

Inquiry Report

Vyoel Moshe Charitable Trust

Registered Charity Number 327054



A statement of the results of the class inquiry into double defaulter charities in particular Vyoel Moshe Charitable Trust (registered charity number 327054).

Published on 4 August 2014.

The Class Inquiry

On 20 September 2013, the Commission opened a statutory class inquiry (“the Inquiry”) into charities that were in default of their statutory obligations to meet reporting requirements by failing to file their annual documents for two or more years in the last five years and met certain criteria, including that

- the charities were recently (or in the case of charities that would become part of it in due course, would be) given final warnings to comply by a specified date; and
- on the day after the specified date they were still in default (partially or otherwise).

At the point a charity met the criteria they would become part of the Inquiry. The Commission started by looking at and sending final warnings to charities with a last known income over £500,000 and then moved on to those over £250,000 and other high income charities.

The Charity

Vyoel Moshe Charitable Trust (“the Charity”) was registered on 13 March 1986. It is a trust governed by a Trust Deed executed on 9 January 1986.

The Charity’s objects are:

“To such charities or for such charitable purposes in any part of the world as are charitable according to the law of England and Wales.”

More details about the Charity are available on the Register of Charities which can be accessed through the Charity Commission’s website¹.

Issues under Investigation

The Charity failed to submit to the Commission annual accounts and reports and annual returns required for the financial years ending 31 March 2012 and 31 March 2013. The Charity was sent various computer generated reminders from the Commission regarding the submission of their annual accounting documents.

¹ <http://www.charitycommission.gov.uk/find-charities/>

In addition, the Charity the Commission attempted to contact the charity by telephone on 8 April 2014. Further to this the Commission wrote to the Charity with a final warning on 8 April 2014 requesting that the missing documents be provided by 1 May 2014. On both occasions, the Commission warned what would happen if the Charity remained in default on 2 May 2014. The Charity has been in default of its obligations under the Act for a lengthy period of time, in respect of more than one set of documents and in spite of receiving numerous reminders.

The Charity met the criteria and became part of the Inquiry on 2 May 2014.

The Inquiry is confined to dealing with the trustees' mismanagement and misconduct² and remedying the non-compliance in connection with the annual accounting documents.

During the Inquiry the Charity filed the missing annual accounts and reports and annual returns for the financial years ending 31 March 2012 and 31 March 2013 on 12 May 2014 and 14 May 2014 respectively.

The trustees informed the Commission on 20 May 2014 that the reason for not complying was because the Trustees work on a voluntary basis which takes up a lot of their available spare time, and leaving them in a position where the filing of accounts were delayed. The trustees have now appointed an additional trustee who, among other duties, will have the preparing and filing of accounts as a main task, and have agreed that this issue will feature as a permanent item on the agenda of all future meetings of the Board. The trustees have also decided that the charity would benefit from a change in Auditors and have appointed a new firm.

When the Charity's missing documents were submitted, the accounts were referred for scrutiny by the Commission's accountants and if any issues arise from that they will be followed up separately.

Conclusions

The Charity's trustees were in default of their legal obligations to file accounting information with the Commission. This was mismanagement and misconduct in the administration of the Charity and a breach of their legal duties.

The reasons the charity gave for non compliance was not a legitimate excuse.

As a result of the Inquiry, the Commission ensured the Charity complied with its legal obligations to submit their annual accounting information. Two sets of accounts were filed and as a result over £1,800,000 of charitable income is now transparently and publicly accounted for on the Register of Charities.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 14 May 2014 when the Charity filed the last missing documents.

2 The terms misconduct and mismanagement are taken from section 76 of the Charities Act 2011. Misconduct includes any act (or failure to act) in the administration of the charity which the person committing it knew (or ought to have known) was criminal, unlawful or improper. Mismanagement includes any act (or failure to act) in the administration of the charity that may result in significant charitable resources being misused or the people who benefit from the charity being put at risk. A Charity's reputation may be regarded as property of the charity.

Regulatory Action Taken

The Commission used its information gathering powers under section 52 of the Charities Act 2011 (the “Act”) to order and obtain bank records and financial information of the Charity relating to the missing years accounts. These will be used in connection with the Commission’s scrutiny of the accounts.

On 9 May 2014 the Inquiry exercised powers under section 84 of the Act to direct the trustees to prepare and complete the relevant missing annual accounts, reports and returns for the Charity and provide copies of these to the Commission.

The Commission provided regulatory advice and guidance about the trustees’ duty to file the Charity’s annual accounting information.

Issues for the wider sector

Trustees of charities with an income of £25,000 or over are under a legal duty as charity trustees to submit annual returns, annual reports and accounting documents to the Commission as the regulator of charities. Even if the Charity’s annual income is under £25,000 trustees are under a legal duty to prepare annual accounts and reports and should be able to provide these on request. All charities with an income over £10,000 must submit an annual return.

Failure to submit accounts and accompanying documents to the Commission is a criminal offence. The Commission also regards it as mismanagement and misconduct in the administration of the Charity.

For those individuals who were not trustees at the initial date of default, when they became a trustee, they became responsible for making good the default.

It is important that the financial activities of charities are properly recorded and their financial governance is transparent. Charities are accountable to their donors, beneficiaries and the public. Donors to charity are entitled to have confidence that their money is going to legitimate causes and reaches the places that it is intended to. This is key to ensuring public trust and confidence in charities.

The position and role of a trustee is an important one, a responsibility held jointly with the other trustees of a charity. It is not uncommon for particular tasks to be delegated to individual trustees, such as the preparation and filing of accounts. However, trustees need to be aware that although roles can be delegated to individual trustees, responsibility cannot be, and they remain collectively responsible for ensuring their charity fulfils its legal obligations, including preparing and filing accounts.

Therefore, even if there is a reason the individual to who a role has been delegated is unable to undertake that role temporarily, the other trustees must make sure that collectively they continue to carry out their legal duties and the charity continues to effectively run including filing their accounts and returns.

