



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Bangladeshi Parents and Carers Association

Registered Charity Number 1082770

A statement of the results of an inquiry into Bangladeshi Parents and Carers Association (Registered Charity number 1082770).

Published on 07 October 2016

The charity

Bangladeshi Parents and Carers Association ('the charity') was registered on 5 October 2000. It is governed by a Memorandum and Articles of Association incorporated 15 May 2000 as amended by Special Resolution dated 4 September 2000 and 26 September 2013.

The charity's objects are:

The relief of people with disabilities over the age of 18 living in London, in particular but not limited to those who are of Bangladeshi or Asian origin and living in the London Borough of Tower Hamlets or in an adjoining borough, by the provision of day care in their own home and/or residential care and by the provision of training, advice and assistance to their parents and carers.

In practice, the charity runs day care centres for people with learning, physical and sensory disabilities, and provides them with a variety of educational, welfare, health care, social and leisure based activities.

More details about the charity are available on the [register of charities](#) ('the register').

Issues under investigation

On 9 May 2012 the Charity Commission ('the commission') opened a statutory inquiry into the charity under section 46 of the Charities Act 2011. The inquiry closed on 23 August 2016.

In April 2012, a serious incident report was submitted to the commission by the charity's centre manager. The report said that the charity had been the victim of financial mismanagement and an alleged fraud committed by the charity's former finance manager and the chair serving at the time. An independent review of the charity's finances in January 2011 concluded that approximately £104,296 of unauthorised expenses and payments had been identified between the period April 2009 and January 2011, with no evidence of an audit trail.

The charity carried out a review of its bank statements and further established that substantial sums of money were transferred from its reserve account into the charity's current account between the periods April 2009 to January 2012 leaving the reserve account with a balance of £80,933.26 from the previous balance of £812,486.09. There was no documentary evidence to explain why the transactions were made.

The commission's inquiry investigated the following areas:

- the charity's expenditure between the period April 2009 and January 2012
- the administration, governance and management of the charity by the trustees
- the financial controls and management of the charity by the trustees
- whether or not the trustees had complied with and fulfilled their duties and responsibilities as trustees under charity law
- whether there had been mismanagement and/or misconduct in the management of the charity

Findings

The serious incident report to the commission was based on 2 reports, the first, conducted by the charity's main funder Tower Hamlets council ("the council") in February 2012 and the second by Accountability Europe Ltd (AEL), who were engaged by the trustees to review the charity's finances covering the financial years ending in March 2010 and 2011.

The AEL report concluded that, *"Due to the lack of financial controls and procedures, the Finance Manager was allowed to make material unauthorised payments. In our opinion the management and the trustees of the charity did not take sufficient due care of the charity's finances by not exercising any control over the Finance Manager's work. Financial decisions were based on this information. In our opinion the financial statements of the charity did not give a true and fair view of its financial position as at 31 March 2009. As a result incorrect financial information was presented to the funders and the Management Committee"*.

The council report concluded that there had been severe financial mismanagement and the charity had been a victim of fraud whilst under the control of a management committee that had, at the time, failed to investigate the matter further.

The council report made 20 recommendations of actions that the charity had to take forward in order to improve its governance and its internal financial systems. The council instructed the charity to compile an action plan, setting out how the trustees proposed to deal with the matter of unaccounted expenditure and to detail what steps they would take to improve the charity's control systems in accordance with the recommendations made in the council's report. The scope of the council's report covered a number of areas which included the charity's governance, financial regulations, procurement, expenditure, cash and banking, budgetary control, payroll and fixed assets.

In June 2012 the commission visited the charity and obtained a detailed explanation of the issues raised in the serious incident report and the steps the trustees had taken to resolve them. By the time the commission had visited the charity, regular meetings with the council had been put in place. The council had recommended and were overseeing a set of actions for the charity to improve its management practices.

At the commission visit, the trustees provided details of how the charity was structured at the time the alleged fraud occurred. Although there was a trustee body in place, the operation of the charity was managed mainly by the former chair and former finance manager. The former chair was regarded as being a dominant trustee and had overall control over the charity. The former chair also acted as the finance manager's line manager.

The trustees reported the alleged fraud to the police. As the trustees were unable to identify any financial records connecting the former chair to the alleged fraud and that the former finance manager was no longer in this country, they obtained legal advice which indicated that it was not feasible to take further civil action against the 2 persons connected to the alleged fraud. They decided to remove the former chair as a trustee of the charity, as he was directly responsible for the former finance manager's activities. The trustees were able to remove the chair using provisions contained in the charity's governing document.

The commission contacted the police who confirmed that they were investigating allegations of fraud raised by the charity and that they intend to interview the former finance manager if they return to this country.

In March 2013 a follow-up final audit review was carried out by the council to report on the trustees' progress regarding the recommendations made. The review stated that the trustees had made good progress in ensuring that the governance arrangements were improved. The follow-up review made further recommendations to assist the charity to achieve greater control and accountability within the organisation.

In April 2013 the commission visited the council to verify the financial information contained in its report. At the meeting the council confirmed that it continued to work with the charity to ensure that its governance and financial control systems were strengthened.

In July 2013 the commission held a final meeting with the trustees to discuss how the charity had developed and improved following the completion of the council's follow-up final audit review. The trustees informed the commission that they had worked in collaboration with the council to put in place new governance procedures and financial control systems and implemented all additional recommendations made by the council. New trustees had also been appointed to administer and manage the charity.

Conclusions

There was gross financial mismanagement which occurred at the charity during 2009 to 2011 and there appears to have been 1 or more occasions of fraud. The trustees appear to have taken reasonable steps to address the concerns by reporting the matter to appropriate bodies such as the police, the council and to the commission by submitting a serious incident report. The trustees obtained professional advice when they were made aware of the gross financial mismanagement and alleged fraud. They also took steps to protect the charity from potential further loss of funds by carrying out an independent audit of the charity's funds, and also obtained appropriate expertise from the council, who assisted them in improving and strengthening their governance and financial controls systems. As a result the charity has improved its financial and governance systems and the council continues to provide funding to the charity to enable it to carry out its activities.

The current trustees did not however consider taking legal action against the trustees responsible for the administration and management of the charity at the time of the incidents to reimburse the charity for its losses. Reimbursement would be on the basis that the trustees at the time failed in a collective duty to protect the charity's assets. Trustees have a duty whenever possible to recover charity funds that have been misappropriated.

Regulatory action taken

The commission met with the trustees in 2013 to ensure that proper governance controls were in place in the light of the serious incidents. Since the incidents new trustees had joined the board leaving 2 trustees who served at the time the incidents took place. The recommendations contained in the Tower Hamlets audit report have been addressed.

The commission sought assurances from the trustees that they had taken advice on the possible recovery of funds from the former finance manager. Legal advice taken by the trustees advised that it would not be feasible to seek recovery because the former finance manager now resides abroad.

The commission will continue to monitor the governance of the charity.

Issues for the wider sector

Charity trustees have a duty to manage the charity's resources responsibly including, whenever possible, a responsibility to recover charity funds that have been misappropriated whether by charity employees or trustees. In doing so, they should consider whether there is a reasonable prospect of success in pursuing an action through the courts, so as to justify the outlay on legal costs. It will not always be cost effective to pursue a loss, and trustees should always take legal advice before deciding to embark on litigation. The commission's policy regarding restitution and recovery of charitable funds misappropriated or lost to charity in breach of trust, can be obtained from the **commission's website**.

Charity trustees are legally responsible for the administration and management of the charity, controlling and directing its affairs and the management of its staff. They must ensure that it is solvent and well-run. This applies to each of the charity trustees as individuals. They cannot avoid or hand over this responsibility to charity staff. If you are a charity trustee it is therefore important that you take an active role in the charity and ensure you perform your duties well. These legal duties and responsibilities are set out in more detail in the commission's publications **The essential trustee: what you need to know, what you need to do (CC3)** and **The hallmarks of an effective charity (CC10)**.