

CHARITY COMMISSION
DECISION OF THE CHARITY COMMISSIONERS
FOR ENGLAND AND WALES MADE ON THE 12 AUGUST 2003

APPLICATION FOR REGISTRATION OF
CRAWLEY MODEL RAILWAY SOCIETY

1. *The issue before the Commissioners*

The Commissioners considered an application by an unincorporated association, Crawley Model Railway Society (“CMRS”) for registration as a charity. If the unincorporated association was established as a charity it should be entered on the Central Register of Charities under section 3 (2) of the Charities Act 1993.

The Commissioners have made this decision in a final review under the Commission’s review procedures.

2. *Determination*

The Commissioners:

- having considered the case which has been put to them by CMRS, including legal submissions and full supporting evidence, as well as information relating to activities gained during a visit to the Society; and
- having considered and reviewed the relevant law and the governing document and activities of CMRS and the social environment in which it operates,

concluded that CMRS is not established for exclusively charitable educational purposes for the benefit of the public, in that it lacks sufficient educative value and is established predominantly for the enjoyment and pleasure of its members.

In consequence the Commission could not register CMRS as a charity.

3. *The objects and activities of CMRS*

3.1 CMRS was originally founded in 1958 as a non-charitable organisation. Its object (as stated in its old Rules) was “to promote the feeling of fellowship and goodwill among its members by the furthering of their interests in the craft of Railway Modelling”. CMRS recently approached another model railway society¹ which was a registered charity, and on 5th October 2001 it adopted a new constitution based on that of the charity. The new objects proposed by CMRS in its application were to:

¹ Norwich Railway Heritage and Model Society (R1065019);

(a) Advance the education of the public in all aspects of railways, railway modelling and allied pursuits.

3.2 The objects clause specified that:

The aims shall be pursued as follows:

(i) Provide a service whereby children of school age and others can experience the re-creation of railways in model form and study the various aspects of railways in general.

(ii) Establish a team of tutors covering various skills, techniques and knowledge.

(iii) Promote model railways in general by running and visiting exhibitions

3.3 In its application for registration CMRS described its activities² as:

3.3.1 Visits by groups of school age children, such as cub packs as part of activity and proficiency badge schemes.

3.3.2 “Skills” clinics covering soldering, weathering techniques, painting, electronics, model tree making, electrical safety for society members and the public during exhibitions.

3.3.3 Staging an Annual Exhibition and contributing to a number of other exhibitions.

3.3.4 Take layouts, society’s and members own, to other exhibitions. Visits to other exhibitions, museums, heritage railways and working railways both in the UK and overseas.

3.3.5 Ad hoc contributions to local and national charities.

3.4 The Commissioners noted that in addition to these activities CMRS ran club nights, slide shows and other activities.

3.5 These activities, their extent and their frequency were examined at a visit by the Commission to CMRS, which took place on 23rd October 2002.

4.The Commission’s approach to the advancement of the education of the public in railway modelling and other pursuits

4.1 The Commissioners accepted that museums often use models to educate the public³ and that there are currently a number of model railway charities which have been registered by the Commission⁴.

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³ Examples are the National Railway Museum in York and the National Maritime Museum in Greenwich.

4.2 For an organisation of this kind to be charitable, the Commissioners considered that the models themselves must be of sufficient historical or technical value for them to be educative and there must be sufficient benefit to the public demonstrated both by this value and in the way the organisation carried out its activities. Some model railway societies are established primarily for the enjoyment and pleasure of their members, with any educational value being incidental. Such an organisation will not be charitable, and the Commissioners' noted that some organisations had been refused registration on this basis⁵.

4.3 The Commissioners also noted that a number of other bodies had been registered with objects of advancement of education where the members were involved in a wide range of pursuits. These included such pursuits as embroidery⁶, puppetry and model theatre⁷, model buildings⁸, lacemaking⁹, the study of coins¹⁰ and flower societies¹¹. The same principles apply to such bodies. They can be registered where the Commission is satisfied of the educative value of the subjects and that the bodies are established for the benefit of the public.

5. Justification for consideration of the activities of CMRS

5.1 The Commissioners noted that the newly adopted purposes of CMRS, if charitable, would fall within the second head of charity ("for the advancement of education"). A trust for the advancement of education is normally assumed to be for the benefit of the public. But the assumption can be rebutted if there is evidence that in fact the body is not established for the public benefit.

5.2 The Commissioners noted that CMRS had originally been founded in 1958 as a non-charitable organisation. The Commissioners considered that there was no evidence submitted that the activities of the former non-charitable body had been altered following the adoption of the new constitution.

5.3 The Commissioners considered therefore that although the new constitution had a charitable flavour the real purpose for which CMRS was formed was in doubt, and it was therefore legitimate to take into account the nature of the activities which the organisation was carrying out. The Commissioners were satisfied that the activities

⁴ Clay Cross Model Railway Society (R1087229); Norwich Railway Heritage and Model Society (R1065019); The Gainsborough Model Railway Society (R1042534); Pendle Forest Model Railway Society (R1002022); Historical Model Railway Society (R273110).

⁵ In particular the Commissioners noted their decision on The Blackburn and East Lancashire Model Railway Society in the Report of the Charity Commissioners for England and Wales for the year 1977, paragraphs 64-66.

⁶ The Embroiderers' Guild (R234239)

⁷ Doo Cot (R1040465), National Puppet Centre Limited (R327590), The Puppet centre Trust (1056021)

⁸ Wimborne minister Model Town (R298116)

⁹ The Lace Guild (R274397), West Lancashire Lacemakers (R1002673)

¹⁰ The British Numismatic Society (R275906)

¹¹ The Daffodil Society (R1055817)

were intra vires and of a nature, time and place as to give them probative value. This followed the approach taken by Scott J in *Attorney-General v Ross*¹².

5.4 The Commissioners further concluded that they were entitled to look at the circumstances in which an institution came into existence and the sphere in which it operated if this was necessary to reach a conclusion on whether its purposes were charitable. In this case as model railway societies often are not charitable bodies and as CMRS had previously been non-charitable it was open to the Commissioners to look at its actual and proposed activities to determine what its purpose is and whether it is established for the public benefit. This reflected the approach outlined by Sachs LJ in *Council of Law Reporting v Attorney General*¹³ and that of Chadwick LJ in *Southwood v AG*¹⁴.

6. Consideration of CMRS's activities

6.1 The Commissioners considered the evidence submitted by CMRS about its activities, including details of its own annual exhibition, its role in other exhibitions, the events it runs and information on its own website¹⁵. The Commissioners also considered information obtained during the Commission's visit to CMRS on 23rd October 2002.

6.2 The Commissioners examined the poise of CMRS to see whether it was essentially internally focussed for the benefit and enjoyment of its members or whether it was externally focussed with any benefit to its members being strictly necessary for, and ancillary to, the achievement of the charitable purpose of advancing the education of the public.

6.3 The Commissioners noted that CMRS on its website in January 2002¹⁶ still stated that its object was to promote the feeling of fellowship and goodwill among its members by furthering their interests in the craft of Railway Modelling. They noted that whilst CMRS runs "skills clinics" and an annual competition where members can compete in different skills categories, it also runs social events, a quiz evening, slide shows and visits to places of railway interest, as well as twice weekly club nights. The Commissioners noted that leaflets and features on CMRS' display board at the date of the Commission's visit on 23rd October 2002 emphasised the enjoyment that was to be had from being a member, rather than stressing the educational nature of CMRS' activities. The Commissioners further noted that CMRS on its current website¹⁷ states that the purpose of the exhibitions that it runs are to further encourage the "hobby" and to fundraise.

¹² [1986] 1 WLR 252 at 263-264

¹³ LJ Sachs *Council of Law Reporting v A.G.* [1972] Ch 73 p91

¹⁴ (CA) unreported [2000] June 28;

¹⁵ www.crawleymrs.org.uk

¹⁶ This has subsequently been removed.

¹⁷ www.crawleymrs.org.uk/aboutus.php

6.4 The Commissioners noted that CMRS' exhibits were of a high quality and that they required skill and attention to detail and that there was evidence of research and historical accuracy in the model making. However, notwithstanding this, after taking into account the quality and extent of the totality of the activities pursued, the Commissioners considered that the activities undertaken by CMRS overall were not sufficiently educational for them to conclude that the Society was established for charitable educational purposes.

6.5 Further, the Commissioners considered that although some of the activities of CMRS were externally focussed, on balance the poise of CMRS was essentially focussed on the enjoyment and pleasure of its members and the recruitment of new members and therefore public benefit was not established.

7. Conclusion

7.1 On this basis the Commissioners concluded that CMRS was not established for a charitable educational purpose for the benefit of the public and should not be entered on the Register of Charities.