

Regulatory Case Report

UCARE Foundation

Formerly known as Pakistan Foundation International
Registered Charity Number 1083036



This is a Regulatory Case Report of the Commission's investigation concerning the UCARE Foundation ('the Charity') following allegations made about its support for a political party and the Charity's failure to submit annual accounts.

The information provided to the Commission raised concerns that the Charity may have provided a platform for party political speeches and that donations to a political party might have been made on behalf of the Charity. The support of a political party is not permitted under charity law, and it has the potential to impact not just on the work and reputation of the Charity, but also on public trust and confidence in charities generally.

Having regard to the principles of best regulatory practice, the Commission has decided to publish this Regulatory Case Report¹ on its recent investigation into this Charity.

This report also identifies relevant issues for the wider sector.

The Charity

1. The Charity was founded in March 2000 and is governed by Memorandum and Articles of Association as amended by special resolution dated 21 September 2000. It was entered onto the Commission's Register of Charities on 25 October 2000. The Charity was registered as Pakistan Foundation International; however, it changed its name to the UCARE Foundation on 22 July 2009.
2. The Charity's objects are to promote any charitable purpose for the benefit of the public in particular for the people of Pakistan and the Pakistani community in the UK and anywhere else, to
 - a) relieve sickness, hardship and distress.
 - b) advance education and training.
 - c) provide and assist in the provision of facilities for the recreation and other leisure time occupations for the said inhabitants in the interest of social welfare and so that their conditions of living may be improved.
 - d) protect and preserve public health.
3. Although the scope of the Charity's current objects is broad, in practice the Charity's main activities are supporting two hospitals in Pakistan. At the time of the Commission's investigation, both these establishments were run by an overseas NGO called Pakistan International Foundation.
4. The Charity's accounts for the financial year ending 31 December 2008 show an income of £90,735 and expenditure of £105,248. It has net assets of £27,653.

¹ More information on Regulatory Case Reports can be found on the Commission's website www.charitycommission.gov.uk under the heading 'Inquiry Reports and Regulatory Case Reports'

Source of concern

5. On 21 Jan 2009, a member of the Scottish Parliament raised issues with the Commission that:
 - a) The Charity had not submitted its annual accounts or returns for three years in breach of the trustees' statutory duty to submit these within 10 months of the charity's financial year end.
 - b) The Charity may have provided improper support for a political party, as demonstrated by:
 - i) a fundraising event at which the only elected members who spoke were from the Labour Party;
 - ii) a person who was reported to be linked to the Charity had made substantial donations to the Labour Party; and
 - iii) most of the Charity's trustees are members of the Labour Party.
6. In addition, the Commission considered that, as the Charity was based in Scotland, there was a requirement for the Charity to be registered with the Office of the Scottish Charity Regulator (OSCR)².
7. After a period of initial assessment it was decided that the above matters warranted further examination and the Commission opened an investigation on 19 June 2009. The substantive stage of the Commission's investigations were concluded on 17 December 2009 and the case was closed with the publication of this report on 19 March 2010.

Issues examined

8. The purpose of the Commission's investigation was:
 - a) To determine if the Charity had improperly supported a politician and/or political party by:
 - i) Allowing only Labour MPs to speak at events held by the Charity; or
 - ii) Whether donations to a political party had been made by the Charity or by the trustees on its behalf.
 - b) To establish, as a result of the Charity's poor track record of submitting annual financial accounts to the Commission, whether there were any further financial management issues.
9. During the course of the case the Commission met with the Chair of trustees and undertook a full books and records audit and inspection of the Charity's financial records. The Commission also corresponded with officers from OSCR to ensure that there was joined-up cross-border regulation and also examined the Electoral Commission's register of political donations.
10. 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 provided.

² Office of the Scottish Charity regulator web page : www.oscr.org.uk

Findings

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

Political Activity issues

12. The investigation found that Labour politicians had spoken at Charity fundraising events, but they had done so in a personal capacity. They participated in the events, which were focused on the Charity's work, for the purpose of fundraising and not for political purposes.
13. It was established that MPs and representatives from other political parties, other than the Labour Party, had been invited to these events, some of whom attended. However, generally a broad spectrum of speakers and guests attended the Charity's events, not all of whom have political connections.
14. In order to clarify the position regarding political donations, the Commission confirmed with the Electoral Commission that a Charity trustee had made donations to the Labour Party; however, these were made in a personal capacity and not on behalf of the Charity.
15. The investigation also found that the particular trustee's political party membership had not prevented him and the other trustees from making independent decisions in relation to the management and administration of the Charity.

Financial Governance and Accountability

16. The outstanding annual accounts and returns for 2005, 2006 and 2007 were received by the Commission in February 2009. The accounts had been filed on time with Companies House and the Charity stated that it was an oversight that they had not been submitted to the Commission. The accounts and return for the financial year ending 31 December 2008 were filed on time, having been received by the Commission in October 2009.
17. Analysis of the accounts submitted by the Charity have shown that they do not comply with the Statement of Recommended Practice (SORP) for charity accounts.
18. The books and records inspection highlighted a number of weaknesses in the Charity's financial controls, policies and procedures. In particular the lack of a robust conflict of interests policy was of concern, as it was found that the chair of the Charity also held an unpaid position on the board of both the hospitals that the Charity supports in Pakistan. In addition to this, the Commission also found that there was no formal funding agreement between the Charity and Pakistan International Foundation, despite ongoing financial support for the organisation.

Registration with OSCR

19. When the Charity was first approached it was not registered with OSCR but, on the basis that it is operating in Scotland through its fundraising activities, the Charity has subsequently started the registration process.

Conclusions

20. The Commission has concluded that:

- a) Political speakers have taken part in Charity events; however, this was not in support of a party political aim, and the Charity invited politicians from other parties. The trustees were not in breach of charity law by allowing or inviting them to attend.
- b) Although political donations were made to the Labour Party by a trustee, this was not for or on behalf of the charity.
- c) Some weaknesses were identified within the Charity's governance, in particular financial controls, policies and procedures that were not adequate.

Outcome

- 21. The Commission provided the Charity with regulatory advice and guidance regarding the legal and regulatory requirements that must be complied with by charities and the risks associated with any engagement with the political environment³. In particular, the Charity should be aware of the importance of protecting its reputation and independence in its links and associations with any political party.
- 22. The trustees were presented with the findings of the Commission's books and records inspection. Regulatory advice and guidance was given in relation to strengthening the Charity's policies and procedures. The trustees have agreed to implement these changes within an agreed timescale and the Commission will be monitoring their progress in this regard.
- 23. The trustees have been provided with regulatory advice and guidance regarding how financial accounts should be presented. The trustees have undertaken that future accounts produced by the Charity will be SORP compliant.

Issues for the wider sector

- 24. It is a fundamental principle that charities must remain independent from party politics and cannot give support to a political party, politician or political candidate.
- 25. The trustees of charities engaging in the political arena must also take care to protect their charity's independence and perceptions of its independence. Charity trustees have a legal duty to act solely in the charity's best interests, and in making decisions they should take into account the possibility of harm to the charity's reputation from adverse publicity or criticisms that they have compromised the charity's independence.

³ *Speaking out: Guidance on Campaigning and Political Activity by Charities (CC9)*

26. A charity can invite a politician to speak in support of its aims, for example at a reception to launch a national campaign, or at an AGM. Ideally a charity enlisting the support of politicians should, for reasons of independence and neutrality, seek cross-party representation. We would be concerned if a charity consistently enlisted the support of politicians from one political party only. Due consideration should be given by a charity to ensuring that the methods chosen for delivering a campaign are part of a well thought through strategy and do not inadvertently result in any form of partisan support.
27. Further guidance on charities and political activity can be found on the Commission's website in *Speaking out: Guidance on Campaigning and Political Activity by Charities* (CC9)⁴.
28. It is vital that trustees avoid becoming involved in situations in which their personal interests may conflict with their duties as trustees. The trustees should put in place policies and procedures to identify and manage such conflict. If in doubt the trustees should seek advice from the Commission and, if necessary, obtain its authority prior to any dealings with the property of their charity.
29. Trustees should put agreements between their charity and its partners 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 to understand the relationship and what they can expect from each other.
30. Trustees must ensure that their charity has adequate financial and administrative controls in place, and that they comply with their statutory obligations to maintain the accounts and records of their charity and file them with the Commission on time⁵. Published annual accounts are the primary means through which trustees report on their stewardship of their charities and show public accountability.
31. Since the introduction of the Charities and Trustee Investment (Scotland) Act 2005, some charities based in England and Wales which also operate in Scotland may now need to register with the Office of the Scottish Charity Regulator (OSCR). For further information or advice about whether an organisation needs to apply and what the criteria are, please contact:

Office of the Scottish Charity Regulator (OSCR)

2nd Floor

Quadrant House

9 Riverside Drive

Dundee

DD1 4NY

Tel: 01382 220446

Website: www.oscr.org.uk

⁴ *Speaking out: Guidance on Campaigning and Political Activity by Charities* (CC9)

⁵ Commission guidance: *Charity Reporting and Accounting: The Essentials* (CC15, 15a and 15b)

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