

Recent Charity Commission Inquiries highlight important practice points for trustees

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Over the past couple of months, the Charity Commission has published details of the outcomes of its inquiries into various charitable organisations. Whilst the facts of each are very different (as are the outcomes), the underlying message is clear: the position of trustee is one carrying a serious level of responsibility. This responsibility concerns not only financial management and achieving charitable aims, but also the protection of the reputation of the sector and the safety of those who come into contact with the charity.

Wildlife Aid

In May 2011, the Commission published the findings of its inquiry into Wildlife Aid, an animal rescue charity. The charity's work featured in a television series produced by a production company owned by the charity's founder. Although it was established that the charity and the production company were entirely separate, the Commission emphasised that the arrangement could *'create a public perception that its directors and shareholders... are privately benefiting from the charity.'*

In addition, the founding member's relative had been employed without an open and fair recruitment process. The lack of transparency may have created a public perception that the trustees had acted inappropriately. The Commission emphasised that **transparency**** is key to ensuring that the public have confidence and trust in the charity and its independence.

Points to Note

The Commission's findings highlight the importance not only of ensuring that a charity is being run properly but also of ensuring that public perception accords with reality. Where there are close ties to the founder member and/or companies linked to those running the charity, trustees must take care to ensure any arrangements are made transparently and fairly to ensure the public can see that decisions are being made in the best interests of the charity.

Brent Educational and Recreational Support Youth Challenge (BEARS) and Gate Lane Community

The Commission undertook parallel inquiries into Brent Educational and Recreational Support Youth Challenge ('**BEARS**') and Gate Lane Community ('**Gate Lane**'). BEARS worked with disadvantaged children and young people with the aim of *'minimising the risk of their involvement in violence and gun crime.'* Gate Lane aimed to create a community centre. The inquiries focused on allegations of mismanagement of funds, obtaining private benefit and conflicts of interest.

The Commission found that two of the four trustees of BEARS were also the only trustees of Gate Lane. Unjustified payments were made by BEARS to Gate Lane and to two companies owned or directed by trustees of BEARS. These payments related to training and residential holidays that could not be shown to have occurred. Additionally, a BEARS trustee had been moving funds awarded to BEARS into a secret bank account held by a private company sharing the same name. The Director of BEARS (a former trustee) had also been receiving unauthorised personal payments from BEARS funds.

The Commission's inquiries into BEARS and Gate Lane ultimately led to two former trustees being convicted of fraud and deception offences.

Points to Note

The Commission's inquiries highlight the damage that the misapplication of funds can do to the public's trust and confidence in the charitable sector as a whole. The Commission emphasised that ultimate responsibility for a charity lies with the trustees, even where duties are delegated. Trustees must ensure that their charity is *'solvent, well-run and delivering the charitable outcomes for the benefit of the public for which it has been set up.'*

Trustees should remember that they can only receive personal benefit where they have express legal authority to do so, either in the charity's governing document or by order of the Commission or Court. A benefit may be *'property, goods or services which have a monetary value, as well as money.'*

Trustees must act with integrity, ensuring that they manage relationships with related individuals and businesses carefully to avoid conflicts of interest occurring or being perceived. The Commission recommends that charities implement a policy detailing how conflicts of interest will be dealt with.

Association for Reaching and Instructing Children in Africa (AFRICA)

The Commission carried out an inquiry into the charity in 2007 and provided the trustees with a list of issues to be resolved. The Commission revisited the Charity as part of a regulatory compliance investigation in 2009.

AFRICA's charitable aims included spreading Christianity to children in Africa, providing education to those children and helping to ease their hardship. Each year the charity organised for a children's choir to visit the UK, touring schools and churches.

One of the main complaints received by the Commission, prompting their first inquiry into AFRICA in 2007, involved their failure to implement an adequate child protection policy. When the Commission revisited the charity, it found that there was still no policy in place. However, the charity has now produced an adequate policy and has appointed trustees to monitor and oversee this area.

Additionally, there were indications of financial mismanagement, with a lack of segregation between general funds and those donated for individual children. The practice of signing blank cheques was also discovered. Since the original inquiry, both of these issues have been resolved and the charity now requires expenditure in Africa to be backed up with receipts.

The final issue related to the employment of a founder member's daughter without a fair and open recruitment process. The trustees (acting without the founder member being present) later decided that it was appropriate to continue to employ her and have formalised the arrangement.

Points to Note

Trustees have a duty to ensure that those who come into contact with the charity are not harmed as a result. Where the charity works directly with children or vulnerable adults, they must take steps to protect their welfare. At a minimum there should be a child protection policy in place and this should be reviewed regularly. Those working with the charity should be aware of the policy and should be instructed to follow it. Further details can be obtained from the Commission [here](#).

Trustees must ensure that an audit trail and appropriate records are kept accounting for the movement of funds regardless of where the activity is carried out. Money that is donated for a specific purpose must be kept separately from general funds and applied appropriately. The Commission emphasised that '*trustees have a fundamental duty to protect their charity's property and to ensure its proper use ...*' Blank cheques should never be signed.

Conclusion

Whilst these inquiries concerned very different organisations, each inquiry highlights that the role of trustee is not to be taken on lightly and it is the trustee's own responsibility to ensure that they do not breach their duties to the charity. The Commission [website](#) lots of useful information to help trustees understand their duties and obligations.