

Web Site

WEB SITE

Visit our WEB SITE
at
<http://www.khpplc.co.uk>



Key Haven Publications LTD
PO Box 669; Oxford OX3 3AU
Telephone +44 (0) 1865 352121; Facsimile +44 (0) 1865 351081

THE CHARITY LAW & PRACTICE REVIEW

C L & P R

Volume 16, 2013-14

EDITORIAL BOARD

Robert Venables QC, MA (Oxon), LLM (London)
(Taxation Editor)
Debra Morris, (Managing Editor)

CONSULTING EDITORIAL BOARD

The Right Honourable Lord Hoffmann
The Right Honourable Lord Justice Mummery

*For details of the
Advisory Editorial Board please refer over*

All editorial correspondence should be addressed to:

Debra Morris
Director
Charity Law & Policy Unit
The Liverpool Law School
University of Liverpool
Liverpool L69 7ZS
England
Tel: + 44 151 794 2825
E-mail: Debra.Morris@liverpool.ac.uk

The Charity Law & Practice Review
is published by
Key Haven Publications LTD
PO Box 669; Oxford OX3 3AU
Telephone +44 (0) 1865 352121; Facsimile +44 (0) 1865 351081
E- Mail address: aw.khplc@khplc.co.uk

DISCLAIMER

The views contained herein are put forward for further consideration only and are not to be acted upon without independent and professional advice.

Neither the Publisher nor the Authors or Contributors can accept any responsibility for any loss occasioned to any person no matter howsoever caused or arising as a result of or in consequence of action taken or refrained from in reliance on the contents hereof.

©2014 KEY HAVEN PUBLICATION LTD

The moral rights of the authors have been asserted.

Conditions of Sale

All rights strictly reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission of the publisher.

Any person infringing the publisher's copyright will be liable to criminal and/or civil proceedings.

Papers are invited for publication on the understanding that they contain original unpublished material not submitted to any other journal and may be subject to anonymous peer review. The decision of the Managing Editors to accept, reject or modify any paper shall be final. Style sheets are available from the publisher on request.

THE ADVISORY EDITORIAL BOARD

Robert Venables QC

Chairman of Advisory Editorial Board

Lord Phillips of Sudbury

Solicitor and Consultant, Bates Wells & Braithwaite

Christopher McCall QC

Formerly Junior Counsel to the Attorney General in Charity Matters

Professor Gareth Jones QC LL.D.

Trinity College, Cambridge

Lee Sheridan LL.D.

Formerly Professor of Law University College, Cardiff

James Kessler QC

Barrister

Hubert Picarda QC

Barrister and Founder Editor of the Review

Adrian Longley OBE

Solicitor, Arlingtons Sharmas

Professor Peter Luxton

Professor of Law, Cardiff University

Professor Jean Warbuton

Charity Law Unit, Liverpool Law School, University of Liverpool

Elizabeth Cairns

Solicitor

Jennie Gubbins

Solicitor and Partner, Trowers & Hamlin
(Charitable Housing Associations)

Robert Meakin

Solicitor and Partner, Stone King Sewell

Peter Smith

Lecturer in Law, University of Exeter
(Universities & Ecclesiastical Charities)

Robert Venables

Consultant, Bircham Dyson Bell

Visiting Professor of Charity Law, London South Bank University
formerly Legal Charity Commissioner

OVERSEAS CORRESPONDENTS

AUSTRALIA

Professor Myles McGregor-Lowndes

Director, Centre of Philanthropy and Nonprofit Studies, Faculty of Business,
Queensland University of Technology, Brisbane

Professor Gino Dal Pont

Professor of Law, Faculty of Law, University of Tasmania

CANADA

E Blake Bromley

Founder and President, Benefic Group, Vancouver

SOUTH AFRICA

Richard Rosenthal

Director, Richard Rosenthal Consultancy, Cape Town

USA

Professor Robert Atkinson

Professor of Law, Florida State University

Professor Harvey Dale

Director, National Center on Philanthropy and the Law, New York University

Professor Karla W Simon

Chair, International Center for Civil Society Law
Professor of Law, Catholic University of America

CONTENTS

Introduction	vii
<i>The Commissioners for Special Purposes of the Income Tax v Pemsel</i> Sir John Mummery	1
<i>Re Macduff and the Charity of the Wise</i> Jonathan Garton	21
<i>Dingle v Turner Forty Years On</i> Peter Luxton	43
<i>Moggridge v Thackwell: Defining The Nature of the Courts’ Scheme-Making Power</i> John Picton	59
<i>Camille and Henry Dreyfus Foundation Inc v Inland Revenue Commissioners</i> Robert Meakin	73
<i>Thornton v Howe: A Sound Principle or a Seminal Case past its best buy date?</i> Hubert Picarda QC	85
<i>McGovern v Attorney-General</i> Alison Dunn	105
<i>R (Weaver) v London and Quadrant Housing Trust</i> Ian Alderson	129
Applications to the First-Tier Tribunal (Charity) by ‘Persons Affected’ by the Charity Commission’s Decision Alison Mckenna	147
A State of Flux in Public Benefit across the UK, Ireland and Europe Dr Mary Synge	163