

Introduction

1. This is a statement of the results of an Inquiry under section 8 of the Charities Act 1993.

2. Accrington ShopMobility ('the Charity') was registered as an unincorporated charity in March 2002. Its objects are to relieve the needs of people with disabilities and difficulties with walking whilst shopping in the town of Accrington (Lancashire), by providing wheelchairs and scooters with the object of improving their mobility and conditions of life. The Charity operates from shop premises in Accrington town centre. Its income for the year ended 31 March 2003 was approximately £16,500.

Issues

3. In October 2003 a number of specific allegations of financial irregularity relating to the Charity's funds, including misappropriation, were made to the Commission by persons who were previously some of the Charity's trustees. Those allegations were made against two other [REDACTED] trustees of the Charity (hereinafter referred to as A & B).

4. After evaluating the complaints, an Inquiry was opened in January 2004 to investigate particular complaints in more detail. It was alleged that:

- B had forged the signature of another [REDACTED] trustee (hereinafter referred to as C) on a number of the Charity's cheques;
- A bequest in favour of the Charity may have been diverted from the Charity for the benefit of A & B;
- The Charity had bank accounts at particular Banks, in addition to those identified in the Charity's annual accounts submitted to the Commission;
- A & B had instructed Charity personnel to pay some of the Charity's funds into those additional accounts;
- Expenditure had been incurred out of the Charity's funds in a short period in late 2003 during which the Charity was not operational.

5. In the context of investigating the allegations the Inquiry also examined the operation of the Charity's bank accounts generally.

6. [REDACTED]
[REDACTED]
[REDACTED]

Findings

7. The trustees did not act promptly to update the bank mandate following a number of changes to the composition of the Charity's governing body, due to oversight. Consequently, cheques drawn on the Charity's main bank account over a considerable period of time were not signed in accordance with the Charity's governing document, which required signature by an officer of the Charity and a Committee member.

8. The Commission used its powers under section 9 of the Charities Act 1993 to obtain documentation relating to the Charity's bank accounts, including copies of cleared cheques drawn on the main bank account during the period from January 2003 to October 2003 inclusive. Each cheque drawn during that period bore the signatures of B & C, despite the fact that C had resigned as a trustee [REDACTED]. C was adamant that [REDACTED] did not sign any cheques from towards the end of 2002 onwards (apart from two cheques in early 2003).

9. B was adamant that [REDACTED] did not forge C's signature on cheques. A & B maintained that C, [REDACTED], signed a number of blank cheques around and after the time that [REDACTED] resigned as trustee, when one or other of them asked [REDACTED] to do so. That was against the background of the oversight relating to updating the bank mandate.

10. No evidence was provided to the Commission in support of the forgery allegation. C told the Commission that [REDACTED] had reported the allegation that C's signature had been forged on cheques to the Police, but the Commission established that the Police had no record of this matter.

11. The Inquiry found no evidence that any of the cheques drawn on the Charity's main bank account following C's resignation as trustee, but bearing [REDACTED] signature, were for anything other than charitable expenditure.

12. The Commission obtained a copy of the Will of the person alleged to have made a bequest to the Charity. In fact, there was no bequest to the Charity, although a bequest was made to A personally.

13. Using its powers under section 9 of the Charities Act 1993, the Commission established from the Banks identified by the complainants that no accounts were, in fact, held in the Charity's name other than those already identified in the Charity's annual accounts.

14. The Inquiry found no evidence to support the allegation that any volunteer, member of staff or other person involved with the Charity had been instructed to pay, or had actually paid, funds belonging to the Charity into any account other than those already identified in the Charity's annual accounts, or that they had otherwise misappropriated charitable funds.

15. The Inquiry found no evidence that any of the expenditure incurred by the Charity during the short period in late 2003 during which the Charity was not operational was not charitable. It largely related to overheads necessary even though the Charity was temporarily not operational, such as rent for the Charity's shop premises. The trustees had decided to close the shop for a short period following the major changes to the charity's governing body, in view of the fact that one of those who resigned had been responsible for running the shop. The trustees considered that closure was necessary while they determined the charity's future.

Outcome of the Inquiry

16. The Charity's bank mandate has been updated, to reflect changes in the composition of the Charity's governing body.

17. Following major changes to the composition of the Charity's governing body made at the end of 2003, the Charity's trustees were more positive about its future viability and its ability to provide services and that would benefit the community.

18. The trustees took steps to review and develop the Charity's existing financial policies and procedures.

19. The Commission referred the matter of the alleged forgery of signatures on the charity's cheques to the Police, for the Police to determine whether to undertake further investigation. The Police investigation has now been concluded.

20. The Inquiry was closed in December 2004.

Wider Lessons

21. Trustees are responsible for the overall management and administration of a charity and must ensure that they act at all times within the provision of their governing document.

22. Trustees have a duty to protect the assets of a charity. Where charity trustees discover evidence of financial irregularity they should always report the matter to the Police unless there are exceptional reasons not to do so. It is recommended that the advice of the Commission should be sought in cases of doubt.