

# Regulatory Case Report

## The Pearl of Africa Children's Choir Ltd

Registered Charity Number 1122809



## **This is a Regulatory Case Report of the Charity Commission's investigation concerning the Pearl of Africa Children's Choir Ltd ('the Charity'), conducted following a report that a volunteer had allegedly been sexually assaulted whilst working at the Molly and Paul Childcare Foundation ('the Foundation'), a partner organisation the Charity is funding in Kampala, Uganda. The Commission's Report was published on 14 May 2010.**

**The information provided to the Commission raised concerns about the safety of volunteers and the Charity's beneficiaries, and whether the trustees of the Charity had proper measures in place to mitigate the risks to volunteers and beneficiaries.**

**Having regard to the principles of best regulatory practice, the Commission has decided to publish this Regulatory Case Report<sup>1</sup> on its recent investigation into the Charity.**

### **The Charity**

1. The Charity was set up as a company on 21 February 2006, and was entered onto the Commission's Register of Charities on 15 February 2008.
2. The Charity's objects are expressed in its Memorandum and Articles of Association as being to:
  - a) advance the education of widows and their families and to source and provide educational materials for schools and sponsorship for school children in Uganda; and
  - b) relieve the charitable needs of children who are victims of AIDS and war in Africa and those who are suffering financial hardship, by such means as the trustees deem fit.
3. Although the scope of the Charity's objects are broad, in practice the Charity's main activities are supporting, and raising funds, for the Foundation<sup>2</sup> in Uganda.
4. The Charity's accounts for the financial year ending February 2009 show an income of £215,613, expenditure of £125,833 and net assets of £114,105.

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<sup>1</sup> More information on Regulatory Case Reports can be found under 'Our regulatory activity' then 'Results of our legal compliance work'.

<sup>2</sup> See paragraphs 5 to 7 for further information about the Foundation.

### **The Molly and Paul Childcare Foundation**

5. The Foundation is a Ugandan non-governmental organisation (NGO) which provides schools and homes for over 2,000 children, many of whom are orphans or otherwise destitute<sup>3</sup>.
6. The Foundation runs a choir, called 'The Pearl of Africa Children's Choir' ('the Choir') made up of pupils from the schools run by the Foundation. The Choir tours the United Kingdom, the United States, and Ireland in order to raise funds for the Foundation. As a Ugandan organisation, the Foundation is not a charity under the jurisdiction of the Commission.
7. The Charity takes its name from the Choir and helps organise tours when the Choir is in the United Kingdom. Trustees and supporters of the Charity act as hosts and guides to the Ugandan children in the Choir, in addition to facilitating their concerts and performances.

### **Source of concern**

8. On 17 July 2009 a serious incident report<sup>4</sup> was received from the Charity's trustees about an alleged sexual assault by an employee of the Foundation against a volunteer ('Volunteer') who was working at the Foundation. On the same day the Commission received a complaint from a member of the Volunteer's family. The complaint was that volunteers were recruited in the United Kingdom through the Charity in order to work with the Foundation and the trustees of the Charity had failed in their roles and responsibilities by not providing volunteers with proper advice and guidance regarding the risks of working at the Foundation in Uganda.

The complainant subsequently provided additional information alleging that the trustees of the Charity had also failed in their roles and responsibilities by:

- a) not ensuring that host families with whom the child members of the Choir stayed when in the United Kingdom were CRB checked; and
  - b) not appropriately identifying or mitigating the risk of supporting the Foundation about which serious allegations had been made in relation to the way the Foundation was managed.
9. On 23 July 2009 the Commission opened a Regulatory Compliance Investigation. Its substantive investigations concluded on 21 January 2010. The case was closed with the publication of this report on 14 May 2010.

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<sup>3</sup> Molly and Paul Childcare Foundation website: [www.mollyandpaul.org](http://www.mollyandpaul.org)

<sup>4</sup> Further information on serious incident reporting can be found under 'Our regulatory activity'.

## Issues examined

10. The purpose of the Commission's investigation was to:
  - a) establish the Charity's role and responsibility for the volunteering programme with the Foundation;
  - b) establish whether the trustees had discharged their legal duties and responsibilities to the Charity in dealing with the impact of the alleged assault;
  - c) examine the relationship between the Charity and the Foundation;
  - d) establish whether the trustees had ensured that there are sufficient safeguarding procedures in place for child members of the Choir visiting the United Kingdom; and
  - e) establish whether the trustees were aware that the directors of the Foundation had been the subject of other serious allegations about the operation of the Foundation and, if so, whether they had taken appropriate action to protect the Charity's interests and reputation as a result. The Commission did not investigate the concerns about the Ugandan Foundation because they fell outside its regulatory remit.
11. During the course of the investigation the Commission met with the trustees of the Charity. The Commission also established that the Ugandan Police were investigating the alleged sexual offence involving the Foundation's employee.
12. This was the first occasion where the Commission has engaged with the Charity regarding concerns of this nature. The Charity co-operated fully with the Commission's enquiries throughout and has welcomed the regulatory advice and guidance the Commission has since provided.

## Findings

13. As a result of its investigation and analysis of information supplied by the Charity and other sources, the Commission's findings are as follows:

### **Volunteering with the Foundation**

14. There was a lack of clarity surrounding the Charity's involvement with the volunteering programme. The Charity does not run a volunteering programme; all volunteers are volunteers of the Foundation. The Charity only signposted interested individuals to its partner organisation and it was for those individuals themselves to then make arrangements directly with the Foundation. However this was not clear from the Charity's website. This lack of clarity appears to have led to confusion on the part of the Volunteer about the Charity's responsibilities for volunteers and their safety in their volunteering placement. The Charity has since updated its website which now clearly states that all volunteering arrangements are to be made directly with the Foundation and that the Charity is not responsible for the safety of individuals visiting or wishing to visit the Foundation.

### **The alleged assault**

15. It was alleged that an assault against the Volunteer took place in Uganda by a member of staff at the Foundation. To date the Ugandan Police have yet to bring any charges against the Foundation's member of staff.
16. The directors of the Foundation suspended the member of staff accused of the sexual assault at the time the incident was reported. The Foundation has since informed the Charity that this member of staff has been reinstated following advice from the Ugandan authorities.
17. The Charity did not have a consistent or set process to deal with public concerns raised with the trustees of the Charity. As regards the particular complaint, the trustees were of the view that they were not responsible for the safety of volunteers in Uganda and therefore could not respond directly to complaints raised with them regarding this incident.

### **Relationship between the Charity and the Foundation**

18. The exact relationship between the Charity and the Foundation was not clear from the Charity's website but the investigation found that the Foundation was virtually the sole recipient of money raised by the Charity. This lack of clarity was not helped by the absence of a formal partnership agreement between the Charity and the Foundation.
19. The Charity's literature, in particular the information on the Charity's website, did not make it sufficiently clear that the Foundation is a partner organisation and its activities are independent from that of the Charity.

### **Safeguarding the Choir's child members**

20. The Charity is responsible for organising visits of the Choir to the United Kingdom. The Charity had already cancelled a planned 2009 tour to the United Kingdom by the Choir as the Charity felt that it did not have enough time to undertake CRB checks on host families which were now required due to changes in UK legislation. The 2010 tour is currently being organised. The Charity has a child protection policy which has been reviewed and updated in preparation for the tour. The host families are currently being recruited and they are undergoing CRB checks. The Charity has also been in contact with the UK Borders Agency to ensure that it has fulfilled the legal requirements in relation to the visas for the Choir members and their chaperones.

### **How the trustees responded to concerns raised about the Foundation**

21. The trustees were unaware of the majority of the other concerns, that had been raised about the operation of the Foundation, some of which predated the Charity. They therefore had not considered whether any action was required in dealing with any impact they had on the Charity and its relationship with the Foundation. The trustees are monitoring the activities of the Foundation by building on the Charity's existing accounting, reporting and management procedures with the introduction of a Memorandum of Understanding between the two organisations. This will ensure that the trustees are able to assess the risks to the Charity if they continue to fund the Foundation.

## Conclusions

22. The Charity was not responsible for people volunteering for the Foundation in Uganda. The Charity did not run a volunteer programme; it signposted individuals interested in volunteering to the Foundation. Volunteers then made their arrangements directly with the Foundation, and had no contractual relationship with the Charity. However this should have been more clearly expressed by the Charity on its website and literature at the time the Volunteer and their family were preparing to travel to Uganda. The trustees need to better protect the Charity in this regard.
23. The trustees recognised that they needed to improve the way in which they handled complaints about the Charity, including ensuring it has a clear and accessible complaints procedure.
24. The trustees need to take steps to ensure that the Charity's independence from the Foundation is clear in its literature, website and decision making. This would help the Charity and the Foundation, as well as the public, understand their relationship and what can be expected from each organisation. In addition it would help protect the reputation of the Charity, in circumstances such as this where serious allegations have been made.
25. In order that the trustees can fully assess any potential risk to the Charity's reputation in continuing to work in partnership with the Foundation they need to ensure they carry out proper due diligence and continue to monitor its activities and any developments about the concerns raised.
26. The Commission concluded that the trustees had taken appropriate action in complying with their duties as charity trustees with regard to safeguarding children who were staying in the United Kingdom as part of the Choir's tours.

## Outcomes

27. The Commission provided regulatory advice and guidance to the trustees of the Charity, to help them meet their duty to protect the Charity's independence and reputation in the future.
28. The Commission is satisfied that the Charity has appropriate measures in place so that child members of the Choir travelling to the United Kingdom in the future will be appropriately safeguarded.
29. The trustees have already begun to amend the content of the Charity's website. They introduced a written complaints procedure in autumn 2009 and in order to clarify the respective roles of the Charity and the Foundation a Memorandum of Understanding with the Foundation was finalised in March 2010.

## Issues for the wider sector

30. When working overseas, charities often operate through local partners rather than establishing their own delivery infrastructure in their country or region of operation. Working through or with a local partner is often an effective way of delivering significant benefits direct to a local community. It does not, however, alleviate or shift responsibility for ensuring the proper application of the charity's funds by a local partner. That responsibility always remains with the charity trustees, forming part of their duties and responsibilities under charity law. The need to implement risk management strategies therefore remains critical.
31. Trustees should put agreements between their charity and its partner organisations in writing, and specify the funds being made available, the timeframe for delivery of the project and measures of success. The agreement should set out clear requirements for reporting to the charity on progress and financial expenditure. The requirements set out in the agreement should address any risks specific to the region the local partner works in. This is important as it will help both parties understand their relationship and what they can expect from each other.
32. In order to protect beneficiaries and volunteers and guard against a charity's reputation, and the good name of 'charity', being brought into disrepute, charities should carry out due diligence and put in place appropriate and effective controls to monitor their own governance and activities and those of partner organisations. This will help the charity trustees identify areas of concern, should they arise, at an early stage and/or be able to deal with such concerns in an effective manner.
33. Trustees must identify any risks the charity's activities may present to their beneficiaries, employees and volunteers. They must, as a matter of priority, ensure that the charity has adequate measures in place to safeguard any vulnerable people the charity works closely with, including children that they are responsible for. This involves both the production of adequate policies and procedures, and actively ensuring these are implemented and monitored in practice and ensuring partners they work with that the charity refers or signposts volunteers to also have these.
34. The legislation on safeguarding children and vulnerable adults has recently changed. For the latest information, please visit: [www.everychildmatters.gov.uk/independentsafeguardingauthority/](http://www.everychildmatters.gov.uk/independentsafeguardingauthority/)

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