

## WEB SITE

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



Key Haven Publications PLC  
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 11, Issue 1, 2008

### EDITORIAL BOARD

**Robert Venables QC, MA (Oxon), LL.M (London)**  
(Taxation Editor)

**Paul Bater**, (Managing Editor)  
Principal Research Associate  
International Bureau of Fiscal Documentation

### 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:

Paul Bater, Managing Editor  
11 Chalfont Court, 236 Baker Street  
London NW1 5RS, UK  
Tel: + 44 (0)20 7611 7324  
Fax: + 44 (0)20 7611 7254  
E-mail: pbater2002@yahoo.co.uk

**The Charity Law & Practice Review**  
is published by

Key Haven Publications PLC  
PO Box 669; Oxford OX3 3AU  
Telephone +44 (0) 1865 352121; Facsimile +44 (0) 1865 351081  
*E- Mail address: aw.khpplc@khpplc.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.

©2008 KEY HAVEN PUBLICATION PLC

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Papers are invited for publication on the understanding that they contain original unpublished material not submitted to any other journal and may be subject to anonymous peer review.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.

Reference to this journal should indicate year of issue and volume, issue and page numbers. For example Vol 2, Issue 3, page 150, of 1999 should be referred to as: CL&PR 2/3 [1999] 150.

Printed in England by Dearne Valley Printers.

# 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 LLD***

Trinity College, Cambridge

***Lee Sheridan LLD***

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

***Debra Morris***

Cayman Islands Law School

***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

<b>Editorial</b>	vii
 <b>The Charities Act 2006: Consolidation or Reform?</b> Charlotte Buckley	 1
 <b>The Art of the Possible</b> Robert Meakin and Mary Ambrose	 43
 <b>International Case Notes</b> Paul Bater	 63

# EDITORIAL

Now that the public benefit requirements of the Charities Act 2006 have entered into force, we begin Volume 11 with a critical review by Charlotte Buckley of the Charity Commission's definitive guidance on its new approach to determining the public benefit status of charitable bodies.

As news breaks of the possible sale and export of more pre-eminent works of art, this is followed by a discussion by Robert Meakin and Mary Ambrose of the charitable and non-charitable options for private owners of valuable art collections to maintain access to the collection after its disposal.

We conclude this issue with a brief review of some notable international cases involving charitable bodies.

We hope that these articles will stimulate debate and discussion among our readers. All correspondence should be addressed to the Managing Editor:

Paul Bater  
11 Chalfont Court  
236 Baker Street  
London NW1 5RS  
UK

Tel: 020 7611 7324  
Fax: 020 7611 7254  
E-mail: [pbater2002@yahoo.co.uk](mailto:pbater2002@yahoo.co.uk)