



Case Report

National Hereditary Breast Cancer Helpline (1150183)

About the charity

The National Hereditary Breast Cancer Helpline has operated as a national helpline since the mid-1990s and registered as a charitable company with the Charity Commission ('the Commission') in December 2012. Its charitable objectives are to promote and protect good health and relieve sickness for the public benefit by facilitating training, education or general advice into all areas of hereditary breast cancer; managing a national helpline for the delivery of advice about hereditary breast cancer; helping and supporting anyone concerned about their increased risk of developing breast cancer due to family history.

Why the Charity Commission got involved

The Commission undertook proactive analysis of and compliance visits to a group of charities identified as having signs they may be at risk of **financial distress**, including potential insolvency. This is part of our work to proactively monitor charities that fall into certain risk categories.

The aim was to seek assurances that trustees understood their duty to protect charity assets; had adequate measures and controls in place to manage finances; and were actively managing the risks, taking appropriate action where necessary to mitigate the impact on the charity. The aim was also to identify common risk factors in these types of cases to inform future risk assessment and highlight good practice in dealing with financial distress where this was identified.

The National Hereditary Breast Cancer Helpline was randomly selected from the group of 94 charities whose accounts signalled they may be in financial difficulty as they included an 'emphasis of matter'¹ about going concern relating to their financial position.

The action the Commission took

We carried out a detailed scrutiny of the charity's latest accounts, which supported the going concern issue. It also identified a number of additional concerns about the management of the charity's finances.

¹ A paragraph included in the auditor's report that refers to a matter appropriately presented or disclosed in the financial statements that, in the auditor's judgment, is of such importance that it is fundamental to users' understanding of the financial statements.

We proactively contacted the charity to gain further understanding of the issues and the actions being taken to resolve them. The engagement included 2 compliance visits, at which we met with trustees and examined the charity's records to verify the information provided.

What the Commission found

When the Commission first engaged, we found the charity and its assets had been exposed to undue risk through a lack of appropriate financial controls and its financial model was unsustainable. Several of its shops were running at significant loss and the charity was heavily reliant on loans.

We identified that the charity had made unauthorised payments to the chair of trustees, in breach of the provisions of its governing document and the legal duty that a trustee must not receive any benefit from the charity unless it is properly authorised and clearly in the charity's interests. The payments were made for work undertaken running the charity's operations on a day to day basis. The trustee in receipt of payment was the only authorised signatory on the charity's bank accounts and so authorising payments to themselves.

The trustees were failing to comply with their responsibility to manage and administer the charity. They were not meeting regularly to make collective decisions about how the charity should be run to further its objects. The chair made decisions following discussions with individual trustees. No records were kept of those discussions.

It was also identified that the charity had received interest-free loans from a trustee, for which no formal agreement or repayment schedule was in place.

After the first compliance visit, the trustees were provided with regulatory advice and guidance, including an action plan which identified the improvements required to address the regulatory concerns and ensure the trustees complied with their legal duties. At a follow up monitoring visit, we were concerned to find that although the trustees had made some progress, they had failed to fully comply with the terms of the action plan and were continuing to breach their trustee duties.

Specifically, although the former chair had resigned as a trustee, she continued to run the charity's operations without any formal role and continued to receive payments. Whilst the trustees had held and minuted at least one trustee meeting, there was a lack of evidence that the trustees were making collective decisions about the management and administration of the charity. They were continuing to allow the former chair to make key decisions about the operation of the charity, despite having resigned as a trustee.

The trustees had added additional signatories to the charity's bank account but had not implemented other financial controls required to ensure the charity's assets were not exposed to undue risk, such as controls over stock held in the charity shops. They had also failed to take the actions required to formalise the loan agreement. Although the trustee in question made a statement of intent in February 2017 to convert the loan into a donation, this had still not been done or formalised after the second visit.

Given the nature and seriousness of the issues, the trustees were given a chance to resolve them but failed to fully comply with the action plan to do so, the Commission concluded it was appropriate and proportionate to issue the charity with an official warning to promote compliance. The warning specifies the actions the Commission considers the charity needs to take to resolve the outstanding and prevent further breaches.

These are, to:

- ensure that any payments to individuals are made lawfully and that any appropriate consent from the Commission is obtained beforehand
- ensure that any loan agreement provides sufficient protection of the charity's interests and is both reviewed and documented sufficiently
- ensure that all decisions are properly and adequately recorded
- ensure that the trustees alone take trustee decisions regarding the management and administration of the charity, and must delegate only in accordance with their duties
- develop and implement sufficient financial controls to ensure the charity's assets are not exposed to undue risk

Impact of the Commission's involvement

The Commission's proactive monitoring identified significant breaches of trustee duties within the charity. The trustees have been issued with regulatory advice and guidance and, following their failure to fully comply with this, the charity has been issued with an official warning to promote compliance.

Due to the sums of money involved, and the actual work undertaken for the charity, the Commission concluded it was not proportionate in this case to pursue repayment of the amounts paid without authority to the former chair of trustees.

By publishing this case report, the Commission is promoting compliance by the trustees with their duties and promoting accountability and transparency by making people with an interest in the charity aware of these issues.

We acknowledge that the trustees have taken some action already in response to us notifying them of the warning, including by ceasing the unauthorised payments and we will continue to monitor their progress.

Learning for other charities

This case demonstrates the importance of trustees being fully aware of their role and responsibilities. The Commission's guidance **The essential trustee** is the starting point in finding out what your role is as a trustee and we recommend all new and existing trustees read a copy.