

Enforcing Submission of Annual Returns; Accounts and Trustee Update Forms

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 either an annual income or expenditure of more than £10,000 are required to complete and submit an Annual Return and a copy of their Accounts to the Commission each year. Charities are obliged to submit these documents to the Commission within ten months of their financial year end.

4. The Commission instituted inquiries into a number of charities that had failed to submit Annual Returns and Accounts for a number of years. These charities appeared, from their name or objects, to hold land or property for the purposes of the charity, e.g. almshouses.

Actions Taken

5. The aims of each Inquiry were to:

- obtain all the outstanding information to ensure the charities register is up to date;
- establish the charity's most recent income and expenditure;
- determine the reasons for non-submission of documents;
- ensure that the trustees were aware of their legal responsibilities with regard to the future submission of documents to the Commission; and
- to protect the charity's assets.

6. Various methods were used to obtain relevant information such as corresponding or meeting with charity trustees and their professional advisers. The trustees were also 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 administrative procedures and to determine the approximate market value of the land/property held by the charity. The answers from the questionnaire identified potential shortcomings in the charity's administrative procedures that had resulted in their failure to ensure timely submissions to the Commission.

7. In many cases the Commission had not received any information for a number of years therefore for the purpose of this inquiry the trustees were asked to submit the charities latest annual accounts, even where the charity's income and expenditure were below the £10,000 threshold.

8. In some cases, where the notification of the Inquiry and request for outstanding documents had failed to elicit a response, Directions under section 8(3) of the Charities Act 1993 were issued to each of the trustees.

Charities included in the Inquiry

Aberffraw Playing Field (506206)
Ahmadiyya Anjuman Ishaat Islam Lahore (UK) (278963)
Alfred Hall Memorial Field Eynesbury (1030852)
Allgood's Almshouses (227867)
Allotment for Common Quarry at Clousden Hill (522081)
Allotment for Fuel (228879)
Allotment for Labouring Poor (238180)
Allotment for Recreation (270855)
Allotment for the Labouring Poor (219649)
Allotment for the Labouring Poor (269238)
Allotments for Labouring Poor (221854)
Allotments for Labouring Poor (248607)
Almshouse Charity (246214)
Almshouse Charity of Mary, Dowager Duchess of Beaufort (230660)
Baitul Mukarram Mosque Trust (1068370)
Banbury Muslim Mosque Society (900047)
Barclay's Almshouse (209194)
Barnard Castle Playing Fields (520722)
Barrow Recreation Allotment (270205)
Benenden Almshouse Charities (232743)
Bleak House Neighbourhood Association (509113)
Bodham Playing Field (303911)
Bunbury Jubilee Playing Fields (1005381)
Cadogan Playing Field (302867)
Cae Hywell Playing Field (524041)
Chamber Colliery Social Welfare Centre and Recreation Ground (521262)
Children's Playing Field (301322)
Christopher Spalding's Charity for Allotments (248987)
Church Allotment Charity (228579)
Clothall Almshouses (238669)
Clough Hall Recreation Ground (522681)
Colbren Playing Fields Association (523665)
Cwmlllynfell Hall & Recreation Ground (524154)
David's Well Allotment (217757)
Densole Playing Field Association (282913)

Dunstall Allotments (202427)
 Eaton Socon Children's Playing Field (200159)
 Ellen Carter Almshouses, The (235195)
 Ellenhall Parish Rooms (510880)
 Epworth War Memorial Field (521918)
 Eversley House (523915)
 Fuel Allotment Charity (200486)
 Garths' Almshouses (238489)
 Gildersome Playing Field (523610)
 Good Shepherd House Trust, The (213872)
 Grangetown Muslim Cultural Centre, The (700085)
 Great Amwell Jubilee Almshouses (226861)
 Gwynedd Playing Fields Association (519793)
 Hadley Old People's Rest Room (243812)
 Harrold Playing Field (300036)
 Hedenham Parish Room (278331)
 Heylar's Almshouses (245432)
 Hockham Reading Room and Institute (242891)
 Hogarth's House (1010069)
 Hogsthorpe Memorial Recreation and Playing Field (1014611)
 Holme Hale Playing Field Trust (303979)
 Hope House (275017)
 Horncastle Playing Fields Association (521941)
 Horton-in-Ribblesdale Playing Fields Committee (512380)
 Imamia Islamic Organisation (291674)
 Islamic Centre of West Bromwich (517191)
 Jamia Al-Hafsah (Islamic Educational and Cultural Trust) (1044016)
 Jamia Masjid-E-Bilal (Leicester) (1069001)
 John Cary's Almshouses (221722)
 Kilverstone Almshouse Trust (211599)
 Kings Cross Mosque and Islamic Cultural Centre (1074973)
 Knights Wrecclesham Almshouses (204478)
 Leighton Buzzard Almshouse Charities (234122)
 Lenton Muslim Centre Nottingham (700782)
 Masjid Tooba (518554)
 Minhaj-UI-Quran Khadijah-Tul-Kubra Education Centre (1056707)
 Mosque Noor Ul Uloom & Islamic Education Centre (1067639)
 Municipal and United Almshouse Charity (1059877)
 Muslim Community and Welfare Centre (801858)
 Naqshbandia Mosque (519399)
 New Meeting House Relief in Need Charity, The (240477)
 New Yerbury Almshouses and Subsidiary Endowments (215835)
 North Ilford Islamic Centre (1062761)
 Old Meeting House Birmingham (Ministers) Fund, The (502209)

Parochial Allotment Charity (217478)
 Pistyll Charity, The (216686)
 Poor Allotment (241594)
 Poor's Allotment (217204)
 Poor's Allotment (234548)
 Poor's Allotment (243237)
 Poor's Allotment, The (248463)
 Poor's Allotments (239008)
 Pothoar Welfare and Islamic Trust (1053502)
 Princethorpe Allotment Charity (217493)
 Pritchett Almshouses (223983)
 Raynsford's Almshouse Charities (201394)
 Reading Room (522513)
 Reading Room Hillmorton (511658)
 Shepherds Bush Mosque (273580)
 Shia Islamic Centre Blackburn (512680)
 Souldern United Charity, The (1002942)
 South Wales Islamic Educational Trust (1043296)
 Southampton Islamic Movement (1040460)
 Tipton and Tividale Islamic Community Centre (1044127)
 Waterloo Community Room (507319)
 West Bromwich Bangladesh Muslim Welfare Association Islamic Centre (700654)
 Working Men's Reading and Recreation Rooms (520313)

Example Inquiry Findings **Scenario 1 – Playing Field**

9. The charity had never submitted an Annual Return Form, Trustee Update Form or Accounts. The inquiry officer contacted the local council who confirmed that the council was the charity's trustee but had no records regarding the charity. The council provided the Annual Return Form and Trustee Update Form together with the approximate current market value of the land but was unable to confirm the location of the land. The Charity Commission provided the Council with details to assist in identifying the land. The Council was then able to locate the charitable land and therefore accurately provide the outstanding documents. The trustees were reminded of their legal responsibilities for future timely submissions.

10. The approximate value of the charitable property is £250,000.

Scenario 2 – Playing Field

11. This charity had not submitted Annual Returns or Accounts to the Commission for a number of years despite numerous reminders to a local council as trustee. There was confusion within the Council as to who was responsible for attending to the completion and submission of Annual Returns and Accounts, and due attention was not being given to bringing the outstanding documents up-to-date and submitting them to us.

12. The inquiry officer was concerned at the Council's lack of co-operation and furthermore, the protection of the charity's assets. The inquiry officer visited the charity land and verified its existence as a well-maintained playing field with open public access, and was satisfied that the land was being administered in accordance with the charity's objects.

13. The inquiry officer had felt it necessary to advise the Council that further failure to submit the required documents could result in them receiving a Direction under section 8(3) of the Charities Act 1993. This was not necessary as the outstanding documents were duly submitted. The inquiry officer has since made arrangements for the accounts to be scrutinised to ascertain whether the charity's assets have been properly recorded in the accounts. Any issues arising from this scrutiny will be brought to the trustees' attention in due course.

14. The Council has been reminded of its legal obligation to submit an Annual Return and accounts (if required) to the Commission on time in future years. The Council has also been advised that its administrative procedures must be more efficient in future to ensure that this process happens.

Scenario 3 – Almshouse

15. The trustees had not submitted any Annual Return Form, Trustee Update Form or Accounts since 1999. After examining the charity's governing document the inquiry officer was able to contact a trustee and establish that the charity's administration had broken down and over the years the charity's trusteeship had become unclear. The inquiry officer subsequently identified the correct trustee body and advised them of the importance of future timely submissions. The trustees have now submitted the most recent Annual Return Form, Trustee Update Form and Accounts. The approximate current market value of the charity's property is £746,000.

Scenario 4 – Almshouse

16. This charity had not submitted the Annual Return Form, Trustee Update Form or Accounts since the financial year ending December 1999. On contacting the charity the inquiry officer established that the Almshouse had been sold and the proceeds of sale had been left in abeyance by the trustees. This contact with the Charity Commission prompted the trustees to seek advice and approval to apply the dormant charitable funds. The Charity Commission is providing further information on this issue which will result in £60,000 of charitable funds being protected and released for charitable purposes. The charity will now be removed from the Central Register of Charities.

Scenario 5 – Place of Worship

17. This charity had not submitted an Annual Return Form, Trustee Update Form or Accounts for a number of years. A complaint was also received from a member of the public referring to the charity's non-submission of documents as well as to concerns that they had about various governance issues i.e. there had been no annual general meeting.

18. The inquiry officer met with the trustees where it was established that there was confusion within the charity's administration. As a result of the meeting, the charity's most recent Annual Return Form, Trustee Update Form and Accounts have been submitted. A scrutiny of the accounts by the Charity Commission's Financial Regulation Department has revealed that the accounts have not been prepared in accordance with the Statement of Recommended Practice (SORP). For future guidance, the trustees and their accountant have been provided with the relevant financial information and advised that their accounts will be monitored accordingly. The trustees have also agreed to work with us in taking forward any further advice that is recommended to them to restore the proper administration of the charity.

19. At the conclusion of this case, the trustees reported to the Commission that the approximate market value of the charity's property is £800,000.

Outcome of the Inquires

20. The submission of Accounts and Annual Returns under these inquiries has resulted in £2,866,000 of charitable income and £31,077,000 of charitable assets having been brought to account.

21. The charities have either brought the outstanding documents up to date; or in the case of charities that have wound up, arrangements have been made for their removal from the Central Register of Charities.

22. All trustees have been advised to review their charity's administrative procedures to ensure the timely submission of Annual Returns and Trustee Update Forms in the future. For those charities with an income or expenditure over £10,000 they are also required to submit Accounts.

23. The Commission has arranged for appropriate advice to be given to a number of charities where it was found that the charity was not being administered in accordance with the charity's governing document.

Wider lessons

24. 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.

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

- trustees are individually and jointly responsible for the timely submission of documents to the Commission and must ensure that the charity's accounting systems and administrative procedures are sufficiently adequate to ensure that they submit their required documents within ten months of the charity's financial year-end;
- trustees should familiarise themselves with the provisions of the charity's governing document and should ensure that the charity is administered in accordance with its terms and conditions;
- if trustees become aware that they may not be able to submit the required documents on time they should contact the Charity Commission as soon as possible, and request an extension to the submission deadline;
- trustees should ensure that the charity's contact details, i.e. the charity's correspondent is regularly updated each year;
- if trustees find themselves in a position where the trustee body has fallen below the required minimum, the remaining trustees should refer immediately to the provisions contained in the charity's governing document relating to the appointment of new trustees. If it is not clear from the governing document what action the trustees should take, they should seek further advice from the Charity Commission;
- local Councils should ensure that they understand their responsibilities as a trustee (i.e. whether they are a Custodian or Managing trustee) and what their accounting requirements are in relation to charity property over which they act as charity trustee;
- 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 have an obligation under section 3(7) of the Charities Act 1993 to notify the Commission if the charity ceases to exist;

- the Commission's website clearly identifies when a charity's documents are overdue. This information is available to the public and as such this may have an impact on whether funding bodies and/or the general public may not wish to assist a charity that has failed to submit up to date Accounting information;
- trustees have a legal duty to keep accounting records, regardless of what their income or expenditure level is, for a minimum of six years (s41 of the Charities Act 1993 refers). Additionally, where a charity's income or expenditure level is over £10,000 per annum they also have a legal duty to submit these to the Commission.

26. Trustees should be aware that:

- If they persistently fail to meet their statutory obligation with regard to the preparation and timely submission of Annual Returns; Trustee Update Forms and Accounts, the Commission may 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 power to act for the protection of charities, including the freezing of bank accounts, the appointment of additional trustees, or the appointment of a Receiver and Manager and, ultimately, the removal of trustees.
- Under section 49 of the Charities Act 1993 trustees who, without reasonable excuse, persistently fail 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 requirement to submit Annual Returns and Accounts.
- The Commission may not regularly provide assistance or services to registered charities that are in default in providing us with their accounts and/or annual return. This includes providing advice and guidance to charities and making schemes and orders. This applies equally to requests received from trustees, paid or voluntary staff and the charity's professional advisors.

27. If charity trustees have any queries about the format of charity accounts, advice is freely available from the Commission's Call Centre on telephone 0845 300 0218. Advice on charity accounts is also available on the Commission's website.