

MUSLIM CHARITIES

A SUSPECT SECTOR

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**Muslim Charities: A Suspect Sector
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Claystone is an independent think tank formed to offer research, analysis and reasoned solutions to foster social cohesion in relation to Muslims in Britain.

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CLAYSTONE WOULD LIKE TO THANK
BIRNBERG PEIRCE & PARTNERS,
PAUL FLYNN MP & THE CHARITIES
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EXECUTIVE SUMMARY

- Muslim charities have been disproportionately affected by investigations. 38% of all disclosed statutory investigations initiated after January 1st 2013 and still ongoing in the period between January 1st 2014 and April 23rd 2014 were on Muslim charities.

- The Charity Commission initiated a new issue code called 'extremism and radicalisation' on December 5th 2012. It has labelled 55 charities with the issue code 'extremism and radicalisation' without their knowledge in the period December 5th 2012 to May 8th 2014. These charities were/are being monitored as a potential concern for matters relating to extremism and radicalisation. There are no written criteria for applying or removing this label and thus it lends itself to non-evidenced based targeting of particular groups.

- The Chairman of the Charity Commission, Sir William Shawcross, has spoken publicly on numerous occasions about extremism, radicalisation and the funding of terrorist organisations within the charity sector. His claim that it is a growing problem within the sector is a position that remains unsubstantiated through evidence. Peter Clarke, who is a Charity Commission board member and former head of the Anti-Terrorism Branch of the Metropolitan Police, declined to give any indication of the extent of suspected links between charities and terrorist activity.

- The appointment of Sir William Shawcross as the Chairman of the Charity Commission was a controversial decision about which a number of MPs voiced concerns. Four Muslim charities contacted for this research expressed concerns over public statements Shawcross had made prior to his appointment, in that they felt

that this tarnished the neutrality of the Commission's Chairman.

- The Government's PREVENT policy confirms that the Charity Commission is seen as a partner agency in counter terrorism¹. PREVENT seeks to ensure that "there should be no 'ungoverned spaces' in which extremism is allowed to flourish without firm challenge and, where appropriate, by legal intervention."² This has led to the implementation of counter terrorism initiatives within different sectors of society and governance. The aim of these initiatives is ostensibly to purge each sector of extremism.

- Notions of non-violent extremism are conceptually weak and the public messaging of the Chairman of the Charity Commission conflates illegal terrorist activity with these concepts. Whilst extremism is defined in policy as opposition to fundamental British values, the notion of British values themselves are highly contentious and loosely defined. One charity trustee told us that "It is possible to make a case that previous statements of the chairman in support of Guantanamo Bay, for instance, are a violation of fundamental British values and thus extremism."

- When examined, the Commission's processes for dealing with the issue of extremism are unsound and open to misuse.

- The new draft legislation proposes powers which can be authorised on subjective grounds by the Commission and may give rise to unwarranted interventions in charities. There is also the possibility for abuse of powers. The potential for misapplication is compounded by the fact that the Commission currently has a flawed policy on extremism.

INTRODUCTION

The Muslim community has long had a strong and sustained relationship with the charity sector, with many Muslim-led charities making a salient contribution and presence in terms of relief and development output. A poll conducted in 2013 by ICM research found that Muslims top the league on charitable donations. Despite this, a charity dealing directly with the Syrian humanitarian crisis informed us “although this crisis is one of the worst seen since World War 2, donations have fallen by 60 to 70% in the last 8 to 10 months. This is a direct result of Commission investigations and sensationalist media reporting of them.”

In July 2014, Sir Stephen Bubb, head of the charity chief executives body ACEVO (Association of Chief Executives of Voluntary Organisations)³, said there is a perception that the Charity Commission, the national regulator of UK charities, is disproportionately targeting Muslim charities.⁴

Claystone conducted this study to determine the validity and the breadth of the concerns which were raised by Bubb, as well as others in the sector that were contacted in the duration of this study.

Our study sought to:

1. Determine the number of Muslim charities that were being investigated in proportion to the total number of investigations being conducted by the Charity Commission.
2. Look into procedural and leadership developments at the Charity Commission, in particular those occurring in the last 2 years. It will also assess the new draft legislation which proposes greater powers to the Commission.
3. To scrutinise the effectiveness and fairness of policies and procedures relating to extremism.

This was done through numerous submissions of Freedom of Information (FOI) requests, semi-structured interviews with over 15 Muslim charities, and subsequently analysing Charity Commission policies and procedures pertaining to radicalisation and extremism. We also scrutinised the new draft legislation, the Protection of Charities bill.

PART 1. DATA INDICATING A FOCUS ON MUSLIM CHARITIES

1.1 Muslim charities represented 38% of Charity Commission inquiries carried out under section 46 of the Charities Act 2011

Through an FOI request, the Charity Commission supplied Claystone with a list of statutory inquiries that were still active in the period January 1st 2014 to the date the Commission made the disclosure on April 23rd 2014. Whilst these investigations were still active, some of them date back as far as 2008. From this list, we filtered out charities whose investigations were initiated before January 1st 2013. Of the 44 charities remaining, 17 were Muslim charities. This represented 38% of the total number of charities being investigated. There were a number of charities (approximately between 10-20) whose disclosure was not made to us under FOI exemption clauses.

INQUIRY OPENED	INQUIRY CLOSED / ON-GOING	REGISTRATION NO.	CHARITY
11/11/2013	03/01/2014	1099763	Muslim Cultural Society of Birmingham
11/11/2013	11/02/2014	274153	Crawley Islamic Centre and Mosque
11/11/2013	06/03/2014	1090525	Markazul Uloom
11/11/2013	12/03/2014	810098	Cymmer Workmens Hall and Institute
11/11/2013	20/03/2014	284381	Jaimat-uL-Muslemeen Quwat-uL-Islam Masjed
31/03/2014	On-going	1060394	Ethiopian Orthodox Tewando Church St Mary of Debre Tsion
14/04/2014	Ongoing	1101600	Children in Deen
21/03/2014	Ongoing	1056562	Al-Fatiha Global
21/05/2013	Ongoing	1138450	The Public Safety Charitable Trust Limited
07/03/2014	Ongoing	1134566	Islamic Education and Research
06/03/2014	Ongoing	1125830	Islamic Global Trust
12/03/2014	Ongoing	1100151	Augustine Housing Trust
17/02/2014	Ongoing	1137000	Khodam al Mandi Organisation
04/02/2014	Ongoing	1096543	The Apostolic Faith Mission International Ministries UK
03/02/2014	Ongoing	1139690	Insaan Relief
03/02/2014	Ongoing	1137137	My Community UK
31/01/2014	Ongoing	501904	The Hinckley Concordia Association
20/12/2013	Ongoing		Syria Aid
22/11/2013	Ongoing	1132340	Afghan Heroes
20/11/2013	Ongoing	295224	Muslim Aid
11/11/2013	Ongoing	234038	Achiezer
11/11/2013	Ongoing	1075369	African Families Support Services
11/11/2013	Ongoing	1085504	Life Line Missions
11/11/2013	Ongoing	1043598	The National Patients Support Trust
21/11/2013	Ongoing	1133355	Support the World's Children
11/11/2013	Ongoing	522804	Hadley Playing Fields and Recreation Ground
18/11/2013	Ongoing	1121270	Love for Children (UK)
25/10/2013	Ongoing	1081149	Busoga Association (UK)
30/09/2013	Ongoing	1148320	Islamic Waqf Foundation
30/09/2013	Ongoing	1113563	Quba Education and Cultural Association
23/09/2013	Ongoing	255031	Achiezer Association Limited
23/09/2013	Ongoing	523834	Beighton Welfare Recreation Ground
23/10/2013	Ongoing	1144066	Guild Childcare
30/08/2013	Ongoing	1149015	Aid Convoy
29/07/2013	Ongoing	1059247	Christ Embassy
17/07/2013	Ongoing	1088172	Cylch
18/10/2013	Ongoing *	1121121	Manor Residents Association
20/08/2013	Ongoing	1101417	The Kertes Foundation
12/07/2013	Ongoing	1077946	Africa Relief Trust
14/05/2013	Ongoing	1142710	Quba Islamic Centre in Leicester
06/06/2013	Ongoing	1129092	Viva Palestina
08/07/2013	Ongoing	225455	The Spiritualist Association of Great Britain Limited
03/04/2013	Ongoing	307342	Stanbridge Earls School Trust
12/04/2013	Ongoing	1129044	The Cup Trust

Figure 1. The 17 Muslim charities are in bold font.

1.2 The New “radicalisation and extremism” Issue Code

Through an FOI request, we asked for communications between the Charity Commission and any charities it had engaged with on the issue of their associations with extremist individuals and institutions. The Commission acknowledged holding the data but stated that most of this information was exempt from disclosure. However, a key paragraph from their response is given below:

“Although I am not able to disclose all of the information you have requested there is some information I can provide. The Commission holds information on its systems in respect of its investigatory and other regulatory casework. Issue codes are assigned to each case and these serve to identify the issues of concern under consideration. I have searched the relevant system using the issue code “Radicalisation and extremism” as the search parameter. This has identified 55 charities with cases opened between 5 December 2012 and 8 May 2014. We do not hold information on this system prior to this period because this issue code was not in use.”⁵

After some additional enquiries, we determined that:

- A new issue code - “Radicalisation and extremism” - was created at some point on or shortly after December 5th 2012. This was soon after the new appointment of Sir William Shawcross to the Chair of the Commission.
- The Commission has labelled 55 charities with the issue code ‘extremism and radicalisation’ without their knowledge. This means the Commission has flagged up 55 charities which will be monitored as a potential concern for matters relating to extremism and radicalisation in the period December 5th 2012 to May 8th 2014.
- The criteria for applying and removing this issue code is not in a written form which can be scrutinised. We were informed that “an issue code is applied solely on the basis of the subject and type of allegations or concerns that have come to the attention of the Commission.”
- To understand more about the process by which the concerns “come to the attention of the Commission” we asked the following question - “Has any government department ever briefed the Charity Commission on specific charities deemed to be a concern for reasons of extremism and radicalisation?” The Charity Commission responded that information was exempted from disclosure. Thus the process by which issues are brought to their attention and the process by which they make a determination on whether to act on the information remain unexplained.

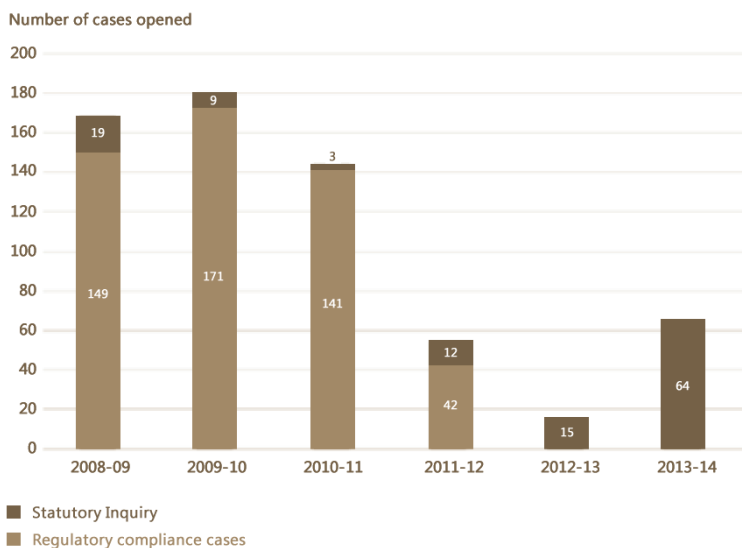
1.3 Monitoring cases

In 2012, regulatory compliance cases were handed to the Operations division of the Charity Commission. The reporting of these cases is no longer routinely made public. Achieving reliable data on those cases was a sizeable challenge. However, we found 5 examples of Muslim charities that were being monitored by the Commission. All of these charities expressed similar concerns that clear criteria were not stipulated relating as to how to bring proceedings to their conclusion. Therefore, the monitoring terms remained indefinite.

Some of these charities were quizzed at length about their association with specific individuals. One trustee said “We were questioned at length about different religious clerics who in most cases had done nothing more than deliver one lecture at a fundraising event some time in the past for us. We were quoted snippets from lectures they had given at events that were nothing to do with us and asked to provide explanations.”

Another trustee commented “It felt like the assumption was we were apologists for extremists unless we could justify why we weren’t. If the Commission felt that unlawful speech had been used they should have gone to the Police with their quotes.”

In a report by the National Audit Office on the regulatory effectiveness of the Charity Commission, it states that the “Commission is looking at more efficient ways of reporting on specific cases and plans to report on these cases in future.”⁶ This is illustrated in figure 2.



Source: National Audit Office, adapted from original source. Regulatory compliance cases ceased to be opened after 2011 although similar cases continue to be conducted by the Operations division but are not routinely disclosed.

Figure 2

While some of this data demonstrates a disproportionate focus on the Muslim charity sector, this in itself does not indicate wrongdoing on part of the Commission. However, this does lend a large degree of motivation into analysing a series of changes that have affected the approach of the Charity Commission towards Muslim charities.

PART 2. RECENT DEVELOPMENTS AT THE CHARITY COMMISSION

2.1 The Charity Commission as a Counter Terrorism Partner Agency

The Charity Commission is a non-Ministerial Government Department and the independent regulator with responsibility for overseeing the charitable sector. As of March 31st 2014, there were 164,108 registered charities for which the Commission is responsible to regulate.⁷ It has both a compliance and enforcement function intended to protect charities from abuse.

The Government's PREVENT⁸ policy confirms the Charity Commission to be a partner agency in counter terrorism⁹. PREVENT seeks to ensure that "there should be no 'ungoverned spaces' in which extremism is allowed to flourish without firm challenge and, where appropriate, by legal intervention."¹⁰ It is this framing of the context that has led to a proliferation of counter terrorism initiatives within different sectors of society, including health, education, finance, local government and also in the civic sector. The apparent aim of these initiatives is to purge each sector of extremism and radicalisation that ultimately support terrorism.

The government's counter terrorism policy has brought into sharper focus the Commission's role in preventing the abuse of charities for the purpose of funding terrorism. In July 2008, the Commission first published its counter terrorism strategy (revised in 2012)¹¹. It states:

"We have a clear role to play in taking regulatory action independently, and, where appropriate, in conjunction with the work of law enforcement agencies who deal with the criminal aspects of this abuse. We are well placed to liaise with them, other regulators and agencies and with other parts of government, and to support trustees themselves to protect their charities from abuse."¹²

On March 6th 2009, David Walker, the former head of Outreach and Development in the Compliance and Support division of the Commission, said 'Our assessment as a regulator is that terrorist abuse is actually very rare in charities.'¹³

In contrast, as Chairman, Shawcross has spoken publicly on numerous occasions and expressed concerns about extremism, radicalisation and the funding of terrorist organisations within the charity sector. In April 2014, he said "the problem of Islamist extremism and charities ... is not the most widespread problem we face in terms of abuse of charities, but is potentially the most deadly. And it is, alas, growing."¹⁴ The direction of the Charity Commission on this matter has shifted significantly since his appointment as Chairman.

Whilst it has been asserted that the Commission plays a vital role in cutting off potential funding to terrorist organisations; it should be noted that the scale of the problem has not

been quantified with any data. Therefore, the assertion that it is 'growing' cannot be tested. In July 2014, Stephen Cook, editor of Third Sector (a leading publication in the voluntary sector) stated that "Peter Clarke, the Charity Commission board member who used to be head of the Anti-Terrorism Branch of the Metropolitan Police, declined to give any indication of the extent of suspected links between charities and terrorist activity."

2.2 Appointment of Sir William Shawcross as Chairman of the Charity Commission.

In September 2012, Sir William Shawcross became the Chair of the Charity Commission.¹⁵ His candidature was supported by the Minister for the Cabinet Office, Francis Maude MP.

His appointment was also considered by the Public Administration Select Committee as part of the process. In attendance were MPs Bernard Jenkin (Chair), Alun Cairns, Charlie Elphicke, Paul Flynn, Robert Halfon, David Heyes, Greg Mulholland and Priti Patel.

This Committee voted in favour of his appointment by 4 votes against 3. Liberal Democrat MP Greg Mulholland and Labour MPs Paul Flynn and David Heyes voted against the appointment. Issues raised included views he had expressed in the past, such as supporting the Iraq war and urging people to vote for the Conservative party.¹⁶ The 4 who voted in favour were all Conservative MP's.

On September 5th 2012, at the meeting where Sir William Shawcross was appointed, Paul Flynn MP expressed concerns about the chairman Bernard Jenkin MP being "partisan" and that Francis Maude MP had been involved in "political hatchet jobs" with public appointments:

Chair: This is not about your views, Mr Flynn; this is about the candidate's objectivity. Please ask about that.

Paul Flynn: I can understand your obstruction to this because you clearly have a partisan view on this, Chairman, not for the first time, may I say. If I may continue-as usual struggling against the bias of the Chairman on this-my role on this Committee is to introduce some impartiality and do the job that we should be doing, which is to ensure that you are not going to face accusations or suspicions from the charity bodies, who are bruised and battered at the moment, that they have someone who is going to do the political hatchet job that Maude is doing elsewhere. You would be an independent person: can you assure us of that?

William Shawcross: I can assure you of that. If you have any misgivings I would wish to come back at any stage and talk to this Committee, whenever you wish to do that. I am absolutely convinced, as you are, Mr Flynn that the independence of the regulator is vital and it would be utterly wrong of me to infringe upon that independence in any way. I would not do so.¹⁷

In February 2014, Baroness Sally Morgan, former chair of Ofsted, expressed similar concerns in an interview with BBC radio 4:¹⁸

SM: Yes I think there's absolutely a pattern and I think it's extremely worrying because I think one of the really important things about public appointments is that they're made on the basis of merit and they're seen to be transparently made [...] I think there's something going on in the centre that's mitigating against that

Interviewer: Well it wouldn't be the first time that a government, sometimes a Labour government, sometimes a Conservative government has wanted to get a person in a job who happens to be a supporter and we all know that has occurred before. You seem to be suggesting [...] You think this is on another level.

SM: I do think this is on another level [...] I think there's a sort of good cover story which is the suggestion from Francis Maude that there should be no automatic assumption that there'll be no second terms and that's quite a good cover up [...]

...

SM: I think that everything I have seen [...] and it's been quite a quiet drip so I think there hasn't been a lot of profile given to this [...] but I think if you look at some of the [...] I don't know [...] Charity Commission and Arts Council, I'm not talking about Labour people being replaced, I'm talking about non-Conservative supporters being replaced by Conservative supporters.

Liberal Democrat MP Greg Mulholland cited articles where Shawcross had written in support of Rupert Murdoch, Guantanamo Bay and the decision by George Bush and Tony Blair to invade Iraq. He said: "...but I am concerned whether such an outspoken journalist with such strong views on uncomfortable issues will be able to lead an organisation that needs sensitivity and impartiality."

Labour MP Fiona Mactaggart suggested that Shawcross is a political appointment to the Commission on Twitter, stating that: "Tory hacks who have had important public appointments: Peta Buscombe, William Shawcross, spring to mind."¹⁹

2.3 Some views expressed by Sir William Shawcross

Shawcross has expressed views that some Muslim organisations believe raise legitimate questions concerning his neutrality. As such, a clarification on such statements would be welcome.

On January 17th 2012, whilst still a director at the Henry Jackson Society, stated in a lecture to the World Affairs Council that “Europe and Islam is one of the greatest, most terrifying problems of our future. I think all European countries have vastly, very quickly, growing Islamic populations...”²⁰

On September 5th 2012, at the Public Administration Selected Committee, Shawcross was in agreement with Conservative Charlie Elphicke MP that there is a crisis of non-peaceful religious charity abuse undermining the state.

Charlie Elphicke: So the Charity Commission under you would uphold freedom of religious expression?

William Shawcross: Yes.

Charlie Elphicke: And freedom of religious practice?

William Shawcross: Yes.

Charlie Elphicke: And freedom of belief?

William Shawcross: Yes. Freedom of belief should be nothing to do with any of us.

Charlie Elphicke: But where there is a charity that is religious and, as part of what it is doing, undermines the security of the state, would you also take an interest and act to ensure charitable funds were not used for activities of a more nefarious or dangerous nature.

William Shawcross: Of course. That is a very dangerous situation. Unfortunately it has become more of a crisis in recent years, not just in this country. It is absolutely critical that the law in all its forms, regulations and aspects, be used to stop abuses of charities of that sort. It is absolutely unforgivable that charities should be used to foment violence in the ways that you are suggesting.

Charlie Elphicke: So religion, but peaceful religion?

William Shawcross: Yes.

Shawcross also demonstrates strong views on certain international issues pertaining to Muslim communities and their place in the international domain. In July 2010 in an article for the Jerusalem Post he stated:

“No one marches or calls emergency meetings of the UN and the EU to protest the vicious Muslim brutality against other Muslims that takes place every day throughout the Islamic world – and beyond. No one demonstrates on behalf of Christians murdered in the Middle East, their churches burned.”²¹

“The Muslim world and the Western Left are in an unholy alliance; they do not want to improve the Jewish state, they want to remove it... [Obama] He has shown himself far more tolerant of (or unconcerned by) abuses of power in the Muslim world than by mistakes of Israel.”²²

2.4 The Henry Jackson Society

On September 16th 2009, representatives from the Quilliam Foundation ran a seminar for Charity Commission staff on the subject of “Islamism and Radicalisation”²³. British based think-tanks played an important role in framing a narrative on the causes of terrorism which have held religious ideology to be the central problem. The Quilliam Foundation, Policy Exchange and latterly the Henry Jackson Society were especially significant in this respect.

Shawcross was a Director and Trustee of HJS. Paul Flynn MP described the Henry Jackson Society as “a promoter of a particular view in this House, which is representing right-wing American opinion.”

Between April 2013 and April 2014, there were fourteen key publications by the HJS, seven of which were to do with “Islamism”.

In January 2011, Douglas Murray, the associate director of HJS, made comments in relation to activities of the English Defence League (a far right organisation that has been branded as “hateful” by the Prime Minister David Cameron²⁴). Murray stated:

“If you were ever going to have a grassroots response from non-Muslims to Islamism, that would be how you’d want it, surely.”²⁵

In 2003, Murray wrote:

“Islam is a proselytising faith, and one that is incompatible with British history, British law, and British society. With nearly two million Muslims currently living within Britain’s borders, no risk whatsoever should be taken... Britain must start implementing its response... we must not allow tolerance to prove the Achilles heel of our freedom. To defend our tolerance we must be intolerant to those who oppose us, even when we express tolerance. We must not tolerate them”²⁶

Additionally, he stated:

“It is late in the day, but Europe still has time to turn around the demographic timebomb which will soon see a number of our largest cities fall to Muslim majorities. It has to. All immigration into Europe from Muslim countries must stop.”

“Islam is not violent per se, though they’re quite good at it when they’re in charge.”

The HJS benefits from good working relationships with a network of MPs across different political parties. Many of those present at the appointment meeting of Sir William Shawcross were connected to the HJS in various forms:

The Chair of the Public Administration Select Committee, Sir Bernard Jenkin declared that “The Henry Jackson Society provides the Secretariat for the All- Party Parliamentary Group on Homeland Security, of which I am Chairman. I also published a pamphlet in co-operation with the Henry Jackson Society a couple of years ago.”²⁷

Robert Halfon also stated “I should declare that I was a founding patron of the Henry Jackson Society when it was first set up and I am fairly involved with the organisation”.

Priti Patel MP is a member of the advisory council of the HJS.²⁸ She has also been in receipt of two donations of £2,500 each from the HJS towards her campaign fund on the 2nd and 25th March 2013 respectively.²⁹

2.5 Appointment of the new board of the Charity Commission

In May 2013, the Charity Commission’s new board was selected to become part of Shawcross’ new governance team. In September 2013, Shawcross said the Commission’s new board would ‘grasp the nettle’ and take stronger action against charities and trustees involved in wrongdoing.³⁰

The new board included Peter Clarke, a retired senior police officer who headed the Metropolitan Police’s counter terrorism branch, social entrepreneur Claire Dove, legal experts Orlando Fraser and Tony Leifer, technology and media specialist Nazo Moosa and research professor Gwythian Prins³¹. Some notable charity sector leaders expressed their views on the new appointments.³²

Debra Allcock Tyler, chief executive of the Directory of Social Change, questioned “Only one charity person on the Commissions board?” She also called for the responsibility of appointing the board to be removed from a government minister. This was most likely a reference to cabinet office minister Francis Maude MP.

Dan Corry, chief executive of New Philanthropy Capital, a consultancy and charity think tank wrote “Maude’s clear out of board. Why so fast? Not much charity background. Makes you wonder.”

Shawcross said there were three areas that the new board would focus on: the regulator’s approach to serious non-compliance; its approach to charities that repeatedly fail to file their accounts; and its work to prevent and tackle terrorist abuse of charities.

2.6 New Legislation to strengthen powers of the Commission timeline

In September 2013, Shawcross said “We have asked the government for a general power of disqualification that allows us to stop unfit people flitting from charity to charity.”³³

He also urged the Government to “to deliver on those proposals. I have written to the Prime Minister asking him to find time to include the extension of our powers in the legislative programme of the next Parliament.”³⁴

In December 2013, recommendations to strengthen the powers of the Charity Commission were made in the report produced by the Prime minister’s taskforce on tackling radicalisation and extremism³⁵. The taskforce was established in the wake of the murder of Lee Rigby.

On December 4th 2013, the Commission launched a consultation concerning legislative changes to extend their powers³⁶.

In April 2014, William Shawcross told the Sunday Times: “The problem of Islamist extremism and charities . . . is not the most widespread problem we face in terms of abuse of charities, but is potentially the most deadly. And it is, alas, growing.”³⁷ In the same month, similar recommendations for an extension of powers were made in the Home Affairs Select Committee report³⁸.

In June 2014, the Queen’s annual Speech announced the Protection of Charities Bill to grant the Commission stronger powers “... protecting charities from abuse by people who present a known risk”.³⁹

In October 2014, Prime Minister David Cameron pledged £8 million to the Commission to “crackdown on terrorists and money launderers in charities”.⁴⁰

2.7 Reviewing the draft Protection of Charities bill

In October 2014 the government released its draft bill for “the Protection of Charities”.⁴¹ This proposed legislation would amend the Charities Act (2011).

The bill gives more powers to the Commission and facilitates a greater role in national security and counter terrorism. The department proposing the bill is the Cabinet Office. Francis Maude MP is the minister for the Cabinet Office and as mentioned earlier has been accused of acting with partisan with respect his role in various public appointments, including the appointment of chairman to the Commission.

The new bill will allow the Commission to disqualify people it considers unfit from being a charity trustee, and to force the closure of charities in which mismanagement poses a threat to public trust in the sector. There will also be a new power for the regulator to require a charity subject to a statutory inquiry to shut down “where there has been misconduct or mismanagement and allowing the charity to continue would risk undermining public trust and confidence in charities”.

In general the range of conduct by which the Commission can apply its powers has been broadened. The bill states that these powers can be employed if the conduct of a person “appears to the Commission to be damaging or likely to be damaging to public trust and confidence in charities generally or particular charities or classes of charity.” The bill also allows the powers to be applied wherein the Commission believes there has been “misconduct or mismanagement”.

The bill does not specify which activities would fall foul of this test. Such subjective authority may give rise to unwarranted intervention by the Commission. There is also the possibility for abuse of powers. The potential for misapplication is compounded by the fact that the Commission currently has a defective policy on extremism as will be demonstrated in the subsequent chapter.

Not included in this draft legislation (due to consultation feedback) was a proposal that would “Where an inquiry has been instigated, the Commission can restrict/prevent actions (for example preventing the use of premises for unlawful purposes) as well as financial/land transactions and enable the Commission to direct, for example, that a speaker does not speak at a charity event or on charity premises where to do so would amount to the trustees committing misconduct or mismanagement.”

The official government response was “In light of consultation feedback this proposal has not been included in the draft Protection of Charities Bill at this stage. However, with appropriate safeguards, this power could help prevent misconduct or mismanagement taking place in a charity during the course of a statutory inquiry. The Government may revisit this proposal for inclusion in the bill at a later date, and would be interested in any conclusions from pre-legislative scrutiny on this power.”

PART 3. THE CHARITY COMMISSION'S APPROACH TO EXTREMISM

3.1 The Charity Commission's compliance toolkit relies on the conceptually weak notion of extremism

On December 3rd 2013, the Charity Commission issued a lengthy guide for charities entitled 'compliance toolkit – protecting charities from harm.'⁴² Chapter 5 of this guide was related to protecting charities from abuse for extremist purposes.

Extremism is defined in PREVENT policy as the following:

"Extremism is vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas."

This is the definition utilised in the Charity Commission guide. When objectively critiquing this definition, we found that it is conceptually weak and open to subjective interpretations. One charity trustee told us that "It is possible to make a case that previous statements of the chairman in support of Guantanamo Bay for instance, are a violation of fundamental British values and thus extremism."

Government policy considers the threat posed by terrorism to be understood by radicalisation models that assert extremism to be the root cause in the process. However, as has been pointed out by some experts, its interpretations are often subjective and lead to brandishing certain types of religiosity as extremism.

3.2 Who decides what is 'extreme' at The Charity Commission?

David Walker from the Investigations and Enforcement division within the Charity Commission wrote in a response to an FOI request that we issued:

"The Charity Commission does not make determinations about whether an individual is deemed to hold extremist views." He then continued:

"A charity's activities can only be in pursuit of lawful charitable purposes. Concerns about a charity involved in promoting, supporting or giving a platform to inappropriate radical and extremist views would call into question whether what it was doing was lawful."

He also said "If concerns about a charity providing a platform for the expression or promotion of extremist views come to our attention, our regulatory focus is on the conduct of the trustees and whether they are appropriately managing risks so they are properly furthering the purpose of the charity, acting lawfully and maintaining public trust and confidence...."

It is untenable for the Commission to accept all of these stances as policy at the same time. If they do not take a position on whether an individual is espousing extremist views, then how does the Commission determine whether or not to take action and investigate? Furthermore, investigations will not bring any meaningful conclusions since they have already asserted a policy to not make determinations on what speech is or isn't deemed extremist. Whilst David Walker from the Commission responded that its primary focus is to ensure charities have sound policies, procedures and risk assessments in place, a question arises as to whether the Commission are well equipped for this task. It is a tall order to ask the Commission to ensure that a charity's policies effectively root out 'extremism' if the Commission themselves steer clear of determining speech that is or isn't extremist.

David Walker also cited a passage in the compliance toolkit outlining the Commission's policy:

"Some views may not be the norm or traditional. They may be controversial. That does not necessarily mean they cannot be promoted or supported by a charity.

At one end of the scale, there are extremist views, which are criminal. These are clearly not acceptable under any circumstances for charities to promote or support. Beyond that there are a range of views that may not be appropriate for a charity to support under charity law. Charities will be in breach of charity law where they promote extremist views and use radicalising materials.

This may be the case even where those extremist views are not violent or not likely to incite violence, or even if they do not breach terrorism laws relating to the glorification of terrorism, or constitute incitement to racial or religious hatred. These extremist views may also be unlawful under other laws, which apply to particular types of charities, such as schools, under education law.

If a charity provides a platform for the expression or promotion of extremist views this is not likely to be in furtherance of the charity's purposes or comply with the public benefit requirement. Trustees are also likely to be in breach of their fiduciary duties as trustees."

When examined, the Commission's policy for dealing with the issue of extremism is inadequate and raises some concerns. It does not make clear how the Commission makes a distinction between views that are on the one hand 'controversial' yet can be promoted by a charity, with views which are on the other hand not criminal but "may not be appropriate for a charity to support under charity law" because they are deemed extremist.

To simply claim that the distinction is that one view is an extremist view and the other isn't and thus not permitted under charity law is a circular argument and brings no clarity to deciphering speech which is permissible from that which isn't. Clearly if a charity is involved in illegal activities, such as giving a platform for individuals to espouse hate speech, then there are clear legal implications and legitimate grounds for taking action. Similarly, if it is engaged in activities "unlawful under other laws which apply to particular types of charities, such as schools, under education law", there are legal definitions which can be tested.

However, the passage in their handbook gives rise to more complications:

“Charities will be in breach of charity law where they promote extremist views and use radicalising materials. This may be the case even where those extremist views are not violent or not likely to incite violence, or even if they do not breach terrorism laws relating to the glorification of terrorism, or constitute incitement to racial or religious hatred.”

The complexity here arises from who is going to determine what is an ‘extremist’ view or what constitutes ‘radicalising materials’ if these do not breach a clear legal definition. Whilst there is a policy definition of ‘extremism’, it is not tantamount to any legal definition. In addition; as mentioned earlier, the policy definition is conceptually weak. Therefore without any clear examples presented by the Commission demonstrating their rationale in classifying some views as lawful yet impermissible on the grounds they are ‘extremist’, there will continue to be a lack of clarity. Furthermore, ironically, if they were to offer this clarity, they clearly would have violated their policy of avoiding determinations as to whether certain speech expressed by individuals is ‘extremist’ or not. In Conclusion it is clear that their policies are confused and contradictory.

3.3 University student unions

University student unions fall under the remit of the Charity Commission.

In a podcast available on the Commission’s website, outreach manager Nick Donaldson states that with his team he has visited a number of students’ unions and trustees to advise them to take “responsible action to ensure their charities are protected from uses for extremist purposes.” This gives rise to the question of who will determine whether they have allowed extremism to befall their charity. Since the Commission does not make these determinations themselves, how will their policy against extremism be policed and implemented properly?

In September 2013, Shawcross was said to have condemned charities such as student unions, which had invited speakers who were deemed to be extremists to attend events. He said:

“We put out clear guidance for charities on extremist, controversial speakers,” he also said. “It is unacceptable for charities to promote the views of individuals who themselves espouse violence and terrorism.”

He further said using more provocative language:

“No preacher of murder should have the protection of freedom of speech or charity law.”⁴³ Promoting terrorism or incitement to murder (which is referred to in the last quote), would involve clear breaches of criminal law. However, these crimes are being conflated with the notion of ‘non-violent extremism’. The guidelines produced in the Commission’s handbook or public statements do not offer sufficient clarity on this issue.

Whilst the Charity Commission’s official position is to not “make determinations about whether an individual is deemed to hold extremist views”, there are instances in which the Chairman has decisively taken a view, sometimes contrary to official guidelines. It is of great importance that the criterion used by the Chairman is made clear in official policy to help charities in either complying to the policy or challenge its criteria, if it is felt to be discriminatory and in violation of equality (and/or other) legislation.

CONCLUSIONS AND RECOMMENDATIONS

In October 2014 Shawcross said there was “a risk” that money donated by the British public had already been sent to Isil fighters. He also revealed “The regulator has begun scrutinising 86 British charities which it believes could be at risk from extremism, including 37 working to help victims of the Syria crisis.” This sits alongside numerous other statements of concern from Shawcross. However, thus far there has been no empirical evidence to substantiate concerns that British Muslim charities are surreptitiously operating with the purpose of supporting terrorist or extremist activities.⁴⁴

Recent years have seen a greater focus on counter terrorism measures and non-violent extremism at the Charity Commission. However, there is a lack of evidence made publicly available by the Commission to support the claims of its Chairman that extremism is a growing problem in the sector. We feel that it is important for the Commission to provide compelling evidence to justify the continued focus on Muslim charities.

Caron Bradshaw, chief executive of the Charity Finance Group (CFG), wrote “It’s wrong to paint the sector as a hotbed of Islamic extremism”⁴⁵ The CFG in their evidence to a Home Affairs Select Committee report published April 2014 stated:

“We welcome the Independent Reviewer of Terrorism Legislation’s inquiry in to the impact of counter-terrorism legislation on charities and recommend that it be expanded to look at the scale of abuse of charitable status to support terrorist actions. We recommend that he assess the response to such abuse and suggest changes which will improve the ability of the authorities to tackle terrorist financing whilst ensuring that law-abiding charities can continue their vital work.”⁴⁶

Comments such as the aforementioned quote are welcome in a time where the sector is coming under pressure amid unsubstantiated claims of the sector becoming a ‘hotbed’ of extremism and terrorist-funding activity. Following this piece of research, Claystone feels this has given rise to a level of concerns which we shall frame as recommendations.

Firstly, empirical evidence should be presented that substantiates why Muslim charities are being targeted by the Commission.

There should also be a review of the process by which the appointment of the chair of the Charity Commission was made, in particular whether scrutiny of his past comments was given due consideration before his appointment. The Chairman needs to clarify statements he has made about the threat of Europe from growing Muslim populations. This review should also extend to the entire board of the Commission.

Also, there should be a review on whether the Charity Commission is able to crack down on abuse of charities for extremist purposes yet concurrently does not take a position on whether something is actually extremism or not. Is it possible for the Charity Commission to assume a role of checking rigorous procedures for charities to prevent extremism when they themselves do not have the authority to label whether something is extremist or not?

The Commission's policy document conflates non-violent extremism and what is clearly defined by law as illegal activity. Its documentation thus generates more confusion than clarity. Ultimately, the confusion arises from the conceptually weak notion of extremism in PREVENT policy which now afflicts the Charity Commission since it has become a closer affiliate to counter terrorism.

The policy should be one that is simple in application. If the law has been broken, then the police authorities should be contacted. Generally, the Charity Commission should not operate outside of its expertise in remit, which is a consequence of the conceptually weak definition of extremism.

Some MPs and notable charity sector individuals have expressed concerns about the appointment of Sir William Shawcross as Chairman and some of the recently appointed board members. A number of Muslim charities had expressed their belief that these appointments have brought unwarranted and excessive monitoring of them as a result.

Finally we recommend that the new draft legislation be scrutinised so as only to permit such powers be employed for clearly defined offences. Speculative clauses such as "appears to the Commission to be damaging or likely to be damaging to public trust and confidence in charities generally or particular charities or classes of charity." will result in poorly scripted law and subjective application. Furthermore until the Commission has a clear policy on what non-violent speech and actions it deems to be 'extremist' that should be expressly forbidden as grounds for the enactment of such powers.

Overall, this study brings to the surface numerous questions. These concerns should be addressed as soon as possible in order for Muslim charities (and by extension, the entire sector) to restore their trust in the Charity Commission and its Chairman.

Appendix A – Charities Under Section 46 Statutory Inquiry

INQUIRY OPENED	INQUIRY CLOSED / ON-GOING	REGISTRATION NO.	CHARITY
11/11/2013	03/01/2014	1099763	Muslim Cultural Society of Birmingham
26/03/2009	07/01/2014	1011325	Lennox Childrens Cancer Fund
18/11/2011	09/01/2014	7000002	Egyptian Community Association's charitable funds arising from the proceeds of sale of 100 Redcliffe Gardens, London SW10 9HH
09/05/2012	20/01/2014	4053809	Amy Marion Dwyer Will Trust
11/11/2013	11/02/2014	274153	Crawley Islamic Centre and Mosque
11/11/2013	06/03/2014	1090525	Markazul Uloom
15/07/2008	10/03/2014	1119839	Saint Stephen The Great
11/11/2013	12/03/2014	810098	Cymmer Workmens Hall and Institute
11/11/2013	20/03/2014	284381	Jaimat-uL-Muslemeen Quwat-uL-Islam Masjed
29/10/2012	On-going	289347	Khalsa Centre
31/03/2014	On-going	1060394	Ethiopian Orthodox Tewando Church St Mary of Debre Tsion
14/04/2014	Ongoing	1101600	Children in Deen
21/03/2014	Ongoing	1056562	Al-Fatiha Global
21/05/2013	Ongoing	1138450	The Public Safety Charitable Trust Limited
07/03/2014	Ongoing	1134566	Islamic Education and Research
06/03/2014	Ongoing	1125830	Islamic Global Trust
12/03/2014	Ongoing	1100151	Augustine Housing Trust
17/02/2014	Ongoing	1137000	Khodam al Mandi Organisation
04/02/2014	Ongoing	1096543	The Apostolic Faith Mission International Ministries UK
03/02/2014	Ongoing	1139690	Insaan Relief
03/02/2014	Ongoing	1137137	My Community UK
31/01/2014	Ongoing	501904	The Hinckley Concordia Association
20/12/2013	Ongoing		Syria Aid
09/02/2012	Ongoing	1108479	All Wales Ethnic Minority Association
22/11/2013	Ongoing	1132340	Afghan Heroes
20/11/2013	Ongoing	295224	Muslim Aid
11/11/2013	Ongoing	234038	Achiezer
11/11/2013	Ongoing	1075369	African Families Support Services
11/11/2013	Ongoing	1085504	Life Line Missions
11/11/2013	Ongoing	1043598	The National Patients Support Trust
21/11/2013	Ongoing	1133355	Support the World's Children
11/11/2013	Ongoing	522804	Hadley Playing Fields and Recreation Ground

18/11/2013	Ongoing	1121270	Love for Children (UK)
25/10/2013	Ongoing	1081149	Busoga Association (UK)
30/09/2013	Ongoing	1148320	Islamic Waqf Foundation
30/09/2013	Ongoing	1113563	Quba Education and Cultural Association
23/09/2013	Ongoing	255031	Achiezer Association Limited
23/09/2013	Ongoing	523834	Beighton Welfare Recreation Ground
23/10/2013	Ongoing	1144066	Guild Childcare
30/08/2013	Ongoing	1149015	Aid Convoy
29/07/2013	Ongoing	1059247	Christ Embassy
17/07/2013	Ongoing	1088172	Cylch
18/10/2013	Ongoing	1121121	Manor Residents Association
20/08/2013	Ongoing	1101417	The Kertes Foundation
12/07/2013	Ongoing	1077946	Africa Relief Trust
14/05/2013	Ongoing	1142710	Quba Islamic Centre in Leicester
06/06/2013	Ongoing	1129092	Viva Palestina
08/07/2013	Ongoing	225455	The Spiritualist Association of Great Britain Limited
03/04/2013	Ongoing	307342	Stanbridge Earls School Trust
29/11/2012	Ongoing	1010583	Abundant Life Housing Association Limited
12/04/2013	Ongoing	1129044	The Cup Trust
13/08/2007	Ongoing	259310	Nottinghamshire Miners Home
26/10/2012	Ongoing	1065192	Life Changing Ministries International Church South Cheshire Trust
23/10/2012		1001491	Regentford Limited
09/05/2012	Ongoing	1082770	Bangladeshi Parents and Carers Association
09/05/2012	Ongoing	1070735	Masjid and Madrasah Al-Tawhid Trust
20/04/2012	Ongoing	1137927	Kenya Aid Programme
03/04/2012	Ongoing	1141136	Rebound Gateway Group
09/12/2011	Ongoing	1108615	Redaid
10/02/2012	Ongoing	1103876	Afghan Poverty Relief
25/08/2011	Ongoing	287401	The Dove Trust
03/08/2011	Ongoing	1128827	The Meridian Foundation Limited
20/10/2011	Ongoing	1123687	Raleigh Ltd
11/02/2011	Ongoing	1102114	Kingsway International Christian Centre
24/08/2010	Ongoing	276017	Delapage Ltd
11/08/2009	Ongoing	1104244	Odyssey (Tendercare) Ltd
25/03/2009	Ongoing	1099233	Green Crescent Bangladesh UK
11/08/2010	Ongoing	1094509	Helping Hands for the Needy
15/08/2006	Ongoing	1103969	Relief for Distressed Children and Young People

Above is a list of charities with investigations that were live in the period January 1st 2014 to April 23rd 2014 provided to us by the Charity Commission following an FOI request that we made.

Appendix B – Counter terrorism policy

The government's counter terrorism policy known as CONTEST⁴⁷ has 4 major strands to it. One of those strands is known as PREVENT. Its remit is articulated in the government's online policy documentation as follows:

"Prevent is 1 of the 4 elements of CONTEST, the government's counter-terrorism strategy. It aims to stop people becoming terrorists or supporting terrorism.

The Prevent strategy:

-> responds to the ideological challenge we face from terrorism and aspects of extremism, and the threat we face from those who promote these views

-> provides practical help to prevent people from being drawn into terrorism and ensure they are given appropriate advice and support

-> works with a wide range of sectors (including education, criminal justice, faith, charities, online and health) where there are risks of radicalisation that we need to deal with

The strategy covers all forms of terrorism, including far right extremism and some aspects of non-violent extremism. However, we prioritise our work according to the risks we face. For instance, following the death of soldier Lee Rigby in Woolwich, the Prime Minister is leading a task force on tackling extremism and radicalisation."⁴⁸

Appendix C – Baroness Sally Morgan Interview on Radio 4's Today programme

Baroness Sally Morgan, former chair of Ofsted, stepped down on 31 January

Replaced by David Hoare - <http://www.bbc.co.uk/news/uk-28579429>

SM: Extract of a Feb 2014 interview, BBC News (possibly Radio 4) - <http://www.bbc.co.uk/news/education-26004358>

From 37 seconds onwards to the end

SM: I really do think it's just I am the latest of a fairly long list of people now who are non-Conservative supporters who are not being reappointed

Interviewer: You think there's a pattern?

SM: Yes I think there's absolutely a pattern and I think it's extremely worrying because I think one of the really important things about public appointments is that they're made on the basis of merit and they're seen to be transparently made [...] I think there's something going on in the centre that's mitigating against that

Interviewer: Well it wouldn't be the first time that a government, sometimes a Labour government, sometimes a Conservative government has wanted to get a person in a job

who happens to be a supporter and we all know that has occurred before. You seem to be suggesting [...] You think this is on another level

SM: I do think this is on another level [...] I think there's a sort of good cover story which is the suggestion from Francis Maude that there should be no automatic assumption that there'll be no second terms and that's quite a good cover uh [...] but I think that's being done quite deliberately and I think there is an absolutely determined effort from No. 10 that Conservative supporters will be appointed to public bodies

Interviewer: Really?

SM: Yeah

Interviewer: But there are committees, are there not, that moderate these appointments or [...] you know [...] approve them [...] uh look at the suitability of people [...] there's a system really been put in the place in the last 10 or 15 years that makes it quite different [...] now there should be a means of stopping [...] if what you claim is happening is happening [...] there should be a way of stopping it

SM: Well I think that is an issue for um [...] the Cabinet secretary and the Cabinet office to look at actually [...] um I think that everything I have seen [...] and it's been quite a quiet drip so I think there hasn't been a lot of profile given to this [...] but I think if you look at some of the [...] I don't know [...] Charity Commission and Arts Council, I'm not talking about Labour people being replaced, I'm talking about non-Conservative supporters being replaced by Conservative supporters

Interviewer: Do you think that in that realm where [...] you know [...] public bodies at arm's length from the Government um [...] are you know staffed by people who are thought to have expertise in particular areas [...] in that world is there quite a lot of talk about this?

SM: Yes I think there is a lot of concern about it actually because [...] often there are people who have been working really well with their organisations and indeed with their host departments [...] so I do think this is coming from No. 10, I think it's coming from the centre um I don't think it's coming from individual departments

Interviewer: And if that's true, it's a job for the Cabinet Secretary to step in, isn't it?

SM: In my view, it certainly needs looking at.

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