

Enforcing Submission of Annual Returns and Accounts

Introduction

1. This is a statement of the results of a number of Inquiries under Section 8 of the Charities Act 1993.
2. This report sets out the main issues arising from ongoing work undertaken by the Commission enforcing the submission of Annual Returns and Accounts.

Issues

3. Trustees of every registered charity with an annual income or expenditure of more than £10,000 are required by law to complete an Annual Return form and submit it, together with the charity's Accounts and Annual Report, to the Commission. This must be done within ten months of the charity's financial year end.
4. Following the Commission's normal enforcement procedure, trustees had failed to submit the Annual Returns and/or Accounts and Trustee Annual Report for their charity. Inquiries were opened into the following charities to consider matters more fully.

Name	Reg Charity No.
Act Theatre Company	1075039
Alpha Grove Community Trust	270570
Bachad Fellowship	227569
Barton and Tredworth Community Trust	1089540
Brixton Mosque & Islamic Cultural Centre	1064768
Charles Peguy Trust	231249
Children Care Centre	1014813

Drug Free	1019105
Fiat Auto (UK) Charity	1059498
Forest School Camps	306006
Geoffrey C. Hughes Charitable Trust, The	1010079
Gradel Foundation, The	274098
Graves Park	510841
Greek Orthodox Community of St Athanasios, Cambridge	1040908
Haworth Art Gallery & Park, The	1077166
Innovation in Digital & Electronic Arts Ltd	1069511
Islamic Centre Upton Park	1041977
Jameah Fatimia Mosque	1070245
Jamia Ghosia Association	518757
Jamia Masjid Hanfia (Bradford) Association	503945
Kurdish Life Aid Trust	1005590
Manchester Civic Society, The	1050663
Melrose Pre-School Playgroup	278992
Ministry of Praise	1073397
Moss Side Millennium Green Trust	1079128

Muslim Information Centre, The	1040523
N.I.E.S.H.	1055638
Netzach Yisrael Trust	1086142
Norton Collection Trust, The	1057982
Oxfordshire Animal Sanctuary Society	254642
Paddington Recreation Ground	295449
Plough Redemption Foundation Trust	1059434
Priory School (Banstead) Trust Limited	312035
Rhodes Street Advice Centre, The	1071881
Rigby Foundation	1011259
Salford Community Relations Link Project	1060824
South Essex Medical Education & Research Trust, The	259793
Stoke College Educational Trust Ltd	310487
Three Acres Community Play Project	1027441
Tovil Quality of Live Forum	1052230
Tower Hamlets Opportunity Playgroup	1009252
Town Hall Haverhill, The	288092
Trust property administered in connection with the Order of the Company of Mary Our Lady	238228

Welcome Community Nursery	1003383
West Wiltshire Wide Citizens Advice Bureau	1090132
Wolfson Townsley Charitable Trust, The	277928
Wormwood Scrubs Charitable Trust	1033705

Actions Taken

5. Various methods were used to obtain relevant information such as corresponding or meeting with a charity's trustees and their professional advisors. In some cases the trustees were asked to complete a questionnaire that was framed so that the answers would give the Commission an insight into the effectiveness of the charity's internal financial controls and their administrative systems. The answers established the shortcomings of the trustees' controls and systems which had resulted in their failure to ensure timely submissions to the Commission.

6. In some cases, where the notification of an Inquiry and request for outstanding documents had failed to elicit a response, Directions under Section 8 of the Charities Act 1993 were issued to each of the trustees. The trustees were advised that failure to comply with such Directions within the specified time limit could result in them being held in contempt of Court and liable to imprisonment.

Findings

7. A variety of reasons were given for the non-submission of documents, a number of which are listed below:

- the charity had either ceased to operate or was in the process of winding up and the submission of Annual Returns and Accounts had been overlooked;
- misunderstanding between the trustees and accountants as to who was responsible for sending Annual Returns and Accounts to the Commission;
- administrative backlogs;
- staffing difficulties;
- problems with the standard of accounting records maintained by previous trustees;
- trustee absence;
- charity correspondent details had changed and the charity had not received correspondence from the Commission;
- a local authority, as charity trustee, was unaware of the need to account for charitable funds separately to the local authority's main accounts;
- too much responsibility was placed on few administrative staff resulting in late production of Accounts; and
- accountants took a long time to produce Accounts.

Outcome of the Inquiries

8. The trustees have been reminded of their legal obligations with regard to the submission of documents to the Commission (see point 3 above).

9. The charities have either brought the requested Annual Returns and Accounts up to date; are in the process of winding up (in which case, a set of final Accounts will be submitted); or are working towards agreed timetables for submission.

10. The submission of Accounts under these Inquiries has resulted in just over £12 million of charitable income having been brought to account.

11. All trustees have been advised to review their charity's administrative procedures to ensure future timely submissions. Consequently, the Commission would expect no delays in future submissions. Further failure to submit Annual Returns and Accounts within ten months of the charity's financial year end, without reasonable excuse, may result in the opening of a further Inquiry and possibly prosecution under Section 49 of the Charities Act 1993.

12. Arrangements have been made for all Accounts received under the Inquiries to be scrutinised by the Commission's Financial Regulation Division. Any issues arising from their scrutiny will be brought to the trustees' attention.

Wider Lessons

13. These Inquiries have highlighted similar wider lessons to those outlined in previous Inquiry reports relating to the submission of Annual Returns and Accounts which can be found on the Commission's website.

14. The following wider lessons should be borne in mind:

- trustees should agree clear lines of responsibility if they appoint a particular trustee (usually treasurer), or other agent, to arrange preparation and submission of documents to the Commission. They should regularly review the actions of the appointee to ensure this function is properly discharged;
- trustees should ensure the charity's contact details are regularly updated by submitting the completed Trustee Update Form each year;
- trustees must ensure their systems remain sufficiently robust following any changes in personnel who are significant to the charity's internal financial control and administrative systems;
- as soon as trustees become aware that they may not be able to submit the charity's Annual Return and Accounts on time they should contact the Commission as it may be able to agree an extension to the submission deadline;
- charity trustees have an obligation under Section 3(7)(b) of the Charities Act 1993 to notify the Commission if the charity ceases to exist;
- if charity trustees persistently fail to meet their statutory obligation with regard to the preparation and timely submission of Annual Returns and Accounts, the Commission would have serious concerns about the trustees' management of the charity and the protection of the charity's assets. Under Section 18 of the Charities Act 1993, the Commissioners have the power to act for the protection of charities, including the freezing of bank accounts, the appointment of additional trustees, the removal of trustees or the appointment of a Receiver and Manager;
- the Commission believes that the process of submitting Annual Returns and Accounts on time is a key element in demonstrating the integrity and transparency of charities and in supporting public confidence in them.

Trustees should be aware that:

- under Section 49 of the Charities Act 1993 trustees who, without reasonable excuse, persistently fail to comply with the requirements of the Charities Act 1993 to supply Annual Returns and Accounts may be guilty of a criminal offence and may, on conviction, be fined. There have been previous successful prosecutions of trustees for failing to comply with the requirements to submit Annual Returns and Accounts.
- under Section 43 of the Charities Act 1993, the Commission is empowered to appoint an auditor to produce Accounts on behalf of a charity for any outstanding years. In this situation, the Act allows for the auditor's costs to be met personally by the trustees and the total sums can be recovered from any or all of the trustees.

15. Trustees who are unsure of their charity's accounting requirements should consult the Commission's publication *Charity Accounts: The Framework* (CC61).

16. The Commission's Contact Centre is always happy to provide further advice on any of the above issues. They are available on 0845 300 0218.