

# The Porcelain and China Painters Trust

Registered Charity No. 1063293

## Introduction

1. This is a statement of the results of an inquiry under section 8 of the Charities Act 1993.
2. The Porcelain and China Painters Trust, formerly based in Chorley, is governed by a declaration of trust dated the 13 March 1997. The object is to promote, maintain, improve and advance the education of the public in Porcelain and China painting and in particular to encourage the appreciation study and practice of the art. The income of the charity in the financial year ending 1 December 2000 was £9,218.

## Issues

3. Following the closure of a previous section 8 inquiry, which resulted in the appointment of additional trustees as well as a referral to the Attorney General, the Commission advised the new trustees to retrieve the charity's books and records from [REDACTED] of the charity and prepare up to date accounts.
4. Although the trustees arranged to pick up the books and records on a number of occasions they were unable to successfully retrieve the documents. Although the previous inquiry found no evidence that there had been any misappropriation of funds the inability of the new trustees to gain access to the charity's books and records raised concerns that they were being purposefully withheld because of the information they contained.
5. Because the new trustees had been appointed by the Commission during the course of the previous inquiry, it was considered necessary to support the trustees in gaining access to the charity's books and records. An officer of the Commission met with a representative of [REDACTED] of the charity in April 2004 and retrieved the books and records.
6. Once the books and records were retrieved they were examined by one of the Commission's accountants. A large proportion of the original endowment had been spent on 89 Seymour Street, Chorley (the property). A further section 8 inquiry was opened in May 2004 to enable the Commission take action if any misappropriation of funds was identified.

## Findings

7. The charity's books and records showed that the original endowment received from the estate of Mr Dimeck consisted of approximately £24,000. They also contained details of the charity's income and expenditure including grants made to individuals and groups undertaking China painting with comprehensive details of the amounts granted and who the money went

to. Along with grant requests and distribution the records also contained receipts for work carried out on the property.

8. Between December 1997 and November 2000 £14,567.74 was spent on the property. £6759.48 was spent on structural work, £6070.64 was spent on internal work including decoration and 1737.62 was spent on solicitor's fees and insurance premiums. [REDACTED] explained that although [REDACTED] had stated that the freehold of the property was not held by the charity it was receiving rent from the tenant and so was the licensor and therefore had obligations as the landlord. The Commission accepts that if the charity was receiving rent it did have obligations in relation to the property. However, it was also established that there was an incomplete assent of the property to the charity by the executors of Mr Dimeck's estate, one of whom was [REDACTED].

9. The books and records did not contain any information relating to the charity's position as licensee other than the details of the money spent on the property. It has not been possible to obtain any documents relating to the charity's obligations to the tenant so there is no independent corroboration for [REDACTED] explanation for the expenditure other than the charity's bank account which shows the charity receiving the rent on a regular basis.

10. Although the charity's books and records contained detailed information in relation to income and expenditure they did not contain minutes of trustee meetings. It is was therefore not possible to verify the following:

- Why the trustees decided not to sell the property and why they decided to keep it and let it.
- Why they decided to let the property to the tenant notwithstanding [REDACTED] personal relationship to [REDACTED].
- Why there was no decision taken regarding the property as an investment and consequently about the type of tenancy which should be granted; for example, whether a short hold tenancy or a secure tenancy should be granted.
- What the rent should be and whether it was the full market rate for the type of property concerned.

It is unclear whether there is a tenancy or a licence and whether the potential conflict of interest was properly managed. It is also unclear whether the arrangement was in the charity's best interests. The records did not contain a copy of any agreement detailing the terms and conditions of the occupation nor did they contain copies of any legal advice received regarding these arrangements.

11. [REDACTED] said that minutes of the trustee meetings were not accessible because [REDACTED]  
[REDACTED]  
[REDACTED]

12. The Commission have been informed [REDACTED]  
[REDACTED]. In a letter from [REDACTED] dated 17 October 2001 to a prospective trustee [REDACTED] provided a copy of the minutes of a trustee meeting dated the 15 August 2001. It therefore appeared that up to the 17 October 2001 someone had access to the minutes of the trustee meetings. [REDACTED] has provided no explanation for the contradiction highlighted by the above mentioned correspondence.

13. There is no evidence that there has been any misappropriation of funds.

## Outcome of the Inquiry

14. The books and records have been passed to the trustees of the charity who are now considering the future of the charity.

15. [REDACTED] has been informed by the Commission that the administration of the charity lacked transparency. The inability to provide documentation showing that the decisions taken were in the charity's best interests casts doubt on the validity of the decisions made. As the person concerned is no longer a trustee protective action which might have been taken by the Commission is inapplicable.

## Wider Lessons

16. Trustees must always be able to clearly demonstrate that the decisions they take are in the charity's best interests. It is therefore vital that minutes of trustee meetings are accurate and kept up to date. Informal trustee meetings which are unrecorded should be avoided.

17. Trustees can delegate certain tasks but this should only be done in accordance with the charity's governing document or under specific instructions. It must be remembered that it will still be necessary for the entire trustee body to be kept up to date with any delegated tasks and so effective reporting back procedures should be established. Trustees are jointly and severally liable for all acts and omissions including delegated tasks to one or more of their number.

18. If there are legal obligations then these must be clearly evidenced in the charity's books and records so that all of the trustees are aware of their obligations and therefore their liabilities. Trustees may wish to take professional advice and if they do, this must be kept with the charity's books and records.

19. Transparency and accountability are integral to the effective operation of a charity. The funds trustees hold are public funds no matter how they are obtained and so trustees must be able to account for them at all times. A charity's books and records must therefore be complete. They must be in a form which allows anyone with the authority to view them to ascertain where, why, how and when the charity's money has been spent.