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Public Administration and Constitutional Affairs Committee
House of Commons
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Charity Commission
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Dear Mr Hoare,

Thank you for your letter of 15 June following PACAC's oral evidence session relating to the PHSO's reports into how the Charity Commission handled two complaints about separate charities.

We are grateful for the opportunity to provide additional information and hope that the following is useful to your Committee as you continue your inquiry. We address your questions in turn.

A) <u>Matters arising from the oral evidence session</u>

Whether the decision taken by the Board in April 2024 to instigate a judicial review should an agreement with the PHSO fail to be reached was unanimous (Qq66-67)

The Board was properly engaged in making decisions on this matter at all the key stages. In April 2024, the Board considered whether to proceed with the proposed judicial review, and in advance of the meeting the Board requested and received external legal advice to support their decision making.

The Board agreed that clarifying the extent of the Commission's regulatory remit was a matter of fundamental importance, not just for it but for the sector it regulated. The Commission has a statutory duty under Section 16(2)(b) of the Charities Act 2011 to ensure, in performing its functions, that it has regard to the "desirability of facilitating voluntary participation in charity work", and trustees need to be clear on the nature of the Commission's powers to sanction them, and the role of the PHSO in reviewing our regulatory decisions.

All of those present for the discussion agreed with the decision. The Commission's Governance Framework makes clear that "the Board acts collectively in making decisions" and, as such, once the Board has made a decision it belongs to them collectively.

Clarification regarding the Commission's powers around winding up charities (Q84)

We understand that the public may have an expectation that the Commission can "shut down" a charity as a form of sanction. However, Parliament has not chosen to give us this power.

There are very limited circumstances in which the Commission can direct the winding up of a charity, when a specific legal test is met. Section 84B of the Charities Act 2011 only gives the Commission the power to issue an order to direct the winding up of a charity if it is satisfied that a charity does not operate, or its purposes can be promoted more effectively if it ceases to operate; and that exercising the power is expedient in the public interest. In relation to charitable companies, Section 113 of the 2011 Act provides an option for the Commission in certain circumstances to apply to the court for the winding up of a charitable company under the Insolvency Act.

There is therefore no power for the Commission to close or wind up a charity due to compliance issues identified as part of its cases.

How many trustees are typically disqualified by the Commission per year (Q85)

The power to disqualify a trustee on a discretionary basis was introduced in legislation ten years ago through the Charities (Protection and Social Investment) Act 2016 and came into force in October 2016. This built on existing powers for trustees to be disqualified automatically when they were convicted of certain criminal offences.

Since then we have disqualified more than 200 individuals from trusteeship, with around half of these taking place in the last three years. The most recent numbers of disqualifications made on a discretionary basis are as follows:

- 2025-26: 25
- 2024-25: 37
- 2023-24: 34

The legal basis for the Commission to disqualify trustees on a discretionary basis has been set with a high bar by Parliament and subsequent caselaw. As with all our powers, discretionary disqualification can be challenged in the courts and the Commission must therefore ensure that any such decision meets all three statutory tests introduced by the Charities (Protection and Social Investment) Act 2016. During the oral evidence session we referred to the recent case of *Mond* ([2025] UKFTT 103 (GRC)), in which the Tribunal overturned our decision to disqualify a trustee on the basis that two of the three limbs of the statutory test were not met.

By way of comparison with the Commission's use of its disqualification powers, the Financial Conduct Authority has issued prohibition orders (a similar power) to between 19 and 30 people over each of the last 3 years, in a sector employing over 2 million people.

Examples of where the Commission has acted in response to safeguarding issues, and the spur for that action, for example, whether it was the conclusion of a legal case with a court judgment, or other factors. This would help the Committee to understand how the Commission balances its response to different situations as they arise (Q117)

As set out in our earlier written evidence, when safeguarding concerns arise, our role is to assess how trustees responded to those concerns, to ensure they have made appropriate reports to relevant agencies, and to identify whether there is ongoing live risk which requires regulatory intervention. It is not, however, our role to ascertain the veracity of individual allegations. The Commission possesses neither the powers, nor the resources or skills to make judgements of this kind which are more appropriately subject to police investigation.

Examples of recent cases that the Commission has handled include:

- *CISV International Ltd.* In February 2026, the charity submitted a serious incident report relating to the charity's safeguarding practices, in line with the Commission's published guidance. The report raised several serious concerns about the charity's safeguarding policies and procedures, and its inability to enforce compliance by member associations. Due to the nature of these concerns, the Commission opened a statutory inquiry and appointed an Interim Manager to take over responsibility for safeguarding. We have ordered that during our inquiry the trustees are not permitted to make any decisions related to safeguarding and must co-operate with the Interim Manager. The inquiry is ongoing.

- *The Liverpool Diocesan Board of Finance and The Chelmsford Diocesan Board of Finance.* In January 2026 the Commission issued Official Warnings to two Church of England dioceses over failures to handle safeguarding allegations in line with our guidance and trustee duties. Concerns were initially brought to the Commission's attention from various sources, including media reporting. These related to allegations about behaviour towards two adults by the then Bishop of Liverpool. In both instances, those trustees who knew of the allegations failed to take action that would have allowed the full trustee boards to consider any risks and make a decision on the appropriate action to take, including whether the matters should have been reported to the Commission. The Official Warnings set out that both charities must ensure they have adequate understanding of the Commission's guidance and must update us on their progress.

- *Ampleforth Abbey Trust and St Laurence Education Trust.* In 2024 we concluded a statutory inquiry into the charity which runs Ampleforth College in York, where historic claims of abuse had arisen. The claims were first published in the media and this prompted the Commission to proactively make enquiries. In this case we appointed an Interim Manager to review and implement changes to the charity's safeguarding practices. We also disqualified the acting superior (abbot) in place at the time from serving as a trustee for three years: an unprecedented step in terms of our regulation of monastic or religious communities. Our action in this case was based on our assessment of live risk and the trustees' approach to addressing issues. In this instance, further historic allegations arose after the opening of the inquiry which had not previously been reported to the Commission. Our own concerns were compounded by those of statutory agencies – including the North Yorkshire Safeguarding Children Partnership, the Police, the Independent Schools Inspectorate and the Department for Education – who were not satisfied with the charity's ability to properly safeguard those who came into contact with the charity.

- *Salvation Proclaimers Ministries Limited.* In 2024 we published our findings in a case relating to Salvation Proclaimers Ministries Limited, also known as SPAC Nation. Following receipt of a safeguarding complaint about the charity, the Commission opened a regulatory compliance case which was later escalated to a statutory inquiry over serious financial, governance and safeguarding concerns. Our investigation further found that the trustees did not have adequate oversight of safeguarding and we could not be confident that the trustees could be assured those coming into contact with the charity were adequately protected. As a result, alongside failings in financial management, we concluded that the charity's trustees were responsible for serious misconduct and/or mismanagement. We disqualified three trustees for a period of 12 years each and a former trustee for 10 years.

- *St Giles Trust.* The Trust is a national charity providing advocacy and support to those facing severe social disadvantage. In 2025 the charity reported a serious incident to the Commission explaining that an employee was allowed to work with children in schools for almost two years while being on the DBS barred list. We investigated and engaged with the charity's trustees, who also ordered a full internal investigation. We concluded that while the incident primarily resulted from an operational failure in the charity, the trustees had breached their responsibilities in a way that placed beneficiaries at risk of harm. Against this, we weighed the fact that the trustees promptly made a number of changes to their DBS and Risk Assessment policy (including introducing measures to ensure that all DBS results are checked at least twice); and procured a new DBS check provider with improved automation and tracking among other steps. We issued the charity with formal advice and guidance to further reinforce the requirement to strengthen the charity's safeguarding governance. However, the trustees avoided further regulatory sanction due to the way they responded to the matter.

In addition, during the oral evidence session we referred to a current case involving an individual who has multiple historic convictions for sexual offences against children, who is therefore legally disqualified from acting as a charity trustee or holding a senior management position. This individual remains involved with a religious charity as a volunteer, where he appears to hold a position of religious authority. The Commission does not have the power to disqualify him from such a role or a lower-level volunteer position. We have engaged with the local Police force and Offender Management Team to raise our concerns, and received confirmation that the individual is being monitored and managed in adherence with national guidance and police powers available. We have also informed the local Police and Crime Commissioner. The Commission is continuing to engage with the charity and to consider whether any regulatory action is appropriate and feasible within our current powers.

Clarification regarding concerns raised with the Committee that a notetaker assisting the reviewer had had prior involvement in Ms Lara Hall's case, even though the review was meant to be undertaken by Commission staff who had not previously worked on the case (Q133)

Ms Hall complained formally against the Commission's decision on regulatory action in 2022 and then initiated a second formal complaint in 2024. The Commission has a two-stage complaints process; the first stage of the 2024 complaint was handled by a staff member ('SJ') who had no role in the original case handling.

In September 2024, the reviewer met Ms Hall as part of his independent review. In advance of that meeting, he informed the PHSO that SJ would be present at the meeting as a note taker, clarifying in an email to their caseworker (who was acting as a contact point with Ms Hall) that *"[SJ] from CCEW will join the call to take notes so I can focus on the discussion. You confirmed that you were aware of [SJ's] previous involvement in connection with this case and said that should be fine, but if Miss Hall has any concerns about it you will raise them with me in advance of the call."*

The PHSO caseworker subsequently confirmed by email that *"LH is happy with the timing, and [SJ] being there to take notes."*

SJ took no role in decision making during the independent review, acting solely as a notetaker.

We have provided the Committee with a copy of the relevant emails under separate cover.

B) <u>Additional questions</u>

1. **In the Charity Commission's initial response to the Deputy Ombudsman's letter outlining the PHSO's intention to lay the two special reports, the Charity Commission stated that the PHSO's power to lay a report has only been used "exceptionally rarely" and should be reserved for "cases of major significance", not for the cases in question.[1] Is this still the Charity Commission's position? If so, can you please explain this.**

We accept that it is entirely a matter for the PHSO to decide in what circumstances it is necessary to lay a report before Parliament. The preamble, part of which is quoted above, was included in our pre-action letter on the advice of our legal advisors but only to set the context for our core legal argument – that the PHSO did not have the power to find 'continuing injustice' based on how we had implemented its recommendations.

   a. **The PHSO told us that one of the reasons behind the decision to lay the reports was the likelihood of similar issues coming up again in future cases. Have similar issues since come up in subsequent PHSO investigations into complaints about the Charity Commission?**

[1] Correspondence from Felix Rechtman, Head of Litigation, Charity Commission, to Karl Banister, Deputy Ombudsman, in accordance with the Pre-Action Protocol (19 March 2025)

To offer some context, we currently assess around 5,000 regulatory compliance concerns every year, mainly received directly from the public, in addition to considering at least 3,000 serious incident reports from charities. In recent years, around one quarter of these have related to safeguarding concerns. In the most recent full reporting year, in total, the Commission received around 150 complaints about our handling of casework.

We have recently conducted a review of all the service complaints currently being considered by the Commission. None of these related to safeguarding matters.

There are currently live PHSO investigations into two different Commission cases. The PHSO is currently assessing a further 8 cases to decide whether to take the complaint into a full investigation. None of these relate predominantly to safeguarding concerns, and Mr Banister's oral evidence to the Committee (Q7) confirms that he is not aware of 'similar issues' arising in the complaints the PHSO is currently reviewing.

2. **Following the PHSO's investigations into Mr Damian Murray and Ms Lara Hall's complaints, the Charity Commission had concerns that the PHSO had overreached its own jurisdiction and was questioning the merits of the Commission's decision making, as opposed to identifying maladministration in the way those decisions had been reached. What is the Charity Commission's position now, particularly in light of the court judgment?**

    a. **Is the Commission now assured that the PHSO was scrutinising the manner in which decisions had been made, as opposed to the merits of those decisions?**

Both the Commission and the PHSO agree, based on existing caselaw, that the PHSO is prohibited from looking at the merits of public bodies' decisions when considering maladministration. Based on legal advice, at the time of taking the judicial review, we also understood that the PHSO was prohibited from looking at the merits of decisions when considering 'continuing injustice'. The judge disagreed with our legal advisors' interpretation of this section of the law, and we of course accept his ruling on this point of law.

In light of the court judgment and our better understanding of our respective roles, the Commission would not now take any issue with how the PHSO assessed our compliance with its recommendations. We accept that we did not fully deliver on the PHSO's expectations of our internal independent review, which is why we have commissioned a judge-led external review to essentially repeat that exercise afresh.

3. **When the PHSO outlined its intention to lay the special reports before Parliament in March 2025, one of the Charity Commission's key arguments against the PHSO's conclusions was that it had carried out the reviews as recommended, and the 'fact' of the reviews' existence was enough to comply with the PHSO's recommendations. Do you now accept that it was open to the Ombudsman to consider the adequacy of the reviews?**

Yes. As noted above, the Commission would not now take issue with how the PHSO assessed our compliance with its recommendations, noting the new understanding from the judgment that the PHSO is not legally prohibited from looking at the merits of decision making around continuing injustice in certain circumstances.

In learning from this episode we will in future ensure we have a much clearer understanding of the PHSO's expectations in advance of commencing any remedial actions, to ensure our actions met those expectations. We would also apply much more robust testing of our understanding of the PHSO's rationale behind any determination of continued non-compliance, to avoid future misinterpretation and to remedy any ongoing injustice more effectively.

4. Following the court judgment, the Charity Commission committed to commissioning a retired judge to undertake independent, external reviews of each case. You informed us during the session that Sir Gary Hickinbottom will be leading the review. Will you share the Terms of Reference for the reviews with the Committee once agreed with the PHSO?

Yes.

a. Can you set out what the appointment process was for appointing Sir Gary Hickinbottom?

The appointment was made by the Commission's Board following a process that focused on securing the highest calibre of legal expertise while ensuring their independence from the Commission. We were keen to secure a retired member of the senior judiciary, and for the review to commence work as soon as practicable. We proactively reached out to a range of chambers and identified two suitable candidates, one of whom was Sir Gary Hickinbottom. Sir Gary was the outstanding candidate due to his extensive judicial experience (including in safeguarding matters) and experience of conducting independent inquiries. Importantly too, he has not previously acted for (or against) the Commission. We liaised with the PHSO during the process of commissioning the review.

b. Does Sir Gary Hickinbottom and his team have safeguarding expertise?

Yes – Sir Gary has experience sitting on a number of sports safeguarding panels including as President of the National Safeguarding Panel, Chair of the International Tennis Federation Safeguarding Panel, and a member of the FA Safeguarding Review Panel. Sir Gary has also appointed two barristers, one with specialism in charity law and one in safeguarding, to support the review.

5. Previously, the Commission only shared the 'Outcome Letter' following each review with the complainants, and the Commission has also continued to fail to adequately account for the decisions it has made in respect of each case. Can you set out exactly how the Commission will ensure more open, transparent and empathetic communication with Mr Murray and Ms Hall as part of this new review process?

It is crucial that Sir Gary's review is truly independent of the Commission and detailed decisions about how the review will operate are therefore for Sir Gary and his team. However, we know the review team have already been in touch with Mr Murray and Ms

Hall. Sir Gary's team would welcome positive engagement from each of the complainants, and are of course aware of the sensitivities involved and the need for communication to be tailored appropriately.

a. **Do you commit to ensuring that Mr Murray and Ms Hall will be able to have sight of all the documents relevant to the review outcomes?**

We have accepted failings in the level of detailed material shared with the complainants following the independent internal reviews, and will change our own processes for any future internal review exercises which follow a PHSO finding of maladministration (which of course, the Commission hopes to avoid). Similarly, while detailed decisions about the operation of the independent review are properly for Sir Gary and his team to make, we would anticipate that all documentary analysis underpinning the review outcomes would be made available to the complainants. (The complainants do now have access to all of the analogous documents from the independent review, shared as part of the judicial review process.)

6. **In the Commission's submission, you state that the Charity Commission has made "improvements to our processes" as a result of the PHSO's recommendations. Would you clearly set out what improvements have been made in relation to safeguarding and risk assessment?**

    a. **How will you ensure that decisions on cases are adequately accounted for going forward?**

    b. **Does the Commission now keep records of the risk assessments it undertakes?**

    c. **What improvements have been made to communications with individuals who bring concerns to the Commission?**

In light of the PHSO reports and the subsequent court ruling, it is clear that in the two cases we did not record our risk assessments sufficiently clearly, and nor did we fully record all the factors we weighed up when deciding what regulatory action we deemed appropriate.

We would handle these cases differently today. In particular, our teams:

- Have new clear processes and standard forms to ensure formal live risk assessments are undertaken and properly recorded when substantial new information is brought to light;
- Have new guidance on record keeping throughout the lifecycle of a case.

An initial risk assessment is undertaken when we receive new information. Where a potential or live risk of harm is identified – and is not evidently being effectively managed by the trustees – we intervene to ensure action is taken to reduce risk and prevent further harm. Our own case record system is updated with relevant information, including details shared with statutory agencies. Regulatory decisions and the rationale behind them are recorded, along with any follow-up actions, reviews and updates. We also record any referrals for internal specialist safeguarding or legal advice, along with case conference notes and line manager review.

Since 2023, we have also set new communications standards for staff and continue to review our letter templates to ensure that correspondence is sensitive to the concerns being raised. We have begun work specifically to refresh our approach to handling service complaints, including introducing a telephone call to the complainant upon receipt of their concern as standard.

7. Throughout, communication with complainants has been highlighted as an issue. For example, we understand that the Commission had informed one complainant that they would not be pursuing a judicial review in relation to their case, but that this position later changed. Do you agree this happened, and do you have any wider comments on how the Commission can more effectively balance the need to be transparent with complainants with managing people's expectations?

We try to communicate sensitively and transparently with those who raise concerns about a charity, but at times there are limits to what it is possible to share about our regulatory engagement given they frequently involve different vulnerable parties, often presenting conflicting evidence. There is always a trade-off between the transparency of regular communication and the risk of creating either false expectations or disclosing something which cannot later be relied upon in the cases once tested to evidential standards required by the courts. That is why as a general rule we do not provide detailed commentary to complainants during our casework. As noted above, we continue to improve our approach to communications and we have certainly learned further lessons here, and will of course consider any further recommendations flowing from the external judge led review.

On the specific matter relating to the judicial review, in the early stages of the dispute we were considering a legal challenge to the PHSO's reports in the cases of both Ms Hall and Mr Murray. We informed both complainants of this prospect. However, following its 'provisional views', the PHSO made a number of changes to its final report in Ms Hall's case which allayed our concerns. At that stage – in May 2024 – Ms Hall was notified of the decision not to challenge the report in her case.

As the committee is aware, the judicial review we eventually brought in 2025 was against a further decision of the PHSO, made in March 2025, that the Commission had not complied with its recommendations. In May 2024 we had no reason to believe this would happen; and our eventual judicial review was against the PHSO's assessment of compliance rather than the contents of the report itself.

In hindsight we should have communicated this change and explained the rationale in a more timely and effective manner.

8. You have told us that you recently reiterated your apologies to both complainants. Were the complainants satisfied with the apologies? If not, why not?

We understand that neither complainant has accepted our apology and we appreciate that the extended process of case review and litigation will have exacerbated their distress and their dissatisfaction with how we have handled things. We are aware that both complainants have submitted written evidence to the Committee setting out their perspectives, which they are best placed to articulate.

a. In its special report on Mr Murray's case, the PHSO identified that the apology the Commission had given was meaningless as failings had not been acknowledged. In the most recent apology given to Mr Murray, were those failings recognised?

The Chief Executive's letter to Mr Murray of 6 March 2026 explicitly acknowledges that "our record keeping and the way we communicated with you was not adequate, and I hope would be different if your complaint came to us today. But I am not complacent about that. We recognise we need to draw further lessons from the court's decision, particularly in terms of our assessments of risk and how we record them."

In reiterating our previous apology, and conscious of Mr Murray's concerns, we noted our determination "that this case will lead to change in our internal guidance and processes, for the benefit of future complainants and more effective regulation of the sector."

9. The Committee understands that the PHSO and the Charity Commission are now "engaging collaboratively" to reach a shared understanding of each organisation's respective role and to lower the risk of similar disagreements in the future. How is this engagement going?

The legal process and our subsequent discussions with the PHSO have given us much greater confidence that the PHSO understands our functions and powers and we, theirs. As the Committee is aware, we have been working through a number of test case studies of difficult cases, to consolidate our mutual understanding of our respective roles. This work has now concluded.

Separately, we (Chair and Chief Executive) have met with the Ombudsman and PHSO Chief Executive on a number of occasions in recent months to further build mutual understanding of our organisations' respective roles, and will continue to do so.

a. Is this engagement being facilitated by the Department for Culture, Media and Sport and the Cabinet Office?

No, but we keep DCMS abreast of matters as our sponsor department.

b. What is the intended output of this engagement, if any? Will you put something along the lines of a framework agreement in place?

We heard the Committee's view about the risks associated with the Ombudsman developing certain types of agreement with different organisations within its remit and the Commission respects the Committee's steers on the matter. Our engagement with the PHSO has nevertheless helped to build better understanding of our respective regulatory remits, including in relation to a number of test case studies agreed between our teams.

c. **How confident are you that similar disagreements will not come up in future?**

We are confident that, following the court judgment, the subsequent collaborative work with the PHSO gives us a strong common understanding of each other's roles, remits and processes, that should help avoid similar disagreements in future.

Mr Murray's case

10. We understand that, upon closing Mr Murray's case, the Commission wrote to the charity in question, giving advice and guidance regarding communication with the college and perceived conflicts of interest. Why did the Commission see the concerns around conflict of interest as 'perceived', given the close relationship between the charity and the sixth form college?

Up until 1992, the college was directly run by the charity. After legislative changes in 1992, the college became a statutory corporation, a separate legal entity from the charity not subject to regulation by the Commission. The college was however subject to regulation by the Department for Education.

Our original investigation took into account the fact the two bodies remained connected entities. In very many instances where historic or current safeguarding issues arise in smaller charities, there may be conflicts of interest for trustees. The Commission is used to dealing with these.

The Commission never disputed that a number of the charity's trustees had served for long periods, and that at least one of them may have been aware of the historic abuse allegations. We did not find evidence that that there had been a deliberate attempt by trustees to withhold information, but noted there could be a perception that this had happened. In our formal regulatory advice to the charity, we drew the trustees' attention to the Commission's guidance on conflicts of interest, and noted that "if we become aware of any serious safeguarding incidents occurring within your charity in future because the trustees did not take the necessary steps to address failings in its safeguarding policy, procedures or practices, or that existing policy/procedures were not followed correctly, we will hold the trustees fully accountable and take the necessary action."

However, we accept that the Commission did not explain adequately our approach to Mr Murray, and why we did not feel it would be proportionate to investigate further given there was no live risk.

We accept the criticism that the explanation we provided to Mr Murray did not clearly demonstrate how we balanced relevant factors to reach a conclusion. As set out above, we have since introduced new communication commitments and trained staff in communicating with clarity and respect, and when offering a telephone call is appropriate.

11. It is clear that the Commission was of the view that communication failures between the charity and sixth form college were at the heart of some of the issues raised by Mr Murray, for example, the naming of a college arts building after the perpetrator of child sexual abuse. What were those communication

failures, and how does a communication failure fully account for a decision such as naming an educational facility after a perpetrator of child sexual abuse?

The facts of our findings around poor communication are set out in the special report into Mr Murray's case (para 143 and 144). The specific issues we identified were:

- The Chair of the College governors did not tell the rest of the governors about the historic abuse claims once he had been made aware. The charity did not check all the College governors had been informed.
- The charity said one of its trustees asked the College not to name the building after the priest, but without giving a reason, and the charity did not do anything to stop or change that.

Our initial caseworkers concluded that, as the charity and College were legally separate entities, decisions about naming the arts block were for the governing body to make and the college was regulated by the DfE. They also noted that the charity had acknowledged the failure of proper communication which led to the college not knowing the reasons for the request not to name the arts block after a certain individual.

We accept the PHSO's criticism that this explanation does not clearly demonstrate how we balanced relevant factors to reach our conclusion. Sir Gary Hickinbottom's review will look into this afresh.

a. **The Commission also said those communication issues had then been rectified. How were they rectified, and what was the evidence for this?**

The Commission investigated how the charity had sought to engage with the College governors regarding the naming of the arts block, and asked specific questions of the trustees. Submitting false information to the Commission is a criminal offence (under section 60 of the Charities Act 2011). In this context, the Commission received assurances from the charity that it had tried to stop the naming while acknowledging that they did not communicate clearly to the College their reasons for making this request.

The Commission issued formal regulatory advice to the charity in January 2019, noting that the charity had established a routine cycle of contact between it and the College. The charity had also indicated that any correspondence sent to the charity would in future be discussed by the full trustee board before any action was taken, with decisions being properly recorded. The Commission's regulatory advice stressed: "it is important that this regular communication continues to ensure both organisations are aware of any issues including important developments that occur" and noted that the Commission may ask for evidence of such communications in future.

The independent reviewer noted that since 2014 the charity had been submitting serious incident reports to the Commission, and had dealt appropriately with more recent allegations – specifically, allegations raised by Mr Murray in 2017. In this instance, the Commission ascertained that the Local Authority Designated Officer had been informed and that relevant Catholic Church authorities were aware of the allegations and were responding accordingly as the organisations with primary responsibility for safeguarding issues.

12. Is the Commission now of the view that an “error” was made in its approach to the religious congregation’s failure to report the abuse since 1993, as potentially identified by the reviewer?

The independent reviewer recognised that the charity had an obligation to report safeguarding issues from the 1990s onwards, but he agreed with the original caseworkers that it was not proportionate or practical for the Commission to trace back through 30 years’ of trustee records to try and surmise who may have known what and when. As per our published guidance, our overall approach focused on current risks to beneficiaries rather than investigating possible historic concealment, as is appropriate for a risk-based regulator with a statutory obligation to use our resources in the most efficient way.

However, we accept that we did not explain our decision making well to Mr Murray. The independent reviewer should have explained more clearly why the acknowledgement of a historic reporting responsibility did not overturn our earlier decision not to investigate further.

Without in any way minimising that failing of communication, the need for the Commission to focus its resources effectively is not only a statutory requirement (Charities Act 2011, s16 (3)) but an operational necessity. As mentioned in our oral evidence, the Commission regulates a growing sector of around 170,000 registered charities, with around 900,000 trustee positions and approximately 7 million volunteers at present. At the time of Mr Murray’s complaint, we had 300 FTE staff, down from over 500 FTE in 2006/07 (a 40% drop in 11 years).

In this context, we highlighted to the Independent Inquiry into Child Sexual Abuse (IICSA) the existence of regulatory gaps, and the limitations of the Commission’s safeguarding remit were acknowledged by that Inquiry in its final report in 2022. We supported the full implementation of IICSA’s recommendations to try and close these gaps, including the creating of a new Child Protection Authority (more details in Annex B).

13. At the time the Commission was in touch with the relevant charity, were any trustees in place who had been trustees when the perpetrator had been removed from his post, or at any of the other key moments between 1993 and the time Mr Murray raised his concerns, for example, in 2008 when the arts building was named after the perpetrator, or in 2011, when the requiem mass was held in honour of the perpetrator?

Our electronic records indicate that in 2018, four of the charity’s trustees had been serving for some time. Based on the records available to us, two had been trustees from before 2004[2], one since 2009, and one since 2011. One of the longest serving trustees had been aware of the abuse allegations from 1993, as noted in the special report on Mr Murray’s case (para 142). This trustee died in April 2018, shortly after Mr Murray made his complaint to the Commission. In November 2018, the charity told the Commission that this trustee kept the information private until the victim made a legal claim in 2014, when the

[2] Our trustee database was first digitised in 2004, and our access to records predating that year is limited. However, we do not dispute that two of the relevant charity’s trustees may have been in post from as early as the 1990s.

charity's safeguarding representative informed the Chair of the College governors, as mentioned in the special report (para 143).

The Commission's consideration of its regulatory response to how trustees acted historically is covered further above (from Q10-12). This approach will be examined further by the external judge led review of the two cases.

14. The Committee would like to clarify whether in advance of the PHSO recommendation to have Mr Murray's case reviewed, there was discussion about whether that review should be undertaken internally or externally?

The PHSO's original recommendation was for an external review. As part of mediation, however, it was agreed that the reviewer could be a senior caseworker with no prior involvement with the case and independent of the Commission's senior management. This change was not at the Commission's request. We adhered to this agreement and also ensured the internal reviewer for both cases was supported by a barrister with specialist safeguarding knowledge, as also agreed with the PHSO.

15. At the time of the Commission's work on Mr Murray's case, what factors did the Commission take into account in determining whether to open and close cases where there had been allegations of historic misconduct?

From as long ago as 2012 our published guidance made clear that the Commission was not a safeguarding authority. Nevertheless, all concerns raised with the Commission are risk assessed. The Commission's Regulatory and Risk Framework in place in 2018 stated:

> *The Commission will consider the most effective and proportionate way of resolving the case or issue, and the level of priority that it should apply to this, based on its assessment of the level of risk it is addressing. It will also take account of the following in deciding what action to take:*
> - *What guidance already exists*
> - *Whether the involvement will have a significant impact on resolving the issue*
> - *The impact of not acting*
> - *The resource implications for the Commission and the charity.*

The same document noted "the Commission targets its resources at the highest risks to charities' beneficiaries, services and assets and where it thinks its interventions will have the most effective impact."

The safeguarding risk indicators used at the time suggested indicators of 'low risk' included an absence of live risk to beneficiaries; that allegations or incidents were not recent; that allegations had no evidence and other authorities have declined to look into the matter; and that the alleged perpetrator is no longer associated with the charity.

Such risk prioritisation is a natural consequence for a regulator seeking to deliver its statutory objectives in a context where, in 2018, it had 300 FTE staff to oversee a sector of around 168,000 charities.

a. **How did this case accord with the Commission's general approach?**

The independent reviewer identified some issues in the Commission's approach which did not meet the standards in place at the time: specifically that the Commission's initial assessment of Mr Murray's concerns did not sufficiently consider and address all the issues he had raised; and that there were failings in the way we communicated with Mr Murray.

The reviewer also found that caseworkers should have focused more on the impact the charity's governance failures may have had on the victims and beneficiaries, as opposed to the reputational damage caused to the charity. The Commission should have been clearer this was relevant as a concern because it could prevent the charity from being able to effectively carry out its activities in future. As recommended by the reviewer, we have since amended our published policy on how we evaluate and respond to risk, to make express mention of the extent to which the trustees have prioritised the charity's beneficiaries in their decision making.

Despite these issues in the case handling, the independent reviewer concluded that further regulatory action was not proportionate and his detailed review process had not identified grounds to reopen any aspect of the case, based on the guidance in place at the time.

These conclusions will be re-examined by the external judge led review.

Ms Hall's case

16. **In your written evidence to the Committee, the Commission said that, "at the time", you had concerns that the PHSO was seeking to impose requirements on the Commission to investigate the credibility of criminal allegations, such as rape, when looking at potential mismanagement or misconduct in the administration of a charity. Do you still have those concerns?**

We believe we now have a broadly agreed mutual understanding, reflected in how the PHSO has described our role in its submissions to the Committee. We accept that a criminal conviction is not a prerequisite to regulatory sanctions such as disqualification of trustees, but we cannot investigate the veracity of serious individual allegations in the place of the police or repeat their investigations to the criminal standard. That does not mean that we cannot take some form of regulatory action where appropriate – and in many cases we do, based on the facts as we understand them and where the evidence allows.

a. **Do you now accept that the PHSO was not expecting you to "compel collection of forensic evidence and analyse such material"?[3]**

In light of the way the PHSO described our role in its submissions to the Committee, it is now clearer what the PHSO expect in such situations. We are grateful for this clarification as the position was not as clear previously, especially when the PHSO stated in

[3] Charity Commission for England and Wales, PHCC0002.

correspondence that the Commission was expected to assess the credibility of the individual allegations [redacted]

17. In your oral evidence to the Committee, you stated that the Chair had given the undertaking to stand down and is no longer a trustee at the charity in question (Q98). However, the former Chair is married to the current Chair of the Board of Trustees. How can it be argued that he was and is no longer connected to the charity?

The Commission has not sought to argue that the former Chair has no connection with the charity: rather, the Commission does not have the power to ban individuals from volunteering.

However, the Commission's original decision regarding regulatory action will be re-examined by the external judge led review, as it looks at the evidence and our decision making afresh.

18. When, if ever, would the Commission consider allegations of criminal acts in respect of which criminal investigations had been undertaken and not charged?

a. Would the Commission consider allegations of inappropriate sexual relationships between trustees and volunteers, beneficiaries or others that may not amount to a criminal offence?

b. Would the Commission consider that misconduct could not occur where any sexual relationship was consensual?

c. Does the Commission consider there could be relationships between charity trustees and others that amounted to an abuse of power, which may be damaging to a charity's functioning or reputation, and might amount to misconduct in the administration of the charity?

We respond to the questions above collectively. The Commission cannot investigate criminal allegations as it is not a prosecuting authority and its jurisdiction is limited to matters in the administration of charities. However, as noted above, a criminal conviction is not a prerequisite to regulatory action. Our consideration of trustees' conduct, in assessing whether there has been mismanagement or misconduct, will rest on facts that we can establish independently.

Allegations about how interpersonal relationships or abusive behaviour intersect with an individual's role in the administration of a charity will naturally turn on the specific circumstances of the case, and the Commission's ability to reach a fair and evidenced adjudication where individuals have strongly competing accounts of those circumstances.

The criminal justice system has built in safeguards to try and ensure fairness to all parties, including the right to representation and separation of charging and prosecuting decisions. These safeguards are absent from civil regulators, who therefore have to exercise great care when deploying their powers and resources against individuals.

Where criminality by trustees is found by the courts, particularly in areas where the Commission does not have the relevant specialisms or responsibilities (other examples would be health and safety law, or terrorism), this gives us a much firmer footing to hold those trustees (and any others who enabled such criminality) to account through a charity governance lens.

C) <u>Other regulatory issues</u>

We are grateful to the Committee for its offer to consider some of the wider issues that were raised at the oral evidence session. Annex B to this letter provides further details of concerns the Commission holds about current gaps between regulators, and gaps in our current powers. The Commission is grateful for the Committee's interest in these matters and would be happy to provide any further information.

More widely, we trust the information above is useful to the Committee in its work and we of course remain keen to provide any further assistance you require.

Yours sincerely,

Dame Julia Unwin

Dame Julia Unwin	**David Holdsworth**
Chair	Chief Executive Officer

Charity Commission for England and Wales

Annex B: The Commission's powers and our concerns about regulatory gaps

The Commission's role is regulating the governance of charities by trustees. As set out in the Charities Act 2011, we seek to ensure trustees meet their legal duties in the general control and management of the administration of the charity. It is not our function to regulate the service provision of charities, nor (as the Committee is aware) it is our role as a civil regulator to investigate criminal matters.

We do of course recognise that Parliament may wish to expand our role, remit and powers and we are open to exploring any such expansion along with the commensurate resources, as Government and Parliament see fit.

Given the wide-ranging nature of the activities undertaken by charities in support of their purposes, the Commission is experienced in working alongside other regulators who have a focus on quality or standards and doing so in a coordinated and proportionate way. These include, for example, Ofsted (for educational charities) and the Care Quality Commission (where a charity provides regulated care).

However, in some instances there is not another sector-specific regulator, or that regulator may have insufficient powers or resources – meaning that services provided by charities are not properly regulated and the Commission can be perceived as a regulator of last resort, but beyond what our powers or resources allow.

Where the Commission has identified such regulatory gaps or gaps in our powers, we have raised them with officials, Ministers and, where appropriate, with Parliament, and with the relevant regulator. While we acknowledge that some progress has been made in certain areas we remain deeply concerned that these gaps continue to exist.

Safeguarding

As was set out in our previous evidence to the Committee, the Commission lacks both the statutory remit and expertise to monitor proactively charities' safeguarding activities or undertake proactive safeguarding inspections. The Commission's regulatory remit is limited to ensuring that trustees discharge their trustee duties to protect people who come into contact with their charity.

The Commission contributed to the Independent Inquiry into Child Sexual Abuse (IICSA), chaired by Professor Alexis Jay. It remains a concern to the Commission that many of the Inquiry's recommendations have not yet been implemented, an issue we have raised in meetings since 2024 with the then Safeguarding Minister. Of particular significance to the charity sector are the following:

1. *Mandatory reporting of sexual abuse allegations* – IICSA developed proposals for a new statutory duty on those working in regulated activity to report sexual abuse allegations to local authority children's social care or the police. The Commission supports this proposal, which clearly complements existing trustee duties of candour in reporting serious incidents to the Commission. The Commission worked with the Home Office as legislation was drawn up to implement this recommendation through the Crime and Policing Act 2026.

2. *Establishment of a Child Protection Authority* – The Commission engaged in detail with IICSA on the issue of a proposed regulator of child protection matters (particularly in the context of religious organisations), and indeed whether the Commission itself would be the appropriate body to take on this role.[4] IICSA acknowledged in its final report that we are not the best placed organisation to specifically regulate child protection matters, noting that the Commission is *"not able to act as a routine inspector of child protection systems in respect of the many thousands of registered charities in England and Wales"*. Instead, the inquiry developed proposals for a Child Protection Authority, which we believed would help to address current gaps. The Department for Education recently held a consultation on its proposed model for addressing this recommendation, to which the Commission responded, and we have met with them at official level. We believe a wider role for the proposed body would more fully close the gaps identified by IICSA.

The Commission also highlighted concerns in our response to a recent call for evidence from the Department for Education (DfE) regarding safeguarding provision within out-of-school settings, many of which are run by charities – including settings such as uniformed youth groups, extracurricular clubs, and religious settings offering supplementary education regarding faith.

For example, the Commission has intelligence of independent schools run by charities which evade registration with the DfE by claiming to be part-time schools. At present a school of this type is not required to register with the DfE or be inspected by Ofsted, posing safeguarding risks where these organisations operate without the enhanced health, safety and welfare checks which are required at schools. Where appropriate we have shared this intelligence with the appropriate statutory services, including the police.

Extremism

It is crucial that charities do not become vehicles for hate and or allow their premises or events to become forums or safe havens for terrorism, extremism or hate speech. The Commission will always deal robustly with those who intentionally or recklessly abuse their charities, and we will not hesitate to take action where there is wrongdoing, using the powers we have which include freezing bank accounts, issuing Official Warnings, directing trustees to take corrective action, or disqualifying trustees.

Over the past year, our team specialising in investigating alleged links to terrorism or extremism and other serious concerns used our regulatory powers on an average of two and a half times every working day (663 times in the year). Since the escalation of the conflict in the Middle East in October 2023, we also have opened over 300 regulatory cases involving charities supporting different sides of the conflict. We have issued formal statutory guidance to charities in around 100 of these cases and made around 70 referrals to the police where we considered that a criminal offence might have been committed.

[4] Witness Statement, 9 January 2020, p5

However, we are clear on the need for our powers to be strengthened to keep pace with the escalating risks in this area. We have actively raised this with Ministers and officials across Government – including with No10, DCMS, MHCLG and the Home Office – to advance plans to strengthen our powers.

We therefore welcomed announcements contained in the Government's Protecting What Matters strategy. This includes plans to:

- strengthen our powers to tackle extremist abuse of charities by extending our ability to suspend trustees and shut down charities.
- introduce trustee ID verification and digitising charity accounts to improve transparency and accountability.
- implement automatic disqualification of trustees with unspent hate crime convictions or convictions for providing false or misleading information
- Ensure we have discretionary powers to disqualify trustees who have been excluded from the UK, deprived of British citizenship, subject to sanctions or engaged in conduct promoting violence or hatred.

Additionally, the Commission needs the ability to suspend a trustee or senior officer of a charity pending investigation as a neutral act, similar to the process most organisations would follow during HR investigations (prior to a finding of misconduct or mismanagement, which currently has to be evidenced before we can suspend those individuals). Investigations in this area can often take time due to the need for evidence to be gathered and tested to meet court standards. The presence of such individuals in and around the organisation can hamper the willingness of others to co-operate or to engage with the Commission to enable us to conduct our work.

A number of these proposals would require primary legislation, and therefore intervention from Government is required to ensure this can happen.

But we also need the support of other agencies. We sometimes find that we highlight cases of suspected illegality to the police, and other agencies, and then it is not taken forward because of their own processes and thresholds. This can appear like the Charity Commission itself is not taking action, but should in fact be acknowledged as part of a wider systemic issue.

Social housing

Many providers of supported housing are registered charities. At present, we believe there to be a regulatory gap regarding the oversight of the provision of supported housing by these charities. We also see a similar issue with exempt accommodation, whereby we cannot tackle some of the issues which we see arise in our casework.

The Commission regulates housing charities to ensure that their trustees are meeting their legal duties and regulatory requirements. In recent years the Commission has seen a significant increase in its compliance casework in relation to supported housing charities. At present the Commission has several open statutory inquiries regarding charities that provide supported housing where statutory powers (under the Charities Act 2011) have been used. These, in the main, relate to conflicts of interest and concerns about private benefit (i.e. personally profiting from the charity). There are around 5,000 supported housing properties managed by charities currently under investigation by us. These properties house thousands of vulnerable individuals.

However, we do not have the expertise, statutory remit or the resources to regulate the service provision of these charities – for example the quality of their housing stock or the support provided to, and safeguarding of, residents. And at present local authorities or others who do have responsibility in this space do not have sufficient powers or resources to regulate this service provision effectively. This has meant that instances where the level of service quality provided by some supported housing charities has not been of an acceptable standard - posing safeguarding and other concerns - have been harder to tackle.

However, due to the vulnerability of some residents and the potential impact of mass homelessness in some areas – potentially reaching into the thousands – the Commission, at the direction of the Chief Executive, has stepped in when no other agency could or was willing. This has diverted significant resources and created backlogs in other work for the Commission, but as risk-led regulator we have prioritised addressing harm to the communities and people we ultimately serve.

For example, the Commission has been undertaking a complex statutory inquiry into a housing charity based in Merseyside. Following a significant increase in the charity's reported income, we identified concerns around trustee decision making, potential unauthorised trustee benefit and unmanaged conflicts of interest. The charity had leaseholds for a significant number of properties throughout England, and complex links to a number of other charities and companies. Our inquiry has been working to facilitate the surrender of over 250 properties, many of which are Houses of Multiple Occupancy. This involves issuing consent to the charity's remaining trustee to empower them to make the decision to surrender, vesting each lease in the Official Custodian of Charities (a member of staff at the Commission) and then directing the Official Custodian to complete the surrender. This is a novel and never before tried use of our powers, with the aim of improving the living conditions of hundreds of people living in substandard accommodation. We have serious concerns that criminal activity may be involved in this case and have had extensive engagement with the Serious Fraud Office and local police force, urging them to take action where the Commission as a civil regulator cannot.

In another less recent example, the Commission raised concerns in 2019 about these gaps following an inquiry into a housing charity, Bristol Sheltered Accommodation and Support. When this concluded, we highlighted to government officials and select committees that "*the lack of a regulatory framework setting out expectations of the quality of support provided in such settings, including those that have charitable status, impacts on the Commission's ability to hold trustees to account*".

We reiterated our concerns as part of our evidence to the (then) Levelling Up, Housing and Communities Committee, which held an inquiry into exempt accommodation (a form of supported housing) in 2022. In our evidence to the Committee we noted the need for *"another regulator to work with who can tell us whether, for example, minimum standards of care or service are being provided"*.

Since then, the Commission has welcomed steps that successive administrations have taken to address these issues, particularly through the passage of the Supported Housing (Regulatory Oversight) Act 2023 which was enacted as a direct result of the select committee report. However, the implementation of this legislation is severely delayed.

The Commission's Chief Executive wrote to the then Secretary of State for Housing, Communities and Local Government in October 2024 to outline our concerns, referencing specific examples from our casework. He met the then Minister for Homelessness in April 2025 to brief her on these issues and reiterate the importance of the 2023 Act being implemented. He wrote similarly to the current Secretary of State in September 2025 to follow-up on this.

Most recently, our Chief Executive met the Chair of the Housing, Communities and Local Government Committee in April 2026 to update her on this matter.

We continue to raise this with Ministers and to push for the Act to be implemented as soon as possible.

Community Interest Companies (CICs)

Community Interest Companies are limited companies which operate to provide a benefit to the community they serve. They provide a different vehicle to that of registered charities and are, in their nature, intended to have lighter touch regulation.

However, for most members of the public the differentiation may not be very clear. We believe the public struggles to differentiate a CIC from a charity when they interact with them, meaning the public often attributes misconduct they observe to the charity sector – for example, concerns relating to aggressive fundraising practices or safeguarding. We have a statutory objective to increase public trust and confidence in charities and where bad actors operating adjacent to the registered charity sector are left unchallenged, we believe this trust is put at risk.

The CIC Regulator is, in our view, under resourced for the large number of CICs which are now registered (over 32,500). There are also practical concerns about bad actors in this space utilising gaps that exist. For example, choosing to open a CIC rather register a charity because of the lighter regulatory oversight, or changing from being a registered charity to being a CIC when there is a threat of regulatory action.

We have raised the challenges of CICs and the gaps that exist with Ministers. Our Chief Executive wrote to the Secretaries of State for Culture, Media and Sport and Business and Trade earlier this year to set out our concerns and to press for them to review the legislative framework governing CICs, including the powers and resources available to the CIC Regulator. We understand that the Fundraising Regulator – which also sees challenges with CICs in this area – has raised similar concerns with Ministers.

Care service providers

Many charities provide types of care services to their beneficiaries. This can include mental health advice, pregnancy support, suicide prevention helplines, or even emergency first response care. We regulate these charities to ensure that their trustees are meeting their legal obligations, including ensuring that the correct governance processes are followed with regard to safeguarding.

However, we do not have either the statutory remit or expertise to regulate the specialist medical care and advice services provided by these charities. As one example, we received a complaint that a charity whose stated aims are mental health awareness and suicide prevention was using untrained and unqualified staff who were giving incorrect medical advice, including making diagnoses.

We have raised our concerns about the potential for harmful activity by these types of charities with both the Department for Health and Social Care (DHSC) and the Care Quality Commission (CQC), including in a meeting between the Chief Executives of the Commission and the CQC. However, unless this activity is being undertaken by a registered healthcare professional then CQC considers it to be outside its regulatory remit. There is therefore a gap in the regulatory oversight of these activities, which raises potential safeguarding concerns and risks of harm to charity beneficiaries or the public.

Ideally this gap would be addressed through legislation giving another regulator, whether the CQC or otherwise, clear statutory responsibility for regulating these activities.