

Charity Commission for England and Wales

Cambridgeshire Target Shooting Association – Application for Registration

Decision of the Commission dated 02 February 2015

Decision

1. The Commission has considered an application for registration from Cambridgeshire Target Shooting Association (CTSA).
2. Having considered the application and submissions made in support, it has concluded that CTSA is not established for exclusively charitable purposes for the public benefit and cannot be entered on the register of charities.

Background

3. Historically gun clubs were registered as charities on the grounds that teaching people skills of accurate shooting could be considered as a charitable purpose for the defence of the realm. This originated from the legal authority of the case of ***Re Stephens (1892) 8 T.L.R.***
4. Following a detailed review and consultation in 1992 and 1993 the Commission took the decision that the registration of certain existing registered gun clubs could not continue where they existed primarily for civilian competition and recreation shooting for the benefit of members rather than for the defence of the realm as to which there was little or no connection.
5. The Commission further considered whether provision of facilities for target shooting could be considered charitable in the context of Community Amateur Sports Clubs with the publication of its guidance RR11 'Charitable Status and Sport'. This reflected the common law position that provision of facilities for healthy recreation involving physical fitness was capable of being charitable (***Re Hadden [1932] 1 Ch 133, Re Morgan [1955] 1 WLR 738***).
6. The Commission's view as expressed in RR11 was that rifle and pistol did not meet the criteria of healthy recreation but stated it would consider any claim from individual clubs if they can demonstrate clear benefits to a participant's physical health.
7. Under the Charities Act 2006 (now 2011 Act) the advancement of amateur sport was recognised as one of the 13 descriptions of charitable purposes, S3(1)(g) CA 2011. Sport in this context is defined as "sports or games which promote health by involving physical and mental skill or exertion"-S3(2)(d) CA 2011.

Legal Framework

8. The Upper Tribunal case of **ISC v Charity Commission [2011] UKUT 241(TCC)** clarifies the approach to be taken in considering whether an organisation is established with purposes that are charitable, being for the public benefit following the 2006 Act. In essence it needs to be determined whether the particular purpose or purposes of the organisation fall exclusively within one or more of the descriptions of purposes and the whether such purpose or purposes are for the public benefit. See S 2(1) CA 2011.
9. In addition, at common law, the Commission can, as a matter of construction, consider the activities of the organisation to come to a view about whether the purposes are charitable¹ and for the public benefit² where there are doubts about those issues.

The Application

Expressed objects

10. CTSA is an unincorporated association governed by a constitution and seeks to be established as a Charitable Incorporated Organisation. The objects of the CTSA are set out in its constitution in the following terms.

3. The objects of the Charity are for the public benefit:

3.1 to promote community participation in healthy recreation in particular by the provision of facilities for participation in target shooting ("facilities" means land, buildings, equipment, organisation of sporting activities);

3.2 the advancement of education, particularly, without limitation, children and young people whether or not undergoing formal education;

3.3 the relief of the disabled by the promotion and encouragement of inclusive participation in the sport of target shooting;

3.4 to encourage skill in target shooting by providing instruction and practice in the use of firearms amongst members of the cadet forces and to any of Her Majesty's subjects so that they will be better fitted to serve their country in the armed forces, territorial army or any other organisation in which their services may be required in defence of the realm in times of peril.

What it does pursuant to its purposes

11. CTSA acts as a County Association. It administers small-bore target shooting leagues for its affiliated clubs and their members. It organises a number of events and competitions, including the County Championship. It also controls and manages a small bore target shooting facility. This is made available for hire by affiliated clubs and available to other recognised clubs (those affiliated to the NRSA) and their members.

¹ Attorney General v Ross[1986] 1 WLR 252 at 263; Incorporated Law Reporting for England and Wales v AG [1972] Ch 73

² McGovern v AG [1982] Ch 321 at 333 , Southwood v AG [1998/99] ITCLR 119

12. County coaches are available to visit all clubs in the county, where they offer free coaching to all. It was stated that there is a large amount of coaching that is undertaken by coaches in the clubs especially for newcomers to the sport but also to help more proficient shooters.
13. In its application for registration CTSA states that it provides free coaching and support to clubs and individuals, with a particular focus on young people and those with disabilities.
14. During 2013-14 it ran three different courses. One was a course for Range Conducting officers, one a Youth proficiency scheme for scout leaders and the third a scoring course for members from Cambridgeshire clubs.

Consideration of the expressed objects of CTSA

The Commission considered each of these objects in turn

- I. **To promote community participation in healthy recreation in particular by the provision of facilities for participation in target shooting (“facilities” means land, buildings, equipment, organisation of sporting activities).**

15. The promotion of community participation in healthy recreation in the context of community amateur sports clubs (CASCs) was accepted by the Commission as a charitable purpose in 2003 with the publication of its guidance in RR11 ‘Charitable Status and Sport’. This reflected the common law that the provision of facilities for healthy recreation involving physical fitness was capable of being a charitable purpose (***Re Hadden [1932] 1 Ch 133, Re Morgan[1955] 1 WLR 738***).

16. The criteria required is set out in the guidance

- *the sport in question can be shown to promote physical health and fitness;*
- *the club is open to anyone who wants to join, regardless of ability;*
- *any special clothing or equipment is, where possible, provided free, or at reduced rates, by the club or is affordable;*
- *more and less skilful or competitive players are, as far as reasonably practical treated even-handedly for access to facilities and other purposes;*
- *no payments or private benefits are given to players;*
- *no separate and distinct benefits (for example, social facilities) are provided for non-playing members;*
- *refreshment and social facilities are provided only where they are ancillary to participation in healthy recreation;*

17. CTSA operates by making the facilities available to its member clubs and to members of affiliated clubs. The applicants confirmed that membership of those affiliated clubs, although not charities, is open and that fees are low. Free coaching and support is provided for clubs and individuals, with a particular focus on young people and the disabled (*stated in application but not evidenced*). The less skilful are catered for and there is no evidence of private benefits or non-ancillary social benefits being provided. CTSA have confirmed that they do conform to the above criteria. However, the key issue

is whether the sport in question, target shooting, can be said to promote physical health and fitness.

18. As well as considering whether CTSA was charitable as promoting healthy recreation at common law, the Commission in reaching its decision in relation to this expressed purpose also considered whether CTSA may be charitable for the advancement of amateur sport of target shooting under S 3(1) (g) CA 2011.
19. In both cases the Commission considered whether target shooting constituted recreation or sport by reference to the definition set out in the S(2)(d)CA 2011 namely whether the sport of target shooting did *promote health by involving physical or mental skill or exertion*.
20. On the evidence presented the Commission considered that the recreational activity or sport of target shooting did involve physical and mental skill or exertion. However the Commission is not satisfied on the basis of the evidence before it that it could be said to promote health.

Promotion of health

The evidence considered

21. In reaching its decision the Commission considered all the evidence submitted in support of the application by CTSA including the two research papers:
 - *'Benefits of Shooting Sports'*³
 - *'Mental Training in Shooting'*⁴
22. The first paper 'Benefits of Shooting Sports' outlines separately the physical and mental demands and benefits of shooting and concludes

'it is now recognised that physical training and mental training have an essential role within the sport, and at all levels, ambitious sportsmen will incorporate these techniques into their regime.'
23. The report outlines the physical benefits of shooting. Although it starts with the premise that *'the physical benefits in shooting sports are less obvious at first sight, more difficult to define'* it continues, *'nevertheless there are physical benefits to be had, and to perform well at higher levels in the sport, you need to attain a good level of physical fitness'*.
24. Those physical demands and benefits of target shooting are identified in the paper. These are: upper body strength, arm strength, lower back strength, flexibility, stamina, increased fitness, slow heart rate, improved balance –reduces falls, control of body sway-reduces falls, increased bone density and lowered blood pressure.
25. The report explains:

³ Benefits of Shooting: Jean Coleman, Jo Hipkiss and Professor Malcolm Carruthers.

⁴ Mental Training in Shooting: Anne Grette Jeppesen and Anne Marte Pensgaard.

'target shooting, is despite common misconception, a physically demanding sport in other ways, too. In order to achieve the position where the gun is held on aim at target and align the eye of the sights of the gun, the joints of the whole spine (especially the neck) shoulder, elbow and wrist must be sufficiently flexible. In some cases, depending upon technique, hip joints may also need to be flexible.

In addition to this, it is essential to foster a slow heartbeat in all events. A fast heart rate can seriously interfere with maintaining the steady aim required for target shooting. Physical fitness training strengthens the heart muscles and in so doing allows it to pump more efficiently so reducing the rate of heart beat per minute.

The report explains that *'this slowing of the heart rate can only be achieved through becoming physically fit'*.

26. The report explains that *'with good shooting technique, even the most unfit shooter can achieve good results when competing on his own turf, but as the level of competition rises, the effects of performance anxiety increases with negative effects on his scores.'*
27. In relation to physical benefits it concludes: *'so although shooting is a sport where there is no obvious heart lung activity, it is a sport where stamina to sustain effort over longer periods of time is essential. It is a sport where some events require upper body and arm strength. It is a sport that requires balance and core strength to sustain a steady posture. And, above all, it is a sport that demands a high level of physical fitness to achieve a precise aim under pressure and to protect against undermining levels of performance anxiety.'*
28. The mental health demands and benefits are set out in section 2 of the research paper 'Benefits of Shooting Sports'. It lists the mental demands and benefits as *prolonged improved concentration, anxiety control, relaxation, increased emotional control, learning and memory, rational, logical viewpoint, empathy, lowered blood pressure, longer attention span, control of negative thinking, improved self-worth, and increased independence*. The report claims *'training to become a shooter increases mental discipline and emotional stability.'*
29. The second paper 'Mental Training in Shooting' is principally a document which examines the different mental techniques and training used to enhance top level performance. Although it may evidence mental skill, required to satisfy the definition of sport in the 2011 Act, its focus would appear to be possible techniques for improving performance rather than direct link to health from target shooting.

The conclusion on the promotion of health

30. In reaching its decision, the Commission considered on its ordinary and natural meaning the words of the statute in relation to the promotion of health. Although in the Commission's view the wording of the statute gave some support for separating out the physical health benefits and mental health benefits, the reference to health in the statute was not otherwise divisible and as such it was necessary to consider the matter

holistically and form a view as to whether the recreation or sport in question benefitted in an overall sense the health and well-being of the individual.

31. It was recognised that in order to progress and achieve success in target shooting, like many sports, it is necessary to be physically and mentally fit. However, the Commission was not satisfied that the benefits from health were necessarily gained from the actual activity itself. There was a distinction between the training undertaken in order to improve fitness and the benefit from undertaking the activity itself. That the recreation or sport of target shooting might on the evidence confer certain health benefits at a certain higher level of participation, it did not promote health in the wider sense within the meaning of the statute or at common law.

II. The advancement of education, particularly, without limitation, children and young people whether or not undergoing formal education

32. The purpose falls within the description of purpose at S 3(1)(b) CA 2011. The subject matter of education must be of recognised benefit. The subject matter of the education is not specified, but it is surmised that the educational activity relates to education and training in the sport of rifle and pistol shooting. Shooting is a subject which is included in a number of extra curriculum programmes at schools, either as part of cadet training corps or in some cases as a sports option. The skills and discipline in teaching target shooting to young persons have a recognised educational benefit. CTSA carries out the following educational activities a youth proficiency scheme for scout leaders and a joint initiative with Cambridge County Council as part of the Sport England 'Inspire' programme.

33. The Commission would accept this purpose as a charitable purpose for the public benefit.

III. The relief of the disabled by the promotion and encouragement of inclusive participation in the sport of target shooting.

34. The Commission has long accepted that it is charitable to relieve disability through the provision of sport and recreation. This is now reinforced by S 3(1)(j) CA 2011. It is accepted that target shooting is a sport in which the disabled can participate and CTSA are active in this area.

35. The Commission would accept this as charitable purpose for the public benefit and there is evidence of activity by CTSA which supports this purpose.

IV. To encourage skill in target shooting by providing instruction and practice in the use of firearms amongst members of the cadet forces and to any of Her Majesty's subjects so that they will be better fitted to serve their country in the armed forces, territorial army or any other organisation in which their services may be required in defence of the realm in times of peril.

36. The defence of the realm is a recognised charitable purpose for the public benefit. (*Re Stephens (1892) 8 T.L.R.*). However, it is not established that encouraging skill in target

shooting to Her Majesty's subjects will promote this purpose for the public benefit. After detailed consideration in 1993 the Commission determined that the purpose was not charitable *if* there was no connectivity between target shooting and the defence of the realm.

37. There is no evidence to show connectivity here, so that this purpose cannot be accepted as charitable.

Public benefit

38. To be charitable, the purpose of an organisation must both fall within a description of a purpose set out in the legislation and be for the public benefit, S 2(1) CA 2011. Although CTSA has confirmed that the benefits afforded by CTSA and the affiliated non charitable clubs in relation to the recreation / sporting facilities provided are open to the public generally without restriction and not confined to a private class (see paragraph 17 above), the key issue is whether the provision of these facilities confer a benefit as understood in charity law.

39. With regard to benefit in relation to CTSA as charitable for promotion of health at common law or as amateur sport, the issue is the extent to which carrying out target shooting enures for the health of the participants. As outlined above, the Commission was not satisfied that there was sufficient evidence of the benefit to health through participation in the recreational activity or the sport of target shooting. The Commission concluded that given there existed no overarching purpose which could be said to be charitable for the public benefit, the private benefit to members participating in competition and recreational activity cannot be said to be necessarily incidental to furthering a charitable purpose and those benefits militate against public benefit being demonstrated. ***See IRC v City of Glasgow Police Athletic Association [1953] AC 380***⁵

Detriment or Harm

40. The Commission takes detriment or harm into account where it is reasonable to expect that it will result from the individual organisation's purpose. This will be based on evidence, not on personal views.
41. There is a potential concern that recognition of gun clubs as charities may have a potential detriment or harm arising from unlawful civil shootings and increase potential access to firearms.
42. Ownership of firearms is regulated under the provisions of the Firearms Act 1968 which includes ownership as a member of a registered Gun Club. Any club which uses live ammunition must be approved by the Home Office. The approval of clubs is subject to criteria laid down by the Home Office. The National Small Bore Rifle Association is responsible for the affiliation and regulation of shooting clubs. Where a club involves the

⁵ Lord Normand at page 396

use of Firearms then prospective members are required to complete a declaration that they are not prohibited from holding firearms and applications are checked by the Police Firearms Department.

43. The process for control and regulation of firearms will not be altered by recognition of gun clubs as charities. If it were considered that gun clubs were a public detriment or harm then it would fall to the Home Office to deal with their regulation.
44. The Commission concluded that there was no evidence to establish detriment or harm which would otherwise arise from the recognition of CTSA as a charity if it was otherwise decided that it had the potential to be a charity.

Conclusion

45. Although the Commission recognises target shooting as a sport which involves physical and mental skill it was not satisfied it had been sufficiently demonstrated that the activity itself promotes health. Accordingly it could not be considered charitable either under the description of purpose of the advancement of amateur sport or under the common law purpose of the promotion of community participation in healthy recreation .In consequence the Commission concluded that CTSA is not established for exclusively charitable purposes for the public benefit.