

Inquiry Report

African Families Support Services

Registered Charity Number 1075369



A statement of the results of the class inquiry into double defaulter charities in particular African Families Support Services (registered charity number 1075369) ('the charity').

Published on 28 May 2015.

The class inquiry

On 20 September 2013, the Charity Commission ('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
- 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

The charity was registered on 6 May 1999. It is an unincorporated association governed by a constitution adopted 10 April 1999, as amended 29 April 2000 and 8 October 2005.

The charity's objects are:

- 1) The relief of poverty, sickness and social exclusion of Afro-Caribbean and Africans living in the United Kingdom and east Africa, in particular, those persons with HIV or AIDS and their families by the provision of practical and culturally appropriate care and support services.
- 2) The preservation and protection of health and social well-being of the said communities in the United Kingdom and east Africa by the provision of advice and information regarding HIV and AIDS and other sexually transmitted diseases.
- 3) The promotion of care, upbringing and establishment of life of children and families of Afro-Caribbean and Africans living in the said communities who are in need of foster care or homes by the provision of information, advice and practical support on the needs of such children and their families.
- 4) The promotion of practical models of support and independent living to migrant communities living in the United Kingdom and eastern Africa through supporting sustainable family structures and involvement of those most in need.

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

Issues under investigation

The charity failed to submit its annual accounts and reports and annual returns to the commission required for the financial years ending 31 March 2011 and 31 March 2012. During the whole period of default, the charity was sent various computer generated reminders from the commission regarding the submission of their annual accounting documents. Although reminders were sent the charity remained in default of its obligations under the Charities Act 2011 ('the act').

In addition, the charity was contacted by both telephone and letter on 18 October 2013 and asked to supply accounts by 8 November 2013, and the charity was warned that if it remained in default on 11 November 2013 it would become part of the inquiry.

The charity failed to submit its outstanding documents by the deadline and became part of the inquiry on 11 November 2013.

While the charity was part of the inquiry its accounts, annual reports and annual returns for the years ending 31 March 2013 and 31 March 2014 also became due for submission.

The inquiry is confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

During the course of the inquiry the trustees informed the commission that in March 2010 the activities of the charity were taken over by another charity, Community Development Organisation (registered charity number 1135217) ('CDO'). With this knowledge it became apparent that the accounts the charity had submitted for the year ending 31 March 2010 did not accurately record the charity's financial situation in that year and would need to be updated and re-submitted.

The outstanding annual accounts and reports for the financial years ending 31 March 2010, 31 March 2011, 31 March 2012, 31 March 2013 and 31 March 2014 were submitted on 27 February 2015.

The outstanding annual returns for the financial years ending 31 March 2011, 31 March 2012 and 31 March 2013 were submitted on 28 January 2014 and the annual return for the financial year ending 31 March 2014 was submitted on 15 January 2015.

The trustees informed the commission on 4 December 2013 the reason for not complying was that the charity was effectively dissolved in 2010 and replaced by CDO and it should have been removed from the register at that time.

The charity was not dissolved in 2010 and remained a registered charity. As such, the trustees were required to ensure that the charity's register entry was kept up-to-date.

When the charity's missing documents were submitted, the accounts were referred for scrutiny by the commission's accountants. Any issues arising from that scrutiny they will be followed up separately.

¹ 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.

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 were not legitimate excuses.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. Five sets of accounts were filed and as a result over £409,000 of charitable income is now transparently and publicly accounted for on the register.

The charity ceased to be part of the inquiry when it was no longer in default of its accounting obligations. This happened on 27 February 2015 when the charity filed the last missing documents.

Regulatory action taken

The commission used its information gathering powers under section 52 of 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 13 November 2013 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.

On 20 December 2013, the deadline in the section 84 order was extended by means of an order made under section 337(6) of the act.

On 23 December 2014, the commission made directions under section 47 of the act directing the trustees to provide the outstanding information.

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 over £25,000 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 not greater than £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.