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By email only: [s.ansari@bindmans.com](mailto:s.ansari@bindmans.com)

Dear Sirs

**Re: Registration of charities promoting homeopathic remedies**

Thank you for your letter of 17 August addressed to William Shawcross. I am the Head of Charitable Status in the Commission's Legal Directorate, and your letter has been passed to me for a response.

I can respond to the questions raised at paragraph 45 of your letter as follows.

**Demonstration of efficacy**

Your letter refers to the email from Jo Edwardes to Danny Chambers on 23 June 2016. That email sets out in some detail the Commission's approach to assessing efficacy with specific reference to complementary and alternative therapies.

In your letter you ask for examples of how efficacy might be demonstrated. With reference to our guidance OG304, which you cite in your letter, you will see at paragraph B5.1 of that guidance sets out a number of such examples. For the sake of brevity I do not repeat that paragraph here.

I should make two further points regarding this question.

Firstly, with reference to the emphasis which you place on Ms Edwardes' statement that "what was once considered charitable yesterday, may no longer be considered charitable today, and vice versa", I should emphasise that the Commission does not lightly take decisions that a purpose which was once charitable has ceased to be so. The changes which Ms Edwardes refers to are changes in social circumstances which may affect charitable status, and such changes are rare. The review of the status of rifle and pistol clubs, which Ms Edwardes cites, is one such example; the review of organisations promoting smoking is another.

*Charity trustees need to report actual or suspected serious incidents to the commission and should do so as soon as they are aware of them. If trustees fail to report a serious incident, the commission may consider this to be mismanagement and take regulatory action.*

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Secondly, when considering the status of an organisation for charity law purposes it is always necessary to consider the particular purpose of the organisation. In the event that we were to review the status of a category of charities it would not necessarily follow that the result of that review would be the removal, or retention, of all of that category of charity from or on the register.

### **The HL Report**

Your second question asks whether our view is that the 2000 House of Lords Report means that the efficacy of homeopathy has been demonstrated conclusively. Ms Edwardes' email, with reference to our published guidance, also addresses this point.

As quoted in that email, our guidance states that, for "Group 1" therapies, including homeopathy, there is "generally little or no need for more evidence if trustees' claims made are consistent with recognised areas of efficacy".

This does not mean that the efficacy of homeopathy (for any particular claimed effect) has been demonstrated conclusively. As noted above, the particular purpose of an institution which applies for registration will need to be assessed and considered to be charitable for the public benefit if the institution is to be registered as a charity. In making this assessment in respect of an institution which incorporates reference to homeopathy or homeopathic treatments in its purposes, Commission staff will refer where relevant to OG304, but will also make an assessment of the particular purpose of the relevant institution in determining charitable status.

### **"Rebuttable presumption"**

The Commission does not use the language of "rebuttable presumptions" in its internal consideration of what is a charitable purpose.

As you know OG304 provides guidance on the Commission's position on complementary and alternative medicines for registration purposes.

You may also want to refer to the Commission's published guidance on how it makes registration decisions, and in particular section 3. This can be found at the following link:

<https://www.gov.uk/government/publications/how-charity-registration-decisions-are-made-charity-commission/how-the-charity-commission-makes-charity-registration-decisions--2>

Although this guidance is of general application your clients may find that it helps to answer this question. The evidence which the Commission will consider in any particular case will depend on the nature of that case.

### **Commission's discretion**

You ask, with reference to s34 of the Charities Act 2011 ("the Act"), whether the Commission has discretion "in investigating and removing from the register institutions that are suspected or demonstrated not to have a charitable purpose".

As you note, s34(1)(a) states that the Commission must remove from the register any institution which it no longer considers to be a charity.

The effect of this provision is that, if s34(1)(a) is engaged in respect of a particular institution, the Commission does not have discretion as to whether or not to remove the institution from the register.

In order for this provision to be engaged, the Commission, having come to a decision that an institution is a charity (when considering an application for registration), must come to another decision in which it changes its view. In order to come to a considered decision in such a case the Commission would need to follow a review process, requiring the application of staff time and resources.

The Commission has discretion as to how to apply its resources, and in doing so must comply with its statutory framework. This includes a statutory duty, set out in s16 of the Act, to have regard to the need to use its resources in the most efficient, effective and economic way in performing its functions. This includes the function of determining whether institutions are or are not charities.

#### **Further comments**

I should emphasise two further points which Ms Edwardes has made.

Firstly, the Commission reviews its policy on charitable status on an ongoing basis, and in due course it is intended that we will review the legal basis for the advancement of health as a charitable purpose. This review will consider amongst other things the extent of that description of purpose under current law and what is necessary for an institution to be registered as a charity for such a purpose.

Secondly, if your clients are concerned regarding individual charities, it is open to them to raise this through our complaints procedure.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a long, sweeping horizontal line that ends in a small upward flick.

John Maton

Head of Charitable Status (Legal)