Inquiry Report
Helping Hands for the Needy

Registered Charity Number 1094509

CHARITY COMMISSION

A statement of the results of an inquiry into Helping Hands for the Needy (registered charity number 1094509).

Published on 5th January 2015.

The Charity

Helping Hands for the Needy ('the Charity') was registered as a charity on 6 November 2002. It is a charitable company and governed by memorandum and articles of association dated 14 June 2002 as amended by special resolution dated 3 November 2002.

The Charity's objects are:

> "The relief of poverty and sickness anywhere in the world, and in particular, those affected by natural causes or by wars and conflicts, foreign and domestic by the provision of financial or other assistance including medicines, hospitals, shelter, food, clothing, sanitation and clean drinking water."

More details about the Charity are available on the **register of charities**.

Investigation

On 15 September 2009 the Charity Commission opened a regulatory compliance case('RCC') into the Charity, which was escalated to a statutory inquiry under the then section 8 of the Charities Act 1993 (now section 46 of the Charities Act 2011) ('the Inquiry') on 11 August 2010.

Trustees

When the RCC was opened the Charity had three trustees (together known as 'the Former trustees'). One of these trustees resigned shortly after being informed of the opening of the RCC. The remaining trustees were Mr Mohammed Ashfaq ('Mr Ashfaq') and Mr Syed Mohammed Zafar Iqbal ('Mr Iqbal').

In addition there were several individuals who had served as trustees during the period that the Charity's activities which the Inquiry was examining were carried out, who had resigned before the RCC was opened (together known as 'the Historic trustees').

In April 2010 an additional trustee was appointed by the Charity ('the Additional trustee') in an attempt to strengthen the governance of the Charity.

During the course of the Inquiry three new trustees were also appointed by the Charity ('the New trustees').

The Regulatory Compliance Case ('RCC')

The commission had previous regulatory engagement with the Charity in the form of a compliance case which was closed in January 2008. The commission's regulatory concerns in that case were around weak governance and a lack of financial controls and fundraising policies and procedures.

As a result of this regulatory intervention the trustees at the time took legal advice and made some improvements. The case was closed with an undertaking from the trustees that they would implement a set of improvements. The commission was to follow up the Charity's progress against an action plan. However, before this happened, in September 2009 concerns were raised by a member of the public with allegations of financial mismanagement and misapplication of charitable funds by the Charity's trustees and so the commission opened the RCC.

The commission carried out an assessment of the Charity's bank accounts which gave rise to concerns that charitable funds were being misapplied and/or misappropriated. The commission reported these concerns to the Police and was asked to put the RCC on hold in order not to prejudice their work whilst they were considering the information referred to them.

The commission was given permission to engage with the Charity in February 2010 and it interviewed Mr Ashfaq and Mr Iqbal and conducted a books and records visit. In August 2010 the commission obtained mortgage documents for two properties owned by Mr Ashfaq. They showed that Mr Ashfaq had self-certified on his mortgage applications that he was employed by the Charity as managing director earning in excess of £85,000 per annum. This conflicted with information Mr Ashfaq told the Inquiry; he said that he was not paid by the Charity for his services. This therefore gave the commission serious concerns that Mr Ashfaq may have misled the commission about whether he was receiving a salary from the Charity.

2010 Inquiry

As a result of further bank analysis which indicated misuse of the Charity's funds and the mortgage information, on 11 August 2010, a statutory inquiry was opened to examine the following issues:

i. the financial management of the Charity, in particular

   a. how the trustees applied the Charity's funds, and

   b. how restricted funds were controlled and spent

ii. the administration, governance and management of the Charity by the trustees

On 12 August 2010, the same day that the trustees were informed about the opening of the Inquiry, the Inquiry used its powers to suspend Mr Ashfaq as a charity trustee, officer and agent of the Charity pending consideration of his removal and to restrict the Charity's bank accounts, so that the trustees could not withdraw any funds without the commission's written consent.

On 24 August 2010, Mr Ashfaq resigned as a trustee before the commission could go on to consider using its statutory powers to remove him from his position as a trustee.

The Inquiry closed on 5 January 2015 with the publication of this report.

Findings

Issue (i): The financial management of the Charity

Despite previous engagement with the Charity in 2008, when the commission had set an action plan including the implementation of a financial controls policy and robust governance procedures, the Inquiry found that they were either not fully drafted or had not been implemented.

The Inquiry found that one of the Charity's trustees Mr Ashfaq had sole control of the Charity's bank accounts. The Inquiry found no evidence that the Former trustees and the Historic trustees had been or were involved in authorising or had any oversight of the Charity's expenditure.

Mr Ashfaq also acted as CEO and was responsible for the day to day management of the Charity. Although he claims that he was unpaid for this role the Inquiry found that a large amount of the Charity's funds had been paid directly to Mr Ashfaq and his wife without proper authorisation (details of such payments are set out below). The Charity's governing document makes clear trustees are not entitled to receive any payment out of the Charity's funds other than reasonable and necessary out-of-pocket expenses.

a. Application of the Charity's funds

Misapplication of charitable funds

The Inquiry's analysis of the Charity's bank statements for the period 2006 to 2010 evidenced that a significant amount of charitable funds was being paid directly to Mr Ashfaq and his wife. Between 2006 and 2009 the Charity's bank statements showed that Mr Ashfaq's wife received payments of £77,395. From 2009 onwards the bank statements show that Mr Ashfaq had received payments of £43,034.

The Inquiry found no evidence to show that the payments to Mr Ashfaq or his wife were authorised by the Former or Historic trustees. Mr Ashfaq states that the payments that he received were for legitimate travel expenditure and expenses. The Charity's records the Inquiry examined do not provide support that these payments were repayment for legitimate charity expenses.

In addition to these amounts the Inquiry found evidence of other payments and substantial unauthorised private benefits to Mr Ashfaq, his wife and family. These benefits included:

i. the costs associated with running a private car

ii. the payment of approximately £9,000 for parking and speeding fines. Mr Ashfaq disputes this finding stating that only £696 was paid from the Charity for parking fines. However this does not match the findings of the Inquiry's financial analysis of the Charity's bank statements.

iii. payments totalling £14,854 for building work on Mr Ashfaq's private residence

iv. payments in the region of £134,000 to companies connected to Mr Ashfaq and his family

The Inquiry's concerns about the use of charitable funds by Mr Ashfaq were reported to the police.

Property

The Charity rented its office premises from Mr Ashfaq. The rent due under the tenancy agreement was £1,200 per calendar month. The tenancy agreement specified that the Charity paid the rent by making payments directly to Mr Ashfaq's mortgage providers.

In addition, there appeared to be a number of rental payments totalling £23,593 made directly to Mr Ashfaq and his wife. These were in addition to the payments paid under the terms of the tenancy agreement.

The Inquiry obtained copies of the mortgage application documents for two properties owned by Mr Ashfaq in which the Charity had or were renting office space. These documents showed that Mr Ashfaq self-certified on the mortgage applications that he was employed by the Charity as managing director earning in excess of £85,000 per annum. This information conflicted with the statements in the Charity's Accounts and financial records which showed no evidence that the Charity employed a managing director or that Mr Ashfaq had a contract of employment or received a salary. This information was reported to the police.

Charitable expenditure

Overseas project expenditure

Mr Ashfaq and Mr Iqbal told the Inquiry that the Charity funded a number of overseas projects, including water pumps, eye care and schools and raised money for emergency relief in areas such as Pakistan and Bangladesh.

The Inquiry's analysis of the Charity's bank account information for the period 2006 to 2010 showed that volunteers working for the Charity received large payments, including one receiving £109,000 and another £79,000. Mr Ashfaq and Mr Iqbal told the Inquiry that this was expenditure on overseas projects, but due to poor banking systems in the countries where they were operating there was no other way of getting the money to the projects.

The Inquiry found that the Charity's records in relation to its overseas projects were totally inadequate. Mr Ashfaq and Mr Iqbal were only able to provide limited evidence of legitimate overseas charitable expenditure, which was inadequate to support the claims in regards to the volunteer expenses and the details on project activities on the Charity's website and literature.

b. Restricted funds

The Inquiry found that the majority of the funds generated by the Charity were restricted for particular appeals. The audited financial accounts submitted to the commission do not list any restricted funds.

Due to the poor record keeping and inadequate evidence of charitable expenditure it was not possible for the Inquiry to determine how the Former trustees and the Historic trustees managed the individual project funds and kept restricted funds segregated.

Issue ii) The administration, governance and management of the Charity by the trustees

The Inquiry did not find any evidence that the Former or Historic trustees held regular trustee meetings. There were few charity records which documented decisions taken by the trustees.

Submission of accounts

The Former trustees failed to submit the Charity's annual reports and financial accounts for the years ending 31 March 2008 and 31 March 2009 to the commission or Companies House within the statutory deadlines.

The failure by the Former trustees to submit accounts to Companies House resulted in the Registrar of Companies giving them notice that the charitable company would be struck off from the Companies House register if they failed to comply.

On 11 January 2011 the Inquiry directed the Additional trustee and the New trustees to submit the outstanding accounts. Although the 2008 accounts were then submitted in February 2011, they were not compliant with the Statement of Recommended Practice (SORP) for the production of charity accounts. The Charity went into voluntary liquidation before the 2009 accounts were completed and responsibility for producing the final statements on the financial position of the Charity fell to the Liquidator.

Financial position

The Inquiry found that Mr Ashfaq and Mr Iqbal did not have a clear or sufficient understanding of the financial position of the Charity at any given time. There were no management accounts and the financial information in the annual financial accounts could not be relied on as they were considerably overdue.

The Additional trustee and the New trustees also struggled to understand the financial position of the Charity due to the lack of records.

There were a number of creditors which the Charity was not paying. The Additional trustee and the New trustees decided that the Charity did not have a future and placed it into voluntary liquidation in March 2011. An insolvency practitioner was appointed as the Liquidator.

Liquidator

The role of the Liquidator includes investigating the financial affairs of the company and maximising the return to creditors. The role of determining whether any improper activity has occurred is undertaken by the Secretary of State for Business, Innovation and Skills following a referral by the Liquidator. As a result the Liquidator took on responsibility for recovery of any funds paid in breach of trust and where trustees had a duty to account for them to the Charity.

The Liquidator started legal action to recover funds directly from Mr Ashfaq. This process is still ongoing. In addition the Liquidator has identified property in Pakistan which appeared to be purchased using the Charity's funds. Currently the Liquidator is taking steps to arrange for this property to be sold so that funds can be recovered and repaid to the Charity.

As the Inquiry had completed its investigations as far as it could, the Charity was no longer operating and the Liquidator was taking action to recover funds it was put on hold so that the Liquidator could complete its investigation and proceed to wind up the Charity.

The Inquiry had intended to wait until the Charity was dissolved by the Liquidator as part of the liquidation process, before closing its investigation and publishing this report. However this process is taking longer than anticipated in particular due to the ongoing recovery action being taken and as a result, the commission decided that it was appropriate to close the substantive investigation now and publish this report. A supplementary report will be published with any update when the outcome of any potential recovery action is known.

Conclusions

The Historic and Former trustees failed to properly safeguard the Charity's funds and ensure that they were spent on the purposes for which they were given. They did not exercise proper financial control over income and expenditure. Proper records were not kept and in practice Mr Ashfaq controlled the Charity.

Mr Ashfaq and his wife and family received considerable amounts of unauthorised private benefits from the Charity.

The commission concluded that there was very serious misconduct or mismanagement by Mr Ashfaq in the administration and management of the Charity and would have gone on to consider his removal had he not resigned from his trustee role.

The Historic trustees and the Former trustees, including Mr Iqbal, had very little if any oversight of Mr Ashfaq and the Charity's finances. They did not appear to be sufficiently involved in the management and governance of the Charity. This lack of oversight resulted in the misuse of thousands of pounds of charitable funds. The Commission considers this to be serious misconduct or mismanagement of the Charity by these trustees. As Mr Iqbal was still a trustee when the Inquiry was opened the Commission was reviewing his conduct and would have gone on to consider taking action to suspend Mr Iqbal pending consideration of his removal had he not resigned from his trustee role.

The Former trustees failed in their statutory duties to produce annual financial accounts for the Charity. The accounts that they did produce were not compliant with the Statement of Recommended Practice (SORP) for the production of charity accounts.

Mr Ashfaq received funds from the Charity that were not authorised, which amounts to breach of trust, but in addition many of these payments were not legitimate payments for a charity to make. The appointed Liquidator is currently pursuing him for recovery of these funds.

Due to the lack of records and poor financial position the Charity found itself in the Additional trustee and the New trustees were unable to make the necessary improvements to regularise the Charity.

Regulatory Action Taken

Orders were made under the then section 9 of the Charities Act 1993 ('the 1993 Act') now s52 of the Charities Act 2011 to obtain copies of the Charity's bank statements and Mr Ashfaq's mortgage documents.

The RCC and the Inquiry reviewed the Charity's bank statements (for the period January 2006 to April 2010) and undertook a books and records inspection at the Charity's premises in February 2010 and again in August 2010, in order to review the Charity's records including trustees' meeting minutes, evidence of charitable activity, annual financial accounts and internal policies and procedures.

Mr Ashfaq and Mr Iqbal were interviewed as part of the RCC in February 2010 and the Inquiry met with Mr Iqbal, the Additional trustee and the some of the New trustees in August 2010.

On 11 August 2010 the RCC was escalated to a statutory inquiry under the then section 8 of the 1993 Act (now section 46 of the Charities Act 2011).

On 12 August 2010 the Inquiry made an Order not to part with property under section the then 18(1)(iv) of the 1993 Act (now section 76(3)(d) of the Charities Act 2011) to the Charity's bank which prevented it from releasing any funds without the commission's written consent. Opening the Inquiry and restricting the bank account coincided with the Charity raising considerable funds for the victims of the floods in Pakistan and with Ramadan. To mitigate the potential detrimental impact the Order might have on the potential beneficiaries in Pakistan, it stipulated that funds that the Charity donated to the Disasters Emergency Committee (DEC)[1] were automatically authorised and the Inquiry would not need to consider these requests any further.

On 12 August 2010 under the then section 18(1)(i) of the 1993 Act (now section 76(3)(a) of the Charities Act 2011) the Inquiry suspended Mr Ashfaq from acting as a charity trustee, officer or agent of the Charity, pending consideration of his removal. Mr Ashfaq resigned 12 days later; before the commission was able to consider his removal.

On 11 January 2011 the Inquiry issued a Direction under the then section 19A of the 1993 Act (now section 84 of Charities Act 2011) to the Additional trustee and the New trustees ordering them to submit their annual financial accounts for the financial year ending 31 March 2008 and 31 March 2009 respectively.

The Inquiry provided regulatory advice and guidance on the following matters[2]:

i. trustees duties and responsibilities

ii. working overseas

iii. financial management and insolvency

iv. the requirements of SORP and other accountancy matters

The Inquiry made a referral to the Metropolitan Police, including providing a detailed witness statement and evidence, but no further action was taken.

The Inquiry also worked closely with the Liquidator.

Business Innovation and Skills Action

Following the referral by the Liquidator and in consultation with the Inquiry the Department of Business, Innovation and Skills commenced its own enquiry into the conduct of the trustees and directors which resulted in two Former trustees being disqualified as company directors:

i. Mr Ashfaq was disqualified from being a company director for a period of 12 years, commencing 25 December 2013

ii. Mr Zafar Iqbal was disqualified from being a company director for a period of 5 years, commencing 15 October 2013.

These disqualifications mean that these two individuals are also disqualified from being charity trustees for the period of their disqualification.

1 Disasters Emergency Committee (DEC) ran a Pakistan Flood Appeal in 2010

2 Trustees were provided with the following commission publications - CC 3 The Essential Trustee, CC8 Internal financial controls, CC12 Managing financial difficulties and insolvency in charities

Issues for the wider sector

Trustees are responsible for the overall management and administration of their charity. As part of this, it is a fundamental duty of all trustees to protect the property of their charity and to secure its application for the purposes of the charity.

Internal financial controls are essential checks and procedures that help charity trustees to:

i. meet their legal duties to safeguard the charity's assets

ii. administer the charity's finances and assets in a way that identifies and manages risk, and

iii. ensure the quality of financial reporting, by keeping adequate accounting records and preparing timely and relevant financial information

Money cannot be paid to trustees unless they are for the repayment of legitimate expenses reasonably and properly incurred or if specially authorised. This authorisation will usually be contained in the charity's governing document or have been specifically provided or authorised by the commission. If the governing document does not authorise the type of payment they require, the trustees must approach the commission to get authority before payments are made. Trustees are under a duty to account for and repay to the charity any unauthorised payments received. The courts have made clear that the best and perhaps only way to ensure transparency is achieved is by making and keeping up to date proper records as well as involving fellow trustees in the process and recording that process in a formal manner.

Charity trustees must exercise sufficient control over their charity's financial affairs both in the UK and internationally. As an absolute minimum, they must keep proper and adequate financial records for both the receipt and use of funds and audit trails of decisions. Records of both domestic and international transactions must be sufficiently detailed to show that funds have been spent properly and in a manner consistent with the purpose and objectives of the organisation.