

# James Leonard Thomson College

Registered Charity No. 1073410

## Introduction

1. This is a statement of the results of an Inquiry under Section 8 of the Charities Act 1993.
2. James Leonard Thomson College ('the Charity') was registered as a charity on 20 January 1999 and is governed by a Memorandum and Articles of Association. The Charity exists to advance education in science, history and the development of engineering and to provide training in the skills of engineering. The Charity rents a property in Weymouth, Dorset to run a training centre, called the Thomson Engineering Skills Centre.
3. In the financial year ending 5 April 2004 the Charity's expenditure was £279,000 and its income was £225,000.

## Background and Issues

4. [REDACTED] ('the Company') is a non-charitable company which provides personnel, recruitment and training services. The three trustees of the Charity are also directors of the [REDACTED].
5. The Company works closely with the Charity, providing staff, acting as a conduit for the provision of students and sub-leasing the Thomson Engineering Skills Centre.
6. The Charity was established following a charitable legacy in a will with instructions to create an engineering training centre. The Company set up and agreed to run the college and initially funded the Charity's deficit. It was hoped that the Charity would be self financing, but for a number of reasons this did not occur.
7. The Company continued to fund the deficit but by way of loan finance. The deficit was larger than anticipated and the Company sought to reduce the level of its liabilities.
8. The Commission received a complaint regarding the management of the Charity. The alleged issues of concern to the Commission were:
  - conflict of interest of the three trustees of the charity and their roles as directors of the Company;
  - concerns that loans from the Company to the Charity were not disclosed at trustee meetings, not clearly disclosed on income/ expenditure budget spreadsheets, nor were repayments transparent; and
  - inquorate trustee meetings

9. An Inquiry was opened on 28 September 2004.

## Findings

10. The Charity trustees had acted in the conduct of transactions with the Company whilst serving as directors and were therefore subject to a conflict of interest.

11. The Commission found the Company had provided a flexible interest free loan which was utilised by the Charity as an overdraft facility. The loan from the Company rose to £95,000 and was shown as such in the Accounts for the financial year ending 5 April 2003.

12. In order to reduce the loan from the Company the trustees took out a further loan of £65,000 from a finance company. This loan was taken against the equipment owned by the Charity, but was guaranteed by the Company.

13. The Commission found that there was no formal agreement in place for repayment of the loan to the Company and the trustees made loan repayments when the Charity had surplus cash flow.

14. The Commission found that when the loan was agreed in July 2002 a loan agreement was signed by both the Charity and the Company. A formal repayment schedule was not included in the agreement as the loan was in the form of a flexible interest free loan repayable when the Charity's cash-flow permitted. Although they were subject to a conflict of interest the agreement was signed by the two trustees who were also directors of the Company.

15. The Commission found that the trustees did not financially benefit from the Charity's loan arrangement with the Company. Without the support of [REDACTED] the Company the Charity would not have been able to operate as long as it had.

16. The Commission found that a number of the trustee meetings were inquorate. The trustees subsequently took steps to re-adopt the minutes of the relevant meetings approved by a quorum.

## Outcome of the Inquiry

17. The trustees have drafted a prospectus for new trustees and sourced three independent people who are willing to become trustees. They have no connection with the Company.

18. The trustees have signed an action plan agreeing to appoint new trustees. This will ensure that a quorum can still be achieved with those trustees who do not have a conflict of interest with [REDACTED]. Those trustees connected to [REDACTED] will absent themselves from meetings where potential conflicts of interest issues are discussed.

19. The trustees have drawn up a new agreement with the Company in connection with the loan to the Charity and terms of repayment. The suitability of this agreement will be reviewed by the new independent trustees.

20. The Inquiry was closed on 7 June 2005.

21. The Commission will review the Charity's progress in 6 months time.

## Wider Lessons

22. Charity trustees need to avoid and be sensitive to conflicts of interest. Where such conflicts occur, the trustee concerned should take no part in the decision at issue, whether it is a direct conflict or a strategic decision which may affect the future operation and staffing of the charity. 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.

23. Charity trustees who are proposing to enter into an arrangement in which their personal or other interests might conflict with their duty to the charity should either refrain from doing so or ensure that the possible conflict is correctly and transparently managed, for example, by declaring the interest and refraining from any business of the charity which could be or appear relevant to it. Advice on potential conflicts of interest and their handling can be obtained from the Commission.