

# E Ivor Hughes Educational Foundation

Registered Charity No. 293623

## Introduction

1. This is the statement of the results of an Inquiry under Section 8 of the Charities Act 1993 ("the Act").
2. The E Ivor Hughes Educational Foundation ("the Charity") was registered as a charity on the 10th February 1986. Its objects are "to promote and provide for the advancement of education of children in the United Kingdom and elsewhere".
3. The Charity is based in Middlesex and had an income of £3,887,692 in 2004.

## Issues

4. The Commission received allegations that [REDACTED] maintained a dominant influence over the trustee body, and that the trustees did not have adequate control over the management and administration of the Charity.
5. Following an evaluation of this information, an Inquiry was opened into the Charity on the 19th April 2004 to look at concerns arising from events occurring before that date, with the aims of:
  - Establishing the level of control of the trustees in the management and administration of the Charity;
  - Establishing whether or not charity funds had been misapplied; and
  - Examining the financial structure and controls over charity expenditure.

## Findings

6. The Commission found that the trustees had allowed the [REDACTED] to dominate control of the administration of the Charity, often making decisions seemingly without the knowledge or agreement of the trustee body as a whole.
7. The Commission found details of [REDACTED]. These payments were considered to have been made in breach of clause 5 of the Memorandum of Association of the Charity. This clause states, with regard to charity funds, that "no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit to the Members of the Foundation."
8. The Commission found that the trustees had failed to maintain proper records of the expenditure of the Charity's funds.

## Outcome of the Inquiry

9. The trustees having made out a case as to why it was expedient in the interests of the Charity, the Commission authorised [REDACTED] by way of consent to an appropriate amendment to the Charity's governing document under section 64 of the Act. The Commission considered the issue of the previous payments [REDACTED] and decided that it was not proportionate to pursue restitution in this instance.

10. The trustees have worked to rectify the previous poor administration of the Charity. New accountants were appointed who undertook a review of the Charity's deficiencies and advised on weaknesses in the Charity's administration. The trustees considered and adopted the majority of the accountants' recommendations. Internal financial controls are now in place and accounts will shortly be submitted to the Commission.

11. The Inquiry into the Charity was closed on the 1st September 2005.

## Wider lessons

12. A charity is entitled to the objective judgement of its trustees, exercised solely in the interests of the charity, and unaffected by the prospect of any personal advantage to themselves. The law requires charity trustees not to place themselves in a position where their duty to the charity might conflict with their own interests, that is, where they may have an incentive to neglect their duties as trustees. Moreover, a charity trustee is not permitted to profit from that position (unless he or she is expressly authorised to do so). A trustee who benefits from a position of trust without the necessary authority may be liable to repay the benefit which he or she has received.

13. The Commission may be prepared not to pursue the issue of restitution in circumstances where it considers that the Court would grant relief, however this would not prevent the Attorney bringing proceedings at a later date.

14. Trustees are responsible for the overall management and administration of the charity. It is an important and general rule that trustees act in person and decisions concerning the charity are taken by the trustees acting together.

15. It is the fundamental duty of all charity trustees to protect the property of their charity and to ensure that it is used to further the objects of the charity. In order to discharge this duty it is essential there are adequate internal financial and administrative controls over the charity's assets and their use.