

Inquiry Report

The Hinckley Concordia Association

Registered Charity Number 501904



A statement of the results of an inquiry into The Hinckley Concordia Association (registered charity number 501904)

Published on 4 December 2014

The charity

1. The Hinckley Concordia Association ('the Charity') was registered as a charity on 22 May 1973. It is governed by a constitution dated 21 May 1973, most recently amended on 26 October 2009.
2. The Charity's objects are:

'To promote the benefit of the inhabitants of Hinckley and district by providing facilities for recreation and leisure time activities in the interests of the social welfare of the said inhabitants with the object of improving their condition of life; to maintain and manage the centre for activities promoted by the Association and its constituent bodies in furtherance of the above objects; to advance the education of the inhabitants of the area of benefit in any manner which is consistent with the above objects in any manner which now or hereafter may be deemed by law to be charitable.'

In practice, the Charity provides facilities for recreation and leisure activities via the Concordia Theatre which runs various cultural productions and offers its facilities to several local performers' societies, including groups from the Scouts and its own youth theatre.
3. More details about the Charity are available on the [register of charities](#).

Background and issues under investigation

4. In October 2013 the Commission received a Report of a Serious Incident (RSI) from the Charity stating that a former member, volunteer and performer at the Charity had been convicted of child sex offences in June 2013 and subsequently imprisoned. Since the person's arrest and prosecution by police in June 2012 they had been barred from the Charity's premises and all activities linked to the theatre. The trustees had also been reviewing the Charity's Child Protection Policy in conjunction with legal advice in the meantime. The Commission concluded that the trustees had responded appropriately and that it did not require any further regulatory involvement at that time.
5. On 1 January 2014 the Commission received a further RSI from the Charity confirming that further arrests had been made in relation to offences by former performers at the theatre giving rise to safeguarding concerns. The trustees said they had discussed the situation with Leicestershire County Council's Safeguarding Local Authority Designated Officer ('LADO') and Leicestershire Police, which led to the individuals being barred from the Charity. On 9 January 2014, the Commission concluded that the trustees had taken all reasonable steps in the circumstances. The Commission closed its case pending notification of the police investigation outcome.

6. On 20 January 2014 the Commission received information indicating possible further concerns about the safety of the Charity's beneficiaries. This related to the investigation conducted by Leicestershire Police (supported by the LADO) against several individuals involved with the Charity including the individuals connected to the earlier RSI of 1 January 2014. Some of the information emerging from those agencies' enquiries, including of the Charity's trustees, raised some additional questions around the culture and potential lack of transparency within the trustee Board and whether the Charity had disclosed all relevant information to those agencies. The discovery of further, previously unknown allegations of inappropriate behaviour also raised concerns that one of the trustees may not have adequately managed allegations reported to them in the past. There was also a concern that the trustees had employed individuals within the Charity without conducting appropriate checks and there was one individual who had previous convictions for sexual offences which would have raised concerns about their suitability.
7. These concerns were heightened further when it was found that the trustees had been operating a Child Protection Policy in which the groups using the Charity's services were required to report safeguarding allegations to the trustees but there was no requirement for or reference to the Charity reporting the allegations to the police or any other statutory authority.
8. On 31 January 2014, based on this information taking into account the Commission's recent history of engagement with the Charity, the Commission opened a statutory inquiry ("the Inquiry") into the Charity under section 46 of the Charities Act 2011 ("the Act"). The Inquiry closed on 4 December 2014 with the publication of this report.
9. The Commission does not administer child protection legislation. In the context of safeguarding issues, the Commission has a limited and very specific regulatory role which is focused on the conduct of the trustees and the steps they take to protect the charity and its beneficiaries now and in the future. Its regulatory interest is to ensure that charities working with, or providing services to, vulnerable beneficiaries protect them to minimise the risk of abuse; and that the trustees have proper and adequate safeguarding policies, procedures and other appropriate measures in place to safeguard the charity and its beneficiaries.
10. The Inquiry was opened to investigate and resolve the following regulatory concerns:
 - the administration, governance and management of the Charity by the trustees and other individuals involved in its operation giving rise to the concerns, particularly in relation to the safeguarding of the Charity's beneficiaries; and
 - whether, and to what extent, there was mismanagement or misconduct on the part of the Charity's trustees.

Findings

11. This report sets out the Commission's findings, based on information received from those agencies and the Charity, and its conclusions, which are drawn from the findings.
12. After opening the Inquiry, the Commission engaged with Leicestershire Police and Leicestershire County Council's Safeguarding Team. On 6 February 2014, they publicly announced a joint criminal ('Operation Goliath') and safeguarding (child protection) investigation into several people connected to the Charity. During this time Leicestershire County Council withheld all child Performing Licences for the Charity's theatre pending an urgent review of the terms, including the Charity's safeguarding measures. The then Chair of trustees voluntarily stepped down from that role on 4 February 2014. The former Chair and two other trustees resigned as trustees between 10 March 2014 and 27 March 2014.
13. Due to the primacy of the police investigation and not prejudicing that investigation, and due to the sensitivities involved, the Inquiry did not meet with any of the former trustees. The Inquiry regularly exchanged information with Leicestershire Police and Leicestershire County Council's Safeguarding Team, including taking part in a joint case strategy meeting between the respective agencies on 12 February 2014. The Inquiry was also in direct contact and corresponded with the new trustee Board throughout its investigation.

The administration, governance and management of the Charity by the trustees and other individuals involved in its operation giving rise to our concerns, particularly the safeguarding of the Charity's beneficiaries

14. Soon after the opening of the Inquiry, several new trustees were appointed including a new Chair of trustees ("the new trustee Board"). The new trustee Board quickly demonstrated willingness to comply with all of the various investigations being conducted into the Charity and said they were committed to resolving any issues of concern that were identified.
15. Following initial discussions and information sharing with the LADO and Leicestershire Police, the Inquiry was satisfied that any immediate concerns about the risk to the Charity's beneficiaries were being appropriately managed by the new trustee Board. All of the individuals arrested for or convicted of sexual and/or child-related offences were no longer involved in the Charity in any capacity. Although concerns had been raised about the possible role and activities of two of the former trustees in place at the time the offences took place, these formed part of the ongoing enquiries being pursued by the LADO and Leicestershire Police and those individuals were no longer trustees. It was therefore not necessary for the Inquiry to consider using the commission's regulatory powers of protection or intervention. The Inquiry received no evidence to suggest that the remaining members of the trustee Board had been involved in any activity or behaviour which would raise concerns about their suitability to act as charity trustees or undermine safeguarding of the Charity's beneficiaries.

16. The Inquiry's view was that the Charity's Child Protection Policy fell below the basic standards expected and was therefore inadequate. The LADO's investigation also came to that conclusion. The Policy was clear in that it required allegations and concerns to be reported to the Charity's trustees. However there was no expectation, reference or guidance that concerns could or should be reported to any external agencies, including the police and local authority (Leicestershire County Council). The Policy also meant that users of the Charity's services were required to give their commitment to complying with a Policy in which safeguarding allegations connected to the Charity should be reported solely to the trustees and no other agencies.
17. During the Inquiry, the new trustee Board took professional advice and established a revised Safeguarding Board within its trustee Board to take responsibility for its Safeguarding Policy. As a result, a new Child Protection Policy was developed, including a provision that safeguarding concerns are to be referred to the relevant authorities. The new Policy also covers the theatre's licensed and non-licensed activities and guidance on the assessment of the suitability of trustees, volunteers, performers and other support staff to a standard acceptable by the LADO and Leicestershire Police.
18. The new trustee Board also gave a commitment to undergoing various safeguarding and other relevant training identified by Leicestershire County Council's Education department and LADO as suitable. The new trustee Board has committed to ensure that all volunteers of the Charity are subjected to the appropriate checks required by the Disclosure and Barring Service. The composition of the Charity's new Safeguarding Board was agreed by the LADO and comprised of individuals with personal experience in the safeguarding of vulnerable people through previous personal or professional capacities, including one employed as a Child Protection officer. Leicestershire Police have said that they and the Leicestershire County Council will continue to monitor the Charity's progress in this area.
19. As a result, Hinckley and Bosworth Borough Council issued the Charity's theatre with a new operating licence and performances, for which child Performance Licences were required, resumed from 2 May 2014.

Whether, and to what extent, there was mismanagement or misconduct on the part of the Charity trustees

20. The allegations made in relation to the conduct of two of the former trustees included the suggestion that allegations of improper conduct reported to them were not appropriately dealt with or pursued further. Allegations were also made that people were employed at the theatre despite having previous criminal convictions of a serious nature that would be relevant to safeguarding concerns.
21. In addition to complying with the Commission as regulator and the requirements of charity law, charity trustees must comply with the requirements of any other legislation and other regulators governing the activities of the charity. They must also act with integrity. Trustees must act collectively, responsibly and in the best interests of the charity at all times.

22. The Inquiry found that two of the former trustees may have withheld information from their fellow trustees in relation to their knowledge that someone employed at the theatre had previous criminal convictions that were relevant to assessing their suitability to be employed from a safeguarding perspective. This may have exposed the Charity's beneficiaries to risk of harm. The two former trustees dispute that such information was withheld. They also failed to disclose this information to the LADO during their initial enquiries and investigation.
23. Child protection procedures and systems should include, amongst others, safe recruitment, selection and vetting procedures that include checks into the eligibility and the suitability of all trustees, staff and volunteers who have direct or indirect (e.g. helpline, email) contact with children. If trustees disregard information known to them about charity volunteers/employees which indicates risks from a safeguarding perspective then they will have failed in their duty to protect the charity's beneficiaries and it would be regarded as evidence of misconduct and/or mismanagement in the administration and management of the charity.
24. The Inquiry found that an allegation of inappropriate behaviour was reported to one of the two former trustees several years previously. It related to an individual involved with the Charity at that time. The concern was that it was not dealt with and in effect "brushed under the carpet". The person against whom the allegations were made subsequently went on to be convicted of sexual offences involving children in June 2013.
25. The new trustee Board have fully co-operated with all the agencies, including the Commission and demonstrated a commitment to improving the governance within the Charity particularly with regard to safeguarding issues. They have acted responsibly during the Inquiry and their actions have resulted in the Charity being issued with a revised operating licence and it being able to resume activities requiring Child Performing Licences, so, ultimately, securing the Charity's ability to carry out its activities.

Conclusions

26. The two former trustees had knowledge that someone with criminal convictions that would affect their suitability from a safeguarding perspective had been employed at the theatre and did not deal responsibly and appropriately with the matter. One of those former trustees also failed to properly and responsibly deal with allegations of inappropriate behaviour by a member of staff. The consequence of these events was that the Charity's theatre productions involving children were effectively suspended by Leicestershire County Council. These failings amounted to misconduct and/or mismanagement in the administration of the charity by those two individuals and the Commission would have gone on to consider suspension and removal of the individuals. The Inquiry received no evidence to suggest that the other trustees had failed in their duties.
27. There were shortcomings in the Charity's previous Child Protection Policy. These meant that the trustees could not demonstrate sufficient safeguarding measures were in place to protect its beneficiaries and users.
28. The new trustee Board, led by the new Chair, fully cooperated with the inquiry and demonstrated a commitment to resolving any concerns or enquiries of the Inquiry. They took remedial steps, including appointing several new trustees and making various changes to the Charity's governance, safeguarding and reporting procedures, including setting up a revised Safeguarding Board. The procedures will ensure that all trustees of the Charity will be kept abreast of all developments within the Charity. Their actions have led to the resumption of the Theatre's activities following the issuing of a new licence.

Regulatory action taken

29. The Commission provided regulatory advice and guidance to the Charity's trustees on various issues including on safeguarding, trustees' duties to maintain accurate and up to date records for the Charity, trustees' decision making and trustee checks and appointments.
30. The two former trustees resigned from their roles before the Commission could consider using its statutory powers of intervention to suspend and remove them from their positions.
31. The Commission's intervention, together with that of Leicestershire police and the LADO led to the individuals of concern within the trustee Board being removed quickly from their roles, the appointment of new trustees and 'best practice' advice being sought and acted upon by the new trustee Board from the appropriate authorities.

Issues for the wider sector

32. Most people would agree that incidents of abuse are wholly unacceptable. Such incidents are even more of a concern where they are connected to the organisations and people whose work is meant to help vulnerable groups or children and in which these people and the public place their trust. When an incident takes place, and where there are poor safeguarding standards in the charity concerned, this damages public trust and confidence both in that charity and in charities more generally. This is particularly so if the trustees could have done more to prevent the incident or did not deal with it responsibly. It is for these reasons that safeguarding is an important issue for the Commission. It is also why trustees should take their duties seriously, particularly those of charities whose work is primarily with vulnerable groups or children.
33. Trustees must ensure that they have appropriate and adequate policies and procedures in place to safeguard the charity's vulnerable beneficiaries. This involves both the production of adequate policies and procedures and ensuring these are implemented and monitored in practice. This should include a process for recording incidents, concerns and referrals and storing these securely in compliance with relevant legislation and kept for a time specified by insurance companies. There are a range of agencies and publications which can guide charities in the development and updating of their safeguarding policy and procedures and there is more information on our website in our Safeguarding children and young people information and safeguarding strategy.
34. Trustees of charities which work closely with vulnerable beneficiaries should pay particular attention to the risks associated with the nature of the work they undertake. They should ensure that they react quickly and responsibly to allegations of harm to beneficiaries, whatever the source of the abuse, to ensure that no beneficiaries are at risk of harm. Charity trustees risk being in breach of their duties and responsibilities if they fail to address such incidents properly and act appropriately.
35. Trustees are jointly responsible for the overall management of the administration of their charity. All decisions by the trustees concerning a charity should be taken by the trustees, acting collectively. When managing the charity, the roles and responsibilities should be delegated across the trustee body to ensure that decision making and management are not concentrated with an individual or isolated proportion of the trustee board.
36. Trustees who simply defer to the opinions and decisions of one of the charity trustees are not carrying out their duties to the charity. A case in which one trustee effectively deprives a charity of the benefit of the considered judgement of the other trustees is an example of poor governance and may amount to mismanagement in the administration of a charity.