

Inquiry Report

RAF Honington & Barnham Kindergarten

Registered Charity Number 1071542



A statement of the results of the class inquiry into double defaulter charities in particular RAF Honington & Barnham Kindergarten (registered charity number 1071542).

Published on 28 November 2014.

The class inquiry

On 20 September 2013, the Charity 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

RAF Honington & Barnham Kindergarten ('the Charity') was registered on 15 September 1998. It is an unincorporated association governed by a constitution adopted 17 July 1998.

The Charity's objects are:

To enhance the development and education of children, primarily under statutory school age, by encouraging parents to understand and provide for the needs of their children through community groups.

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

Issues under investigation

The Charity failed to submit to the commission annual returns required for the financial years ending 31 October 2011 and 31 October 2012. The Charity was sent various computer generated reminders from the commission regarding the submission of their annual accounting documents.

In addition, the commission attempted to contact the Charity by telephone on 10 April 2014. Further to this the commission wrote to the Charity with a final warning on 10 April 2014 requesting that the missing documents be provided by 3 May 2014. On both occasions, the commission warned what would happen if the Charity remained in default on 6 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 6 May 2014.

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 Inquiry the Charity filed the missing annual returns for the financial years ended 31 October 2011 and 31 October 2012 on 1 September 2014. Additionally, the Charity filed its accounts and annual report for the year ended 31 October 2013 on 13 August 2014 and its annual return for that year on 1 September 2014.

The Charity's accountant informed the commission on 12 August 2014 the reason for not complying was that following difficulty in maintaining the trustee body, the only trustee (an RAF serviceman) was posted abroad and found it difficult to properly manage the Charity from afar.

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.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 1 September 2014 when the Charity filed the last missing documents.

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 13 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.

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.

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.