

Lynx Gymnastics Club Limited

Registered Charity No. 1008980

Introduction

1. This is the statement of the results of an Inquiry under Section 8 of the Charities Act 1993 ("the Act").

2. Lynx Gymnastics Club Limited ("the Charity") was registered as a charity on the 29th February 1992. Its objects are "To advance the physical education and development of children attending schools in the Aylesbury area by the provision of facilities and instruction in gymnastics."

3. The Charity is based in Buckinghamshire and had an income of £245,631 in 2004.

Issues

4. In September 2004, the Commission received allegations that the Charity was operating as a private commercial business, with private benefit to individuals exceeding the public benefit in its delivery of charitable services. It was alleged that [REDACTED] maintained a dominant influence over the trustee body, and that the trustees did not have adequate control over the management and administration of the Charity.

5. Following an evaluation of this information, an Inquiry was opened into the Charity on the 10th May 2005 with the aims of:

- Establishing the level of control of the trustees in the management and administration of the Charity;
- Examining private benefit issues that appeared to have arisen;
- Examining the financial structure and controls over charitable expenditure;
- Taking any necessary remedial measures to put the Charity on a proper footing for the future.

Findings

6. The Commission found that [REDACTED] were [REDACTED] paid employees of the Charity and were also trustees of the Charity from the 19th September 1991 until they resigned on the 30th September 2002.

7. The trustees had allowed [REDACTED] to be too dominate in controlling the administration of the Charity. When [REDACTED] resigned as trustees it was established that they seemingly made decisions in relation to the administration of the Charity, without the other trustees' knowledge.

8. As they were both paid employees and trustees, the salaries of [REDACTED] were considered to have been paid in breach of clause 4(d) of the Memorandum of Association of the Charity. This clause states, with regard to charity funds, that "no Member of the Committee or Governing Body of the Club shall hold or be appointed to any salaried office of the Club, or any office of the Club paid by fees, and that no remuneration or other benefit in money or moneys worth shall be given by the Club to any Member of such Committee or Governing Body"

Outcome of the Inquiry

9. The trustees made out a case as to why it was expedient in the interests of the Charity to continue the payment of salaries to [REDACTED] which were then duly authorised by the Commission. The Commission considered the issue of the earlier unauthorised payments of salaries to [REDACTED] and decided that it was not proportionate to pursue restitution in this instance.

10. The trustees have worked to rectify the weaknesses in the administration of the Charity. New practices have been adopted and the trustees are now fully in control of the management of the Charity.

11. The Inquiry into the Charity was closed on the 8th November 2005.

Wider lessons

12. 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. The law requires charity trustees not to place themselves in a position where their duty to the charity might conflict with their own interests, that is, where they may have an incentive to neglect their duties as trustees. Moreover, a charity trustee is not permitted to profit from that position (unless he or she is expressly authorised to do so by the governing document or by order of the Commission or the court). A trustee who benefits from a position of trust without the necessary authority may be liable to repay the benefit which he or she has received.

13. The Commission may be prepared not to pursue the issue of restitution in circumstances where it considers that the Court would grant relief. However this would not prevent the charity trustees, the Attorney General or indeed the Commissioners' successors bringing proceedings at a later date.

14. Trustees are responsible for the overall management and administration of the charity. It is an important and general rule that trustees act in person and decisions concerning the charity are taken by the trustees acting together.

15. It is the fundamental duty of all charity trustees to protect the property of their charity and to ensure that it is used to further the objects of the charity. In order to discharge this duty it is essential there are adequate internal financial and administrative controls over the charity's assets and their use.