

CHARITY COMMISSION
DECISION OF THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES

APPLICATION FOR REGISTRATION OF RECYCLING IN OTTERY

1. The issue before the Commissioners

The Commissioners considered an application by the company called Recycling in Ottery (“RiO”) for registration as a charity. If the company was established for exclusively charitable purposes it should be entered on the Central Register of Charities under s.3(2) of the Charities Act 1993.

2. Determination

- 2.1 The Commissioners considered the case put to them by RiO, including legal argument and supporting evidence, and representations from the Inland Revenue and DEFRA.
- 2.2 The Commissioners concluded that RiO was established for charitable purposes for the benefit of the public. With appropriate constitutional amendments (see 3.3 below), RiO will therefore be capable of registration under s.3(2) of the Charities Act 1993.

3. The proposed objects

- 3.1 RiO was incorporated with the objects which the Commission’s officers did not regard as exclusively charitable.
- 3.2 Following correspondence between the Commission and RiO’s legal advisers, RiO decided to seek registration with the following draft objects:

- “1. To protect and safeguard the environment particularly through the promotion of re-use and recycling and the provision of recycling facilities;*
- 2. To advance public education about environmental matters related to re-use and recycling of household and industrial waste.”*

- 3.3 The Commissioners were concerned to ensure that the objects clause contains an express reference to “*for the public benefit*” to make it clear that recycling could not take place in ways which might generate a private profit. The Commissioners also considered that there should be an express reference to recycling “*as a means of waste disposal*” in the objects.
- 3.4 Further amendments to the objects clause may also be required to allow for participation in the landfill tax credit scheme and for activities directed towards the relief of poverty. Other minor constitutional changes will also have to be made prior to registration.

4. RiO’s activities

- 4.1 RiO’s activities involve running a ‘scrap yard’ where members of the public may bring items for recycling. These include bicycles, clothes, furniture, crockery, toys and electrical items. Members of the public can buy items from the yard at very low prices (or exchange their time as volunteers for items) and deposit paper, glass and cans there for recycling.
- 4.2 RiO also runs a shop (directly rather than through a trading subsidiary) where donated and renovated items (salvaged from the scrap yard) are sold.

- 4.3 RiO runs educational workshops in schools (to National Curriculum standards) and theatre workshops with environmental themes. RiO's recycling facilities (which allow for renovation only in so far as they are ancillary to the recycling process) are open to the public and it is intended to provide formal education in various renovation skills in the future.

5. Are RiO's purposes exclusively charitable for the benefit of the public?

- 5.1 The Commissioners were satisfied that RiO's educational activities were charitable. They therefore had to consider whether promoting recycling furthered a charitable purpose.
- 5.2 The Board of Commissioners has previously accepted that the purpose of "*promoting the conservation and protection of the physical and natural environment*" is charitable.
- 5.3 In considering whether recycling and re-use is an acceptable means of furthering that purpose, the Commissioners had regard to the Waste Strategy for England and Wales. Of the many identified ways in which waste might be disposed of, re-use and recycling are acknowledged in the Waste Strategy as having the least negative impact on the physical and natural environment. It is government policy to promote increased re-use and recycling of waste in order to divert it from landfill sites. The Commissioners concluded that this public policy recognition of the environmental benefits derived from recycling could be regarded as evidence of public benefit.
- 5.4 The Waste Strategy dictates that waste should be disposed of with reference to an assessment of what is the "best practicable environmental option". Having consulted DEFRA, the Commissioners concluded that whilst this concept was necessary to the strategic decision making processes of governmental agencies, it need not prevent charities promoting single methods of waste disposal with proven environmental benefits. The Waste Strategy advocates a multi-agency approach to waste disposal, and recognises that small organisations focusing on one area of waste disposal have a role to play in the overall process of reducing negative environmental impact from waste generation and disposal.
- 5.5 The Commissioners considered that, in circumstances where re-use and recycling did not represent the best practicable environmental option (for example where waste had to be transported for long distances by road for recycling), charity trustees would have to consider whether their recycling activities remained an appropriate means of achieving the charitable purpose of protecting the environment.
- 5.6 The Commissioners recognised that there may also be a public benefit in encouraging community participation in, and responsibility for, waste disposal which would justify recycling and re-use of waste even in circumstances where it did not clearly represent the best practicable environmental option.
- 5.7 The Commissioners noted that RiO's shop currently contains renovated items (for example, furniture which had been french polished). The Inland Revenue had indicated it would be concerned if RiO undertook substantial renovation as this might disqualify the activities of RiO from being regarded as primary purpose trading. The Commissioners did not regard renovation in its own right as being charitable, but recognised that it could be ancillary to recycling if it involved a standard of renovation proportionate to the value of the goods involved and it did not undermine the ability of the trustees to pursue the primary purposes of RiO. If RiO was minded to engage in more substantial renovation activities then the trustees may wish to consider the establishment of a suitable trading subsidiary. In relation to any trading activities, the attention of the trustees should be drawn to CC35 Charities and Trading.