

# Scottish Charity Regulator (OSCR)

## Inquiry Report made under Section 33 of the Charities and Trustee Investment (Scotland) Act 2005

### Introduction

The Scottish Charity Regulator (OSCR) has made inquiries into the charity listed below (“the charity”) under section 28 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act). The charity is defaulting as they have repeatedly failed to submit their trustees’ annual reports and accounts to OSCR within the statutory timescales. OSCR also has concerns about the lack of activities being carried out by the charities.

It appears to OSCR that the charity does not meet the charity test. OSCR has taken the decision to remove the charity from the Scottish Charity Register (the Register) on 6 October 2023 in terms of section 30(1)(b) of the 2005 Act.

SC005682 – Sitter Service for the Handicapped

### The Charity Test

In order to be registered as a charity in Scotland, an organisation must meet, and continue to meet, the charity test. To meet the charity test and remain on the Scottish Charity Register (the Register), an organisation must:

- I. have purposes that consist only of one or more charitable purposes
- II. provide public benefit in Scotland or elsewhere as a result of the activities it carries out

### How we reached our decision

Charity trustees have a statutory duty to prepare a trustees’ annual report and accounts. The preparation of the trustees’ annual report and accounts and its submission to OSCR is one of the primary ways of demonstrating that a charity is providing public benefit.

The charity has repeatedly failed to provide OSCR with this information within the required timeframes. In addition, it appears from OSCR's inquiries that the charity is inactive and as a result is no longer providing public benefit.

## **Conclusion**

We are satisfied that the charity does not provide, or intend to provide, public benefit as such they no longer meet the charity test.

## **OSCR's duties and powers**

OSCR maintains the Register. Where it appears that a charity no longer meets the charity test OSCR must, in terms of section 30(1) of the 2005 Act, either:

- direct the charity to take such steps as it considers necessary for the purposes of meeting the charity test; or
- remove the charity from the Register.

We have taken the decision to remove the charity from the Register, as opposed to directing them to take steps to meet the charity test, because it appears that the charity has not been performing activities to advance their charitable purposes for a prolonged period of time.

## **Protection of assets**

The charity has been made aware that under section 19 of the 2005 Act they continue to be under a duty to apply any charitable assets held at the time they are removed from the Register in accordance with the purposes as set out in their entry in the Register immediately before their removal.

## **Review**

Where a charity disagrees with OSCR's decision to remove it from the Register under section 30(1)(b) of the 2005 Act it can request a review of the decision. To do so the charity must contact the Review Officer within 21 days of the date of the decision.

The charity referred to in this report requested a review.