time in trying to understand Druidry and whether it met the criteria. It was a lengthy process. Surely there must be a better way. The law as I now understand it, whilst not unambiguous, is well published and available. To a person with no legal training though it is hard to decipher. The CC has published a huge amount of guidance on the various areas of law, but I found it more confusing than helpful, written by lawyers for lawyers. A step-by-step guide for applicants that advance religion might be one consideration, a tick-box form if you will, so that applicants can see what is required and whether they have met the criteria. Another alternative might be for a mentor to guide the applicant, someone who understands both the law and has an understanding of religions. In this way we may not end up with disgruntled applicants, who have not met the criteria or who have not provided sufficient information or evidence, from using valuable parliamentary time and the media to claim discrimination. I have recently seen a letter published and supported by many Members of Parliament and the comments it received. On the whole it displayed a woeful lack of understanding of charity law, even calling for the law to be changed which I find surprising as it was the Members of Parliament that only recently, after years of kicking it around Parliament, implemented the law as it currently stands. It is not the law that needs to change, it is the understanding of those who comment upon it.

I have recently had the dubious pleasure of being sent a link to a video of The Public Administration Select Committee interviewing two people from the Charity Commission. I would like to state that I was not at all impressed by the way in which one of the members of said committee constantly referred to “the druids” when raising the question of registration of the Christian Brethren. I would further like to add that I was very surprised by the lack of understanding of charity law by both the committee and the CC’s representatives and the poor way in which the questions were answered. It is important to keep in mind that it is not religions that are registered but the individual organisation whose objects are to advance religion for the benefit of the public. The organisation must be wholly charitable as understood under the law of England and Wales. If its purpose is to advance religion then the religion it advances must promote a positive moral framework, be fully accessible to all and not be detrimental to current society. In addition it must provide demonstrable public benefit. To be clear “the druids” were not granted registration, it was The Druid Network, an individual organisation that was granted registration as a body that advances religion for the benefit of the public.

The Charity Commission do have their shortcomings but they in no way deserve to be vilified in the way they have been. The 2006 Act changed the whole way in which charities that advance religion are considered. Just how do you assess the public benefit of religion? The majority of that benefit is subjective. The 2006 Act also did not define religion but left that down to the CC—and even academics and theologians can’t agree on a clear definition.

## APPENDIX

## Schedule of Beneficial Activities

<i>Activities</i>	<i>Related Object</i>	<i>Beneficiaries</i>
<p>Information on the practice of Druidry:</p> <ul style="list-style-type: none"> <li>- Producing and making available information on the principles and practice of Druidry both on the website and in paper format.</li> <li>- Providing information on the principles and practice of Druidry to the media and both government and non-government organisations.</li> <li>- Facilitating contact for organisations seeking a local contact eg schools, colleges, media and those seeking chaplains.</li> </ul>	<p>Producing and making available information resources relating to the path of Druidry both in electronic form on the Internet and in paper format.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Facilitating the practice of Druidry:</p> <ul style="list-style-type: none"> <li>- Offering conferences, camps, workshops, retreats, courses and similar events both through The Network and also its affiliated groups. A suitable proportion of these shall be free and open to the general public.</li> <li>- Offering access to ritual celebrations and celebrants.</li> <li>- Facilitating contact for those seeking local groups or groves.</li> <li>- Providing space for those wishing to promote local activities relating to the practice of Druidry.</li> </ul>	<p>Offering ritual celebrations.</p> <p>Offering conferences, camps, workshops, retreats, courses and similar events both through The Network and also its affiliated groups.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Heritage:</p> <ul style="list-style-type: none"> <li>- Increasing awareness and appreciation of British heritage, literature and history.</li> <li>- Providing teachings about British heritage, literature and history.</li> <li>- Increasing awareness of and access to ancient monuments and artefacts</li> <li>- Working together with other organizations to help protect heritage/monuments.</li> </ul>	<p>Promoting the preservation of Heritage and Culture.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Environment:</p> <ul style="list-style-type: none"> <li>- Increasing understanding of the environment as sacred, so increasing appreciation of the environment and motivation for sustainable interaction.</li> <li>- Increasing awareness of environmental issues.</li> <li>- Providing information about how to live with more environmental-ethical sensitivity and respect.</li> <li>- Providing opportunities for involvement in environmental work.</li> </ul>	<p>Promoting the conservation, protection and improvement of the natural environment, and the understanding of how individuals might live with conscious personal responsibility with regard to the environment.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>

<i>Activities</i>	<i>Related Object</i>	<i>Beneficiaries</i>
<p>Personal Development and Ethics:</p> <ul style="list-style-type: none"> <li>- Providing emphasis of ancestors, family, community and support/guidance/healing</li> <li>- Increasing awareness of personal responsibilities through community/family interaction</li> <li>- Providing information about how to live ethically in terms of nature, nonhuman animals, majority world/poverty</li> <li>- Providing teachings and support in terms of social/religious diversity</li> <li>- Providing teachings on personal creativity, facilitating and increasing healing, personal achievements and self esteem</li> </ul>	<p>The promotion of ethical standards of living and conduct including, but not exclusively restricted to, the promotion of human and animal rights.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Peace:</p> <p>Promoting peace both within the individual, the local community and the furtherance of the cause of “World Peace” through information on the website and involvement and promotion of peace initiatives eg “Peace One Day”</p>	<p>Promoting peace both within the individual, the local community and the furtherance of the cause of “World Peace”.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Interfaith:</p> <ul style="list-style-type: none"> <li>- Promoting Interfaith through information on the website, providing information to other organisations and through involvement in interfaith projects eg the Government sponsored “Providing Multi-Faith Spaces” project.</li> <li>- Encouraging and supporting members to become involved in local SACRE and Interfaith groups.</li> </ul>	<p>The promotion of religious harmony and diversity, interfaith dialogue and understanding.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Local Groups:</p> <ul style="list-style-type: none"> <li>- Supporting the formation of local groves.</li> <li>- Aiding communication between them through the Affiliated Groups and Groves project area.</li> <li>- Helping those interested in Druidry or wanting local contact through the Druid Directory project.</li> </ul>	<p>Supporting the formation and running of local Druid groups, groves and gorseddau and facilitating communication between them. Through these groups providing information and the sharing of Druidic teachings, together with other teachings in tune with Druidic ethics.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> </ul>
<p>Inspiring:</p> <ul style="list-style-type: none"> <li>- Providing public articles on members personal experiences of Druidry.</li> <li>- Providing public space for the expression of creativity through the Bardic Art and Voice’ project area.</li> <li>- Providing public space expressing local “Sacred Spaces” and Environmental Projects members have been involved with.</li> <li>- Provision of a public “podcast”.</li> </ul>	<p>Inspiring the practice of Druidry.</p>	<ul style="list-style-type: none"> <li>- TDN Members</li> <li>- Practising Druids</li> <li>- The wider public interested in Druidry</li> <li>- The wider public</li> </ul>
<p>Member Services:</p> <ul style="list-style-type: none"> <li>- Providing secure online communication between members.</li> <li>- Provision of forums for online discussion.</li> <li>- Access to members database for networking purposes.</li> </ul>	<p>Facilitating the practice of Druidry.</p>	<ul style="list-style-type: none"> <li>- Members of TDN</li> </ul>

Providing information on Druidry, not only to those within the Druid community, but also the wider public, is one of the Network's prime Objects as set out in the Constitution. This information (as well as any event) provided by The Druid Network is open to any person within the Druid community and also any member of the public or organisation.

Some of the reasons the public seek information on Druidry are:

- Those seeking to understand more about Druidry because friends or members of their family are involved; the Network is a place where they can find information to address concerns or uncertainties.
- Journalists and reporters covering current affairs or stories on culture, heritage, religion or folklore are able not only to find a wealth of information on the Network's website but also contacts and events occurring in their areas for their work.
- Government departments, schools, work places and other bodies seeking information on the tradition.
- Those involved in Interfaith work.
- Those seeking information on prison and hospital chaplains

December 2012

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#### Written evidence submitted by Old Mill Accountancy (CH 188)

We have been asked to write to you by the Directors of Blake Envelopes in connection with issues that the Plymouth Brethren are currently having with the Charity Commission.

We can advise that we have acted for Blake Envelopes for a number of years and also act for a number of the Directors personally in terms of dealing with their tax affairs. The company is a major local employer in Yeovil and employs both members of the Plymouth Brethren Community and various members of staff who are not Community members. The company makes a number of charitable donations each year including some to non Plymouth Brethren charities.

We are aware from discussions over the past few years that the Directors of the company do actively help the less well off in their personal capacity.

We hope that the above information does help you to build up an accurate picture of the work done by the Plymouth Brethren in the business community based on our experience of dealing with them.

December 2012

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#### Written evidence submitted by Geoffrey D. Glass (CH 189)

Although I could not hope to comment on the whole subject, I would like to submit the following in connection with your question 1(c) "To what extent has the Charities Act 2006 achieved its intended effects of providing a clear definition of charity, with an emphasis on public benefit"

When the Charities Act 2006 was being prepared the Charity Commission said in relation to new applications for Charitable Status that **"If it has not been shown that public benefit is present then the Commission would ask for further information. Advice may be provided, where it is possible, about how to alter or restructure the activities so as to satisfy the public benefit requirement"** [<http://www.publications.parliament.uk/pa/jt200304/jtselect/jtchar/167/4070702.htm> para.24]. At the annual review on 10 December 2009, Dame Suzi Leather said **"What we are doing with the organisations (and they were not the only ones—there were two schools as well who could not satisfy us that they were delivering a sufficient public benefit) is that we have given them a period of time, first of all, to say will they work with this, are they committed to trying to show public benefit, then a further period of time to come up with a plan to implement how they will demonstrate public benefit, and then they will be given a further period of time in order to be able to demonstrate that. We recognize that times are difficult, and we have publicly said that this will be difficult for some organizations; it will take time. We have said we would not expect it to take, normally, more than five years in order to do that, but I think it is fair to give charities time to adjust."**

This was apparently not done for the Preston Down Trust (Plymouth Brethren Christian Church) who were offered no warning or consultation before receiving their refusal letter "out of the blue". The Charity Commission had clearly committed themselves to helping charities to meet the public benefit requirements, yet they did not appear to do so for this trust. This is not even a situation where evidence has become available subsequent to the decision, and I would suggest that on these grounds alone the decision should be reviewed and changed.

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