

Childwatch

Registered Charity No. 518067

Introduction

1. This is a statement of the results of an Inquiry under Section 8 of the Charities Act 1993.
2. Childwatch ('the Charity') was registered as a charity on 5th November 1986. The charity's objects are;
 - to protect children and young persons at risk of either physical or mental cruelty or abuse or whose social conditions are such that they are likely to become victims of crime and
 - to promote the moral improvement of the community with a view to enhancing the personal responsibilities and enriching family life.
3. The charity operates from its premises at 19 Spring Bank, Hull, East Yorkshire, HU3 1AF and in the financial year ending 31st December 2001, had an income of £111,215.

Issues

4. The Commission received a number of complaints from members of the public in respect of the charity's fundraising methods. We established that the charity had a fundraising agreement with a company called [redacted]. After careful evaluation of the concerns brought to our attention, we decided that the relationship between the charity and the commercial participator warranted further examination. A commercial participator is any person who carries out for gain a business which is not a fund-raising business but who in the course of that business engages in any promotional venture (i.e. any advertising or sales campaign or any other venture undertaken for promotional purposes) in the course of which it is represented that contributions are to be given to or applied for the benefit of a charity.
5. An inquiry was opened on the 9th August 2004 to look more closely at the charity's relationship with the commercial participator and at the trustees management of the charity

Findings

6. The fundraising agreement between the charity and [redacted] granted the right for [redacted] to sell advertising on wall planners, posters and fun books using the name and logo of the charity. In return for allowing the use of their logo the charity received a fee equal to a variable percentage of monthly sales turnover of the sale of the various publications. Also in addition to the fee [redacted] provided free copies of various publications and stationery and also designed and operated the charity's website.

7. The inquiry officer visited the offices of _____ and met with a director. The director explained in detail how _____ approached potential customers and provided details of the script employees used when approaching potential supporters. The officer asked if _____ could provide copies of the calls as these are routinely taped. These were provided and removed by the Commission to analyse the content. The Commission agreed that the content of these would not be shared with any other parties.

8. _____ informed the officer that employees randomly call businesses and ask them to support the charity. They give details of the charity's activities and then offer them the opportunity to purchase advertising space. Through this process they are advised they will be helping the charity as the charity receives a fee/donation. If at this stage a business agrees to sign up for advertising space then they are advised they will be called back to confirm details. This is known as the "confirming call" and all of these calls are recorded. After listening to a sample of calls, provided by _____ the inquiry officer found that the business was instructed that the recording formed a contract and were asked if they understood this, if they replied yes they were then asked for details of advert and provided details. At the end of the call the business was read a solicitation statement.

9. Commercial participators, are defined and regulated by Part II of the Charities Act, and are required by section 60 of the Act to give specific information to their customers. In particular a commercial participator must tell prospective customers what proportion of their payment is to be given or applied to the charity in question or what sum by way of donation will be given by the commercial participator in connection with the sale. This is known as the solicitation statement.

10. The inquiry officer determined that the solicitation statement given by _____ did not fully comply with requirements set out by the 1992 Charities Act, in so far as there was a lack of transparency in terms of what the charity receives. Also the timing of this statement was at the end of the call when the contract had already been agreed. The emphasis of the requirements is to ensure that potential customers receive enough timely information to allow them to make fully informed decisions whether to buy or donate on whatever terms are stated.

11. The inquiry officer visited the charity's premises and carried out an inspection of its record keeping. During the visit the _____ was present. It was established that there was an issue of trustee benefit

_____. There had been no open and fair recruitment for the post _____, and no authority from the Commission sought. However the _____ was under the impression that this had been sought by one of the other trustees at the time of _____ appointment, and after further investigation the present trustees did present evidence to support this. Also no appraisals _____ have been conducted.

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13.

A lot of the charity's records were stored abroad and due to a flood had been damaged and therefore the officer did not have the opportunity to examine many records.

14. The officer established that the charity provides counselling services, through the provision of a helpline or face to face, offers advice to agencies and advises social services on a regular basis.

15. In addition to the above issues the charity had not submitted accounts for financial years ending 31 December 2003 and 2004. It was also found that the charity was heavily reliant on the funds from as this is their only source of income.

16. The officer met with trustees of the charity on two separate occasions to discuss all the information gathered. All but one of the trustees was new to the role, two being appointed the month the inquiry was opened and a further two in October 2004. The relationship with was discussed and concerns raised in respect of the complaints that had been received by the Commission. The trustees were concerned as this was potentially damaging to the reputation of the charity.

17. The new trustees informed the officer that after they were appointed they realised that there were problems and that they were trying to address them, but still finding their feet.

Outcome of the Inquiry

18. changed the timing of the solicitation statement, making it much earlier in the confirming call allowing the potential client/donor to make an informed decision as to whether to buy or donate.

19. The trustees agreed to set up a much more proactive system of dealing with complaints received, and to ensure that it was not just who dealt with them that the complainant would have some contact with the charity.
20. The trustees advised that they would be negotiating a new contract with which would require a set amount being transferred to the charity monthly instead of the percentage figure they have received in the past. Also they indicated that they would request a shorter term contract, allowing them to negotiate from year to year. They advised that they would be taking their own independent legal advice in respect of this.
21. The trustees recognised the potential future problems that the charity may encounter due to the fact that their only income revenue is from The trustees advised that they would be looking to increase funding from other sources to the charity over the next twelve months.
22. was advised to consider stepping down as a trustee as the conflict of interest was potentially too significant to be managed effectively. resigned immediately.
23. The trustees were advised to consider the position carefully and how in reality impacts on the charity's day to day activities. If the trustees consider that is the best person for the job they will have to seek authority from the Commission i.e. . They were also advised to ensure that a new contract of employment is drawn up along with a full job description and a process for appraisals.
24. The trustees were advised that they should consider changing the signatories on the charity's bank account as there is an issue of control over funds
25. The trustees were advised that records belonging to the charity would be better kept in their offices in Hull.
26. The trustees assured the Commission that the outstanding accounts will be sent to the Commission as a matter of urgency.
27. The officer recommended a review of the charity's governing document.
28. The trustees were advised that the Commission would contact them to establish what progress the trustees have made in addressing concerns.
29. The Inquiry was closed on the 19th July 2005.

Wider Lessons

30. Trustees have a responsibility to ensure that the reputation of their charity is not brought into disrepute by the activities of the charity or anyone raising funds on behalf of the charity. A Charity's reputation is an asset and its trustees have a duty to protect it. It is important that charity trustees have the means to monitor the activities of commercial participators or for that matter anyone who uses the charity's name.

31. Trustees must ensure that they do not sell their charity short in any agreement with a fundraiser or commercial participator. Any agreement should be drafted in favour of the charity not the fundraiser or commercial participator involved. Again if the trustees do not have any expertise in this field, appropriate professional advice should be sought.

32. It is good practice that fundraisers and commercial participators ensure that their activities comply with part II of the Charities Act 1992.

33. A charity must always have a fundraising agreement in place with a commercial participator, and this must satisfy the requirements of the Charities Act 1992. These requirements include the fact that there must be a solicitation statement which must make clear the method used to determine how much the charity receives from the commercial participator (see section C (i) and (ii) of section 60 of the 1992 Charities Act).