

# Charities (Protection and Social Investment) Bill [HL]

---

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**Clause 3**

LORD BRIDGES OF HEADLEY

- 1 Page 2, line 42, leave out “or privy to”
- 2 Page 2, line 43, after “mismanagement,” insert—  
“() that a particular person knew of the misconduct or  
mismanagement and failed to take any reasonable step to  
oppose it,”

**Clause 4**

LORD BRIDGES OF HEADLEY

- 3 Page 3, line 31, leave out “or privy to”
- 4 Page 3, line 32, after “mismanagement,” insert—  
“() who knew of the misconduct or mismanagement and failed  
to take any reasonable step to oppose it,”

**Clause 8**

LORD BRIDGES OF HEADLEY

- 5 Page 6, line 41, leave out “In”
- 6 Page 6, line 42, after “unwilling)” insert “is amended as follows.  
() In subsection (1)(a), after “unwilling” insert “or unable”.  
() ”

Amendment  
No.

**After Clause 8**

BARONESS HAYTER OF KENTISH TOWN  
LORD PALMER OF CHILDS HILL  
LORD KERSLAKE  
THE LORD BISHOP OF ROCHESTER

7 Insert the following new Clause –

**“Conduct of charities: disposal of assets**

The Charity Commission shall ensure that independent charities are not compelled to use or dispose of their assets in a way which is inconsistent with their charitable purposes.”

**Clause 9**

LORD BRIDGES OF HEADLEY

8 Page 7, line 10, after “D” insert –

“(a) ”

9 Page 7, line 11, at end insert “;

(b) for “to which P was privy,” substitute “which P knew of and failed to take any reasonable step to oppose”.”

LORD BRIDGES OF HEADLEY  
BARONESS HAYTER OF KENTISH TOWN  
LORD WATSON OF INVERGOWRIE

10 Page 7, line 26, at end insert –

“*Case K*

P is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.”

**Clause 10**

LORD BRIDGES OF HEADLEY

11★ Page 11, line 4, leave out “either”

12 Page 11, line 5, leave out “or privy to”

13 Page 11, line 6, after “mismanagement,” insert –

“( ) the person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it,”

Amendment  
No.

**After Clause 12**

LORD BRIDGES OF HEADLEY

**14** Insert the following new Clause –

**“Fund-raising**

- (1) Section 59 of the Charities Act 1992 (prohibition on certain fund-raising without agreement in prescribed form) is amended as follows.
- (2) In subsection (6) for “such requirements” substitute “the requirement in subsection (7) and such other requirements (including any requirements supplementing subsections (7) and (8))”.
- (3) After that subsection insert –
  - “(7) The requirement in this subsection is that the agreement must specify all of the following –
    - (a) any voluntary scheme for regulating fund-raising, or any voluntary standard of fund-raising, that the professional fund-raiser or commercial participator undertakes to be bound by for the purposes of the agreement;
    - (b) how the professional fund-raiser or commercial participator is to protect vulnerable people and other members of the public from behaviour within subsection (8) in the course of, or in connection with, the activities to which the agreement relates;
    - (c) arrangements enabling the charitable institution to monitor compliance with subsection (1) or (2) by reference to the agreement.
  - (8) The behaviour mentioned in subsection (7)(b) is –
    - (a) unreasonable intrusion on a person’s privacy;
    - (b) unreasonably persistent approaches for the purpose of soliciting or otherwise procuring money or other property;
    - (c) placing undue pressure on a person to give money or other property.”
- (4) In the Charities Act 2011, after section 162 insert –

**“162A Annual reports: fund-raising standards information**

- (1) If section 144(2) applies to a financial year of a charity, the annual report in respect of that year must include a statement of each of the following for that year –
  - (a) the approach taken by the charity to activities by the charity or by any person on behalf of the charity for the purpose of fund-raising, and in particular whether a professional fund-raiser or commercial participator carried on any of those activities;
  - (b) whether the charity or any person acting on behalf of the charity was subject to an undertaking to be bound by any voluntary scheme for regulating fund-raising, or any voluntary standard of fund-raising, in respect of activities on behalf of the charity, and, if so, what scheme or standard;
  - (c) any failure to comply with a scheme or standard mentioned under paragraph (b);

Amendment  
No.

**After Clause 12**—*continued*

- (d) whether the charity monitored activities carried on by any person on behalf of the charity for the purpose of fund-raising, and, if so, how it did so;
  - (e) the number of complaints received by the charity or a person acting on its behalf about activities by the charity or by a person on behalf of the charity for the purpose of fund-raising;
  - (f) what the charity has done to protect vulnerable people and other members of the public from behaviour within subsection (2) in the course of, or in connection with, such activities.
- (2) The behaviour within this subsection is—
- (a) unreasonable intrusion on a person’s privacy;
  - (b) unreasonably persistent approaches for the purpose of soliciting or otherwise procuring money or other property on behalf of the charity;
  - (c) placing undue pressure on a person to give money or other property.
- (3) In this section—
- (a) “commercial participator” and “professional fund-raiser” have the meaning given by section 58 of the Charities Act 1992 (control of fund-raising: interpretation);
  - (b) “fund-raising” means soliciting or otherwise procuring money or other property for charitable purposes.
- (4) Section 58(6) and (7) of the Charities Act 1992 (references to soliciting money etc) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.”

LORD LEA OF CRONDALL

15 Insert the following new Clause—

**“Charity Commission annual report to refer to principles of best regulatory practice**

- (1) Schedule 1 to the Charities Act 2011 is amended as follows.
- (2) In paragraph 11(1)(c), after “16)” insert “including the extent to which, in its opinion, it acted in a proportionate, accountable, consistent, transparent and targeted manner (see section 16(4))”.

BARONESS HAYTER OF KENTISH TOWN  
LORD WATSON OF INVERGOWRIE

16 Insert the following new Clause—

**“Conduct of charities: regulation of fund-raising**

- (1) All charities raising funds of over £1 million per year must be members of the Fundraising Standards Board and abide by the Code of Fundraising Practice.

Amendment  
No.

**After Clause 12—continued**

- (2) In section 64A of the Charities Act 1992, as inserted by section 69 of the Charities Act 2006 (reserve power to control fund-raising by charitable institutions)—
- (a) in the title omit “**Reserve**”;
  - (b) in subsection (1) for “may” substitute “must”.

17 Insert the following new Clause—

**“Power to make representations**

- (1) A charity may undertake political campaigning or political activity in the context of supporting the delivery of its charitable purposes.
- (2) A charity may campaign to ensure support for, or to oppose, a change in the law, policy or decisions of central government, local authorities or other public bodies.”

LORD BEW  
BARONESS DEECH

18★ Insert the following new Clause—

*“Damages for torts by trustees or their employees*

**Damages for torts by trustees of unincorporated charities or their employees**

- (1) The Charities Act 2011 is amended as follows.
- (2) After section 284 (when and how section 282 resolution takes effect) insert—

**“284A Damages for torts by trustees or their employees**

- (1) This section applies where—
  - (a) a trustee of an unincorporated charity is liable in tort by reason of his conduct in his capacity as a trustee of that charity; or
  - (b) a person employed by a trustee or trustees of an unincorporated charity is liable in tort by reason of his conduct in the course of that employment.
- (2) Where this section applies, a person entitled to damages for the tort shall be entitled to recover those damages from the assets of the charity.
- (3) Subsection (2) shall not affect the liability of any trustee, employee, or any other person.
- (4) Where a claim is made under subsection (2), the provisions of the Civil Liability (Contribution) Act 1978 shall apply as if the charity had legal personality.
- (5) Where a claim is made under subsection (2), or a contribution is claimed from the assets of a charity under subsection (4), the charity may be named as a party and may be represented by its trustees or such other person as may be appointed by the court in any legal proceedings.””

Amendment  
No.

**After Clause 12—continued**

LORD WALLACE OF SALTAIRE  
BARONESS BARKER  
BARONESS HAYTER OF KENTISH TOWN  
LORD WATSON OF INVERGOWRIE

19★ Insert the following new Clause—

**“Independent schools’ facilities: public benefit**

In section 4 of the Charities Act 2011 (the public benefit requirement), after subsection (4) insert—

- “(5) Independent schools which are charities must engage actively with local communities and state schools with a view to sharing resources and facilities.
- (6) The Charity Commission must publish guidance setting out the minimum that independent schools which are charities must do to comply with the duty in subsection (5).”

**Clause 13**

BARONESS BARKER  
LORD WALLACE OF SALTAIRE

20 Page 16, line 19, leave out “both” and insert “primarily”

21 Page 16, line 20, leave out “and” and insert “while also”

22 Page 16, line 30, after “is” insert “equal or”

23 Page 16, line 31, at end insert—

“and may include—

- (i) income,
- (ii) capital growth,
- (iii) full or partial repayment of the investment, or
- (iv) avoiding incurring financial liability at a future date.”

24 Page 16, leave out lines 32 to 36

LORD BRIDGES OF HEADLEY

25 Page 16, line 36, at end insert—

“( ) The fact that a relevant act may also have results other than those mentioned in subsection (2)(a) and (b) does not prevent the carrying out of that act being regarded as the making of a social investment.”

26 Page 16, line 37, after “that” insert “carrying out”

27 Page 17, leave out lines 17 to 21 and insert—

- “(4) This section and section 292C do not apply in relation to—
  - (a) charities established by, or whose purposes and functions are set out in, legislation;

Amendment  
No.

**Clause 13** – *continued*

(b) charities established by Royal Charter;  
but they apply in relation to all other charities, whether established before or after this section comes into force.

- (5) In subsection (4) “legislation” means –
- (a) an Act of Parliament or an Act or Measure of the National Assembly for Wales; or
  - (b) subordinate legislation (within the meaning of the Interpretation Act 1978) made under such an Act or Measure.”

28 Page 17, line 24, leave out “this Part” and insert “section 292B”

29 Page 17, line 33, at end insert “, having regard to the benefit they expect it to achieve for the charity (by directly furthering the charity’s purposes and achieving a financial return)”

LORD CROMWELL  
LORD HOPE OF CRAIGHEAD

[Amendments 30 and 31 are amendments to Amendment 29]

30 Line 1, after “regard” insert “both”

31 Line 3, at end insert “, and to its place in the prudent and long-term management of the assets of the charity”

LORD HODGSON OF ASTLEY ABBOTTS

32★ Page 18, line 3, at end insert –

**“292D Marketing of social investments**

- (1) Any financial promotion which is communicated by a charity shall not be subject to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.
- (2) The Treasury may by regulations set out rules for the communication of financial promotions by charities.
- (3) In making any such regulations, the Treasury shall have regard to –
  - (a) the desirability of creating rules which are proportionate to the nature, scale and capacity of different charities and which are easy to understand and follow;
  - (b) the desirability of creating rules which support the growth, development and financing of charities and which are enabling and facilitative;
  - (c) the desirability of facilitating, where appropriate, direct investment on the part of consumers into charities, including charities which operate locally to the consumer;
  - (d) the desirability of consistency of approach in the regulatory treatment of communications made by different forms of charities;

Amendment  
No.

**Clause 13** – *continued*

- (e) the differing expectations that consumers may have in relation to different kinds of investment or other transaction and, in particular, the fact that many when investing in charities do so for a variety of non-financial reasons; and
- (f) the desirability, where appropriate, of the Financial Conduct Authority exercising its functions in a way that recognises differences in the nature of, and objectives of, charities as compared to other organisations which are subject to the requirements of the Financial Services and Markets Act 2000.”

**After Clause 13**

LORD HODGSON OF ASTLEY ABBOTTS

33★ Insert the following new Clause –

**“Appeals and applications to Charity Appeal Tribunal**

- (1) The Charities Act 2011 is amended as follows.
- (2) For section 319 (appeals: general) substitute –

**“319 Appeals: general**

- (1) Except in the case of a reviewable matter (see section 322) an appeal may be brought to the Tribunal against any decision, order or direction made by the Commission or any decision on the part of the Commission not to make any decision, order or direction.
- (2) Such an appeal may be brought by the following –
  - (a) the Attorney General;
  - (b) the charity trustees of the charity subject to the relevant decision, order or direction;
  - (c) (if a body corporate) the charity subject to the relevant decision, order or direction;
  - (d) any other person who is the subject of the relevant decision, order or direction or who is significantly interested in and affected by the relevant decision, order or direction.
- (3) The Commission is to be the respondent to such an appeal.
- (4) In determining such an appeal the Tribunal –
  - (a) must consider afresh the legal decision, order, direction or decision not to act (as the case may be), and
  - (b) may take into account evidence which is not available to the Commission.
- (5) The Tribunal may –
  - (a) dismiss the appeal; or
  - (b) if it allows the appeal, exercise any of the following powers –
    - (i) to quash (in whole or in part) the decision, order, direction and (if appropriate) remit the matter to the Commission;



Amendment  
No.

**After Clause 13**—*continued*

- (ii) to substitute for the decision, order or direction any other decision, order or direction which could have been made or given by the Commission;
  - (iii) to add to the decision, order or direction anything which could have been contained in a decision, order or direction of the Commission;
  - (iv) to give such direction to the Commission as it considers appropriate; and
  - (v) where appropriate, to make any decision, order or direction which the Commission could have made.”
- (3) For section 321(2) substitute—
- “(2) Such an application may be brought by—
- (a) the Attorney General;
  - (b) the charity trustees of the charity subject to the relevant reviewable matter;
  - (c) (if a body corporate) the charity subject to the relevant reviewable matter;
  - (d) any other person who is the subject of the relevant reviewable matter or who is significantly interested in and affected by the relevant reviewable matter.”
- (4) For section 323 (remission of matters to Commission) substitute—
- “323 Remission of matters to Commission**
- The reference in section 319(5)(i) to “remit a matter to the Commission” means the power to remit the matter—
- (a) generally, or
  - (b) for determination in accordance with a finding made or direction given by the Tribunal.”
- (5) Omit section 324 (power to amend provisions relating to appeals and applications to Tribunal).
- (6) Omit Schedule 6 (appeals and applications to Tribunal).”

**Clause 14**

BARONESS BARKER  
LORD WALLACE OF SALTAIRE

- 34 Page 18, line 19, after “donations,” insert—
- “( ) the relationship between grant-making and social investment,”

LORD BRIDGES OF HEADLEY

- 35 Page 18, line 23, leave out from “apart” to end of line 24 and insert—
- “( ) The first review must begin within 3 years after this Act is passed, and the report of that review must be published within 4 years after this Act is passed.”

**Amendment  
No.**

**In the Title**

LORD BRIDGES OF HEADLEY

**36** Line 1, after “Amend” insert “the Charities Act 1992 and”

BARONESS HAYTER OF KENTISH TOWN

**37★** In the Title, at end insert “, and to make other provisions regarding charities”

# Charities (Protection and Social Investment) Bill [HL]

---

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*16th July 2015*

---

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS  
LONDON - THE STATIONERY OFFICE LIMITED  
£3.00

HL Bill 55—I

(50675)

56/1



ISBN 978-0-10-800240-3



9 780108 002403