

# CHARITY LAW & POLICY UNIT – CLPU

## NEWSLETTER

**2022–23**

### **A MESSAGE FROM THE DIRECTOR**

Welcome to the October 2022 edition of the annual Charity Law & Policy Unit newsletter. In this newsletter, we report on our recent activity and introduce some upcoming events. CLPU members had another active year. Research activity continued throughout the year and events continued to take place largely online. We were delighted though to be able to finally host our International Symposium on Protecting the Charity Brand which took place in September 2022. You can read more about it in this newsletter.



As staff were based at home for much of the year, we held a number of writing retreat days for CLPU members in an events space in a local park. During these days we were able to share our research plans, discuss ideas and carve out some time for writing. We also used some time during the year to re-establish the CLPU Resource Room, which is now located in the new School of Law and Social Justice building. If anybody would like to visit the Resource Room for research purposes, please do get in touch.

The summer of 2022 saw us say farewell to our colleague Professor Warren Barr who has taken up a new role as Head of School of Law and Politics, University of Cardiff. We wish Warren well in that role. We are however delighted to say that he will continue his association with CLPU as an Honorary Professor at the University of Liverpool. In addition, you will be able to read in this newsletter that we have recently appointed Professor Mark Sidel as an Honorary Professor. We look forward to working closely in the future with both Warren and Mark.

In our first event of this academic year, CLPU members will be joining forces with other colleagues within the School of Law and Social Justice to discuss the ongoing case in which Mermaids charity is challenging the decision by the Charity Commission to award charitable status to the LGB Alliance. The issues raised by this case engage the expertise of several research groups within the School and speakers on this roundtable discussion are drawn from the Feminist Legal Research and Action Network (FRAN); the Liverpool Children's Rights Unit (LCRU); the Health Law and Regulation Unit (HLRU) and CLPU. Further details are contained in this newsletter.

If you would like to contact me about our events, or any other activities, please feel free to do so. My contact details are at the end of the newsletter. I look forward to seeing you, be that in person, or on line, at one of our events in the coming year.

All the best

*Debra Morris*

## SPONSORSHIP

We are delighted that the leading North West law firm Brabners kindly agreed to continue to sponsor the work of CLPU. This support is integral to the continuation of the Unit's research into the legal issues surrounding charities and third sector organisations. Liverpool Law School students have also benefited greatly from Brabners' ongoing support with exciting opportunities of work experience at the firm, boosting both students' knowledge of charity law and their CVs! In addition to their regular sponsorship, in the academic year 2021-22 Brabners kindly sponsored a prize for the best student in the Charity Debates module that we offer here at Liverpool to third year law students. There were joint winners this year so congratulations to Vasiliki Samuels and Elizabeth Wood. We are extremely grateful to Graeme Hughes, Partner and Head of Charity and Social Enterprise at Brabners, and his partners for their continued support.

# Brabners



*Vasiliki Samuels receiving her prize from head of department Professor Helen Stalford, at the graduation celebration in July 2022.*

## STAFFING



We are delighted to have Mark Sidel join CLPU as an Honorary Professor. Mark is Doyle-Bascom Professor of Law and Public Affairs at the University of Wisconsin-Madison. He has served for many years as consultant for Asia at the Washington-based International Center for Not-for-Profit Law (ICNL), focusing on China, India and Vietnam, and joined the ICNL board of directors in June 2022. This year Mark is serving as Visiting Professor of Law at Cardozo Law School in New York. We have worked with Mark over the years on a number of projects and we look forward to future collaborations.



Omer Yildirim spent the year with CLPU as an Honorary Visiting Researcher. A graduate of Istanbul University Faculty of Law, Omer is a PhD candidate at the Ankara Haci Bayram Veli University. His research interests lie primarily in the fields of administrative law and charity law. His doctoral research, which is funded by the Scientific and Technological Research Council of Turkey (TÜBİTAK), focuses on public benefit association status in the context of administrative law. Omer attended all CLPU activities during the year and was supported by Dr John Picton during his stay. We wish Omer best of luck with his future studies back in Turkey.

## FUNDED RESEARCH PROJECTS



James Organ and Jennifer Sigafos, together with Dr Sophie Wickham, a colleague in the Institute of Population Health Sciences, successfully completed the second year of their project 'Increasing Access to Justice in Liverpool'. The project, funded by Liverpool City Council, aims to better understand the functioning of the network of public, private and voluntary sector organisations that provide legal advice services within Liverpool, as well as to facilitate an online referral network linking together these services. The project has generated various outputs. Further information about the project, including the research reports and results of the initial mapping exercise, can be found [here](#).

## PARTNERSHIPS, EXCHANGES, IMPACT

CLPU members continue to influence the development of charity law. In October 2021, Debra Morris, John Picton and Mary Syngé gave evidence before the Charities Bill [HL] Special Public Bill Committee. The proceedings were recorded and can be viewed [here](#). The Bill later received Royal Assent in February 2022 and the provisions of the Charities Act 2022 are being brought into force in stages, beginning in Autumn 2022.

CLPU regularly contributes to consultations, including providing formal responses to Law Commission and Charity Commission consultation exercises. During the past year, we gathered together all previous CLPU formal responses and posted them online on the CLPU website so that they are easily accessible in one place. They can be read [here](#).



*Mary Syngé, John Picton and Debra Morris outside the Palace of Westminster after having given their evidence.*

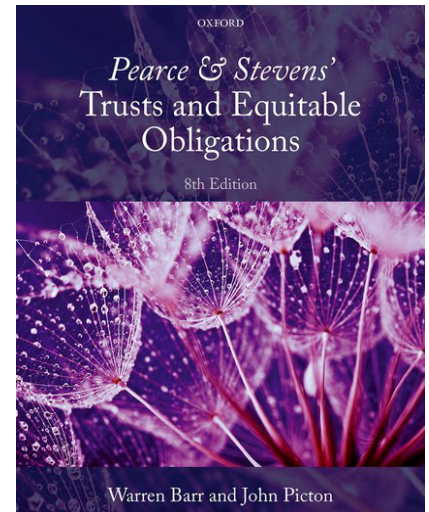
Debra Morris participated during the year in two consultations as a member of the Charity Law Association Critical Friends Panel for the Charity Commission for Northern Ireland. She fed into draft CCNI guidance on both 'Registering as a charity in Northern Ireland' and 'Making administrative changes to a charity'.

Following his chairing of an Insolvency Service committee looking at the reform of personal insolvency law, John Tribe has now joined a Department for Business, Energy & Industrial Strategy (BEIS) committee examining director education. This is a significant long-term project looking at improving director behaviour and standards.

## PRESENTATIONS AND PUBLICATIONS

The highlight of 2022 was the publication of the 8th edition of *Pearce and Stevens' Law of Trusts and Equitable Obligations*, published by [OUP](#). In this edition, Warren Barr is joined as author by John Picton. The book is a key text on many University courses on Equity & Trusts and Part VI contains five chapters on Charitable Trusts!

**A full list of Unit publications can be found on the [CLPU website](#).**



Members of the Unit continued to present papers at conferences and other events around the world throughout the year. Whilst these have mainly taken place online, CLPU members are slowly but surely getting out and about again. John Picton was able to present in person at the annual conferences of both the Society of Legal Scholars and the Socio-Legal Studies Association and John Tribe gave a keynote speech at the Insolvency Service's annual stakeholder event *Insolvency Live! 2022*.

In September 2022, CLPU members were key participants in a Charity Law Workshop, which took place in London at the University of Notre Dame (US) London Global Gateway, co-hosted by Matthew Harding of University of Melbourne, Lloyd Hitoshi Mayer of University of Notre Dame and Debra Morris. The goal of the Workshop was to gather leading and emerging charity law scholars from around the world, both to present and discuss works-in-progress and to discuss the formation of an international charity law research network. CLPU members acted as both speakers and commentators.

**A full list of Unit presentations can be found on the [CLPU website](#).**



*CLPU members and other participants at the Charity Law Workshop.*

## POSTGRADUATE STUDENTS

Matilda Clough successfully completed her third year as a Graduate Teaching Assistant and a PhD student. Tilly's research interests lie predominantly in charity law and educational law and policy. In this intersection, her thesis explores the charitable status of independent schools and whether this status can be justified.

CLPU colleagues are also currently supervising Faisal Alotaibi, who is looking at commonhold property ownership; Stratos Koytzoumis, who is exploring aspects of housing law and the nature of the home; William Norcup Brown, looking at the rights clash between private landowners of 'quasi-public property' and members of the public seeking to access that land; and, Elin Williams, whose research is on cryptocurrency-based money laundering. All these students also participate in CLPU events.

## UNDERGRADUATE TEACHING

In the academic year 2021-22, CLPU members continued to teach the 'Debates in Charity Law' module to final year undergraduate law students. There was good student engagement with the module, and students also attended online Charity Briefs, whose timing coincided with the teaching of their module. This was the first year that there was a Brabners Prize for the best student on the module.



## EVENTS

During this past year, CLPU hosted a range of activities, from online-only events, through to hybrid and ultimately in person only events, as the circumstances allowed.

## CLPU CHARITY BRIEFS

We continued our series of online Charity Briefs in 2021-22. The format of these 1-hour online sessions, consisting of short presentations and then Q & A/ discussion, remained popular. In the past year, we heard from: Dr Lara McMurtry of Keele University on '*Charitable Purposes, Demonstrable Benefit and the Role of the Charity Commission: The Fourth Pemsel Head Recast*'; Robert Pearce QC, Barrister at Radcliffe Chambers on '*Corporate assets and trust property in charity law*' and Professor Rosemary Langford of Melbourne Law School on '*Restoring Trust and Confidence in Charities*'.

Recordings of CLPU online Charity Briefs can be watched [here](#).



From left to right: Dr Lara McMurtry, Robert Pearce QC and Professor Rosemary Langford.

## CHARITY INSOLVENCY: DISCERNING THE WIDER IMPLICATIONS OF RECENT DEVELOPMENTS IN AUSTRALIA

Bringing together charity law experts from Australia and the UK, this hybrid event held in November 2021 examined charity insolvency in Australia and the UK and attempted to offer some solutions to the knotty problems that are involved when a charity becomes insolvent. It focused on the recent decision of the Queensland Supreme Court in the Presbyterian Church case. Dr Matthew Turnour, of Neumann & Turnour Lawyers, guided us through the case and its implications for charitable purposes, charity structures, and charity insolvency. There were further contributions from Garth Blake QC and Murray Baird, former Assistant Commissioner of the Australian Charities and Not-for-profits Commission (ACNC), who provided some insights from a regulatory perspective.



## PROPERTY LAW ANNUAL LECTURE



The seventh Annual Property Law Lecture, held in conjunction with the Chancery and Commercial Practice Group, Atlantic Chambers, was delivered online in February 2022. The lecture, by Michael Haley, Professor of Property Law at Keele University, was titled 'Licences of Commercial Premises: The Reach of *Street v Mountford*'. The lecture, which aimed to offer a fresh perspective on this celebrated case, attracted a large audience and generated much discussion. The recording was posted online for others to watch and can be found [here](#).

Details of the upcoming 2023 Annual Property Law Lecture can be found below.

## FALLEN FROM GRACE: PROTECTING THE CHARITY BRAND IN THE 21<sup>ST</sup> CENTURY

Our main event was the much-delayed International Symposium, which finally took place in September 2022. The charity sector, both in the UK and across the world, has come in for considerable criticism over the past decade in particular, following numerous high-profile scandals. Yet the need for charitable endeavour has not reduced. Changing business practices have seen 'rivals' appear through, for example, private companies 'doing good' in communities.



In this event, presenters discussed key questions around protecting the charity brand and the invited international audience representing regulators, practitioners and academics then shared their views on each presentation topic. As well as CLPU members, Warren Barr, Debra Morris, John Picton, Matt Shillito, Mary Syngé and John Tribe, the presenters were Oonagh Breen (Dublin), Matthew Harding (Melbourne), Lara McMurtry (Keele), Adam Parachin (Osgoode Hall) and Mark Sidel (Wisconsin). You can read more about the event [here](#).



*Jennifer Sigafoos and John Picton speak about the key themes of the Debates in Charity Law book.*

The day ended with a better late than never (due to Covid) book launch of [Debates in Charity Law](#), edited by Jennifer Sigafoos and John Picton. This volume of peer-reviewed essays on charity law showcases the research strengths of CLPU members and other key members of the Charity Law community with whom the Unit works.

## FORTHCOMING EVENTS

### **'An Uncharitable Alliance: Mermaids v The Charity Commission and the LGB Alliance'**

Friday 11th November 2022, 2-4pm

This is a hybrid event and will take place in person and online

Mermaids (a charity representing and advocating for transgender, nonbinary and gender-diverse children, young people and their families) is challenging the charitable status given to the LGB Alliance. Mermaids alleges that 'LGB Alliance is not actually tackling problems facing lesbian, gay and bisexual people, but rather seeking to prevent the resolution of problems facing transgender persons'. In other words, they have an 'anti-trans' rather than 'pro-LGB' focus, with many of their campaigns particularly targeting the affirmation of the gender identity of trans children. This, Mermaids argues, is not a charitable purpose within the meaning of the relevant legislation.



This roundtable event will discuss the work of the LGB Alliance from feminist and children's rights perspectives and consider the implications of its campaigning for children's access to health care, as well as the impact of the Equality Act on women's and trans rights, and whether the LGB Alliance appears to meet the legal test for charitable status. Panellists include: Nicola Barker (University of Liverpool), Sharon Cowan (University of Edinburgh), Hannah Hirst (University of Sheffield), Edmund Horowicz and Jennifer Sigafoos (University of Liverpool).

Register [here](#) via Eventbrite.

We will continue our series of Charity Brief online events. These will mainly coincide with the teaching of the Charity Debates module in Semester 2 (Feb–May 2023) and further details will follow in due course. The first event will be:

**'From Charity to For-profit: Some Questions'**  
Thursday 8th December 2022, 5–6pm

*Dr Mary Synge*

*Honorary Senior Research Fellow, Charity Law & Policy Unit, University of Liverpool  
Honorary Senior Fellow, University of Melbourne  
Associate Professor, University of Reading*

Dr Synge will address the recent 'conversions' of the charitable College of Law (to the for-profit University of Law) and the charitable Regent's University (to the for-profit Regent's University).

After considering relevant aspects of charity law (regarding sales of assets and change of objects), she will draw on *Manhattan Eye, Ear and Throat Hospital v Spitzer* (NY Sup Ct 1999) and commentary on the spate of not-for-profit conversions of medical organisations that swept the US around that time. With little information publicly available about each transaction, she will outline some of the potential danger areas and seek to understand the Charity Commission's approach.

**Register [here](#) via Eventbrite.**

**Annual Property Law Lecture**  
**'Forfeiture, Penalties and Damages in Property Law'**  
Tuesday 21st February 2023, 6–7pm

*Mr Justice Fancourt, Vice-Chancellor of the County Palatine of Lancaster, Supervising Judge of the Business and Property Courts for the Northern & North-Eastern Circuits*

This event, held in conjunction with the Chancery and Commercial Practice Group, Atlantic Chambers, will be held on a hybrid basis with both a Liverpool based speaker and audience and an online audience.

**Register [here](#) via Eventbrite.**



## CONTACT DETAILS

For up-to-date details of the CLPU's activities [visit our website](#).

If you would like more information about supporting research by the CLPU or more information about postgraduate study, contact:

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