

# Inquiry Report

White Horse Stables - Horse Rescue

Registered Charity Number 1060620



# A statement of the results of an inquiry into White Horse Stables - Horse Rescue (registered charity number 1060620).

Published on 4 September 2014.

## The Charity

White Horse Stables - Horse Rescue ('the Charity') was registered as a charity on 1 April 1995. It is governed by a charitable Deed of Trust.

The Charity's objects are:

*To relieve the suffering of horses and ponies which are in need of care and attention and in particular to provide or maintain rescue homes or sanctuaries or such other facilities for the reception and care of unwanted horses and ponies and the treatment of sick and ill-treated horses and ponies.*

In practice, the Charity operates as a horse sanctuary for sick and ill-treated horses, rescuing abused and neglected horses and training students in the care and welfare of horses. The Charity also runs a riding and pony club providing riding instructions for disadvantaged children and some adults.

The **Charity's entry** can be found on the Register of Charities.

## Background and Issues under Investigation

Since August 2005, the Commission had engaged with the Charity on a number of occasions through regulatory compliance cases ("RCC's") in order to resolve concerns about possible unauthorised trustee benefits, how conflicts of interest were being managed and the Charity's financial controls and record-keeping. All of the RCC's have been interlinked and follow on from the original engagement with the charity in 2005. Since then the Commission provided the Trustees with a range of regulatory advice and guidance and issued the Trustees with an action plan in 2008 to resolve some of the issues. However, whilst the Trustees undertook some work to address these concerns, further issues were identified including their failure to comply, on several occasions, with their annual reporting obligations to the Commission.

In November 2010 concerns were raised with the Commission that the Charity had failed to keep adequate records. The Commission became increasingly concerned at the lack of vigour shown by the Trustees over the preceding years in moving the Charity's administration and governance onto a proper footing, despite the advice and guidance previously provided.

As a result, on 16 March 2011, the Commission opened a statutory inquiry ("the Inquiry") into the Charity under section 8<sup>1</sup> of the Charities Act 1993 ("the Act"). The Inquiry closed on 4 September 2014 with the publication of this report.

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<sup>1</sup> Now section 46 of the Charities Act 2011.

The inquiry was opened to investigate and resolve the following key issues:

- the administration, governance and management of the Charity, in particular in relation to a loan from the Charity to a commercial entity and how the Trustees had identified and managed conflicts of interests;
- the financial controls and financial management of the Charity, with a view to establishing if there was risk to charitable assets; and
- the Charity's financial and accounting record-keeping, including the Trustees' various failings in meeting their filing obligations on time.

## Findings

After the opening of the Inquiry and a period of engagement with the Trustees obtaining further information, the Commission conducted a books and records inspection at the Charity on 15 September 2011, met with the Trustees on 26 January 2012 and continued to engage with them in the subsequent months. There were delays in progressing the inquiry in part on the Commission's side due to changes of case officers, and in part due to the delays and problems the Trustees had in locating financial information and documentation.

The Charity's annual accounts for 2010 and 2011 were eventually filed with the Commission in February 2013 and the inquiry was due to be closed. However, the accounts for the financial year ending June 2012 became overdue on 1 May 2013. They were not filed until 29 October 2013. The accounts for the year ending June 2013 were filed on 1 May 2014, one day late.

### **The administration, governance and management of the Charity, in particular in relation to a loan from the Charity to a commercial entity and how the Trustees had identified and managed conflicts of interests**

From the Commission's earlier (pre-Inquiry) engagement with the Trustees and reviews of the Charity's records, it had been difficult to establish clear demarcation lines between the Charity and a commercial entity Ellenwhorne Equestrian Centre ("EEC") connected to two related trustees, Mrs Barclay-Bernard and Mrs Hiller, particularly as both organisations operate from the same premises.

The Inquiry found that EEC was established as a partnership by the two related trustees in 2006 after the centre was granted permission to build a riding school to help raise money for the Charity. The Charity has a website to promote its activities whilst EEC has its own site. The Inquiry found there was a distinction between the two organisations which was made clear to visitors attending the premises.

The Trustees explained that there were 'EEC horses' and 'Charity horses'. The Charity's horses were not fit to be used for use in its riding and pony club which it provided to disadvantaged children and some adults. This meant that the Charity hired horses from EEC for this.

The Inquiry found that all bills were paid for by EEC which the Charity was subsequently asked to pay its share of. Expenditure was split 75:25 between the Charity and EEC on the basis that 75% of the horses belong to the Charity. The Charity makes a weekly payment to EEC for its share of expenditure. The benefits to the Charity of this arrangement include sharing trade accounts allowing it to share discounted bulk purchases.

The Inquiry found some evidence of the Trustees attempting to manage specific conflicts of interest situations. Although no conflicts of interest policy was in place, which would be good practice, the Trustee meeting minutes of 6 May 2011 showed that the two related Trustees with conflicting interests were not involved in the discussion or decision in relation to payments made by the Charity to EEC.

In relation to an amount of £27,769, which had been described as a loan made by the Charity to EEC in the Charity's 2008 accounts and identified as a concern, the Inquiry found that this amount represented backdated monthly payments the Charity had been making to EEC (worth £750 monthly) to use its horses for riding club member lessons. This loan had previously gone unrecorded in the accounts and was why the figure had been included in this way. There was evidence in the previous audited accounts showing payments of this nature. The Trustees passed a resolution during the inquiry in May 2011 that a retrospective addendum would be made to the Charity's accounts for the three preceding years to reflect the monthly payments. The Trustees agreed that future accounts of the Charity would also record the payments more clearly. The Inquiry also established that the Charity was not owed any monies by EEC (or any other party).

### **The financial controls and financial management of the Charity, with a view to establishing if there was risk to charitable assets**

The Inquiry identified that historically some of the Charity's purchases had been made using personal credit cards because the Charity did not have any credit or debit cards.

The Inquiry found that in the past the two related trustees signed off each other's expenses claims. The Commission's guidance makes clear that claims should be authorised by someone other than the claimant and then checked for accuracy before payments are made; common sense should have dictated that two related trustees should not be signing off each other's expense claims because this gives rise to a position of conflict of interest. The Trustees acknowledged how this might cause a conflict of interests. They also accepted that in the past, the Charity's records, including evidence of expenditure, were not kept appropriately.

At the start of the Inquiry, the financial records between the Charity and EEC were not in good order. However, at the time of the books and records inspection in 2011 the Charity had appointed new accountants. The Inquiry established that at that point the Trustees had acted on the accountants' advice and made significant changes to the way the Charity managed its books and records. This included segregating the records between the Charity and EEC and maintaining day book lists of income and expenditure recording the money coming in and the expenditure of both the Charity and EEC. The Charity now maintained a spreadsheet of all its bank account transactions, which are the primary records used by the accountants to prepare the Charity's annual accounts. As a result, it was now clear which entity each financial transaction related to.

The Inquiry also found that the Trustees had begun to retain receipts for all transactions including those made on personal credit cards. They have also put alternative arrangements in place so that an independent trustee is nominated to authorise another trustee's expense claims.

The Trustees acknowledged that the Charity did not have several key policies in place which may have helped them to deal with these issues, including managing conflicts of interest and expenses procedures.

## **The Charity's financial and accounting record-keeping, including the Trustees' failure to meet their filing obligations on time**

The Inquiry found that the Charity's book keeping had improved following the advice they had received from their new accountants. The records in general were also found to have improved.

At the time of the books and records inspection, the Charity was preparing its 2009/2010 accounts which were subsequently submitted to the Commission. These accounts had been independently examined and found to have improved in quality compared to the previous year's, which had received a qualified statement.

The Inquiry was not closed (as a result of the Charity still being in default of its reporting obligations) and the Commission continued to monitor the Charity's timely submission of accounts. To this end the Commission approached the Trustees after noting that the Charity's accounts for financial year ending June 2012 (and its Annual Return report for the same period) were overdue. The Trustees acknowledged their oversight and submitted the outstanding accounts and Annual Return on 29 October 2013.

## **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. This is despite the Commission having provided repeated regulatory advice and guidance. At the closure of the Inquiry, the Charity is up to date with its filing obligations.

At the start of the Inquiry, the financial records between the Charity and EEC were not in good order. However, during the Inquiry the Trustees took significant steps (including taking appropriate professional advice) to improve the record keeping and accounting practices within the Charity. This in turn appears to have helped the Trustees in bringing the Charity's records fully up to date, including its reporting obligations to the Commission. The improvement in this area also led the Inquiry to conclude that the Charity was not owed money by EEC and that the respective accounts now presented a clearer picture of the relationship between the two. Financial transactions undertaken by the Trustees are also now evidenced by provision of purchase receipts.

The two related trustees should not have been signing off each other's expense claims because this gave rise to a position of conflict of interest. This was particularly significant given the Charity's close relationship with EEC, a private company established by two of the Charity Trustees operating from the same address. They should have ensured that the independent Trustees authorised and signed them off.

The Trustees are now taking steps to manage conflicts of interest more robustly, and have introduced a Conflicts of Interest policy further to the regulatory advice and guidance provided by the Commission.

## Regulatory Action

The Commission provided regulatory advice and guidance to the Trustees regarding several policy guidance documents intended to improve the Charity's financial procedures and management tools going forward. Advice was also provided on where the trustees could seek further guidance about some of these policies.

The Commission repeated regulatory advice and guidance to the Trustees about their responsibilities and the importance for all of the Trustees to be involved in the running of the Charity, rather than isolated individuals.

The Commission provided regulatory advice and guidance to the Trustees regarding the importance, and legal requirement, for them to comply with their obligation to file the Charity's annual accounts and Annual Returns in view of the Charity's reported level of income.

## Impact of Commission intervention

As a result of the Inquiry, the Trustees have taken steps to introduce several new policies likely to help the governance within the Charity. They have also taken appropriate professional advice and steps to improve their accounting procedures as a result, including filing of the Charity's overdue accounts with the Commission in accordance with their statutory duties. The Charity is now up to date with its annual returns and accounts, including the latest set for the Financial Year Ending 30 June 2013 (albeit they were submitted one day late).

The Trustees responded positively to the Inquiry and complied with all their requests for information and documents. That said, the Charity experienced obvious difficulties with regards to its financial management and record keeping, resulting in considerable delays to the Commission's investigation while attempts were made by the Trustees to locate and agree the required information.

## Issues for the Wider Sector

The Commission recognises that it is inevitable that conflicts of interest will sometimes occur. The issue is not the integrity of the trustee concerned but the management of any potential to profit from a person's position as a charity trustee, or for a trustee to be influenced by conflicting loyalties. Even the appearance of a conflict of interest can damage the public's trust and confidence in the charity and, therefore, conflicts need to be managed carefully.

Trustees must act only in the best interests of the charity and actively manage any conflicts of interest. They should step back from or avoid any situation where a conflict exists or is likely to arise if it is clear that the conflict cannot be adequately managed, even if this means, for example, that additional non-conflicted trustees are appointed or that the affected trustees resign from their role. Conflicts of interest are more likely to occur when there are only a small number of trustees on the board, when trustees are closely related or when the charity has dealings with businesses in which the trustees have interests. It is vital that trustees avoid becoming involved in situations in which their personal interests could be seen to conflict with their duties as trustees. The trustees should put in place policies and procedures to identify and manage any such conflict(s). Further information about recognising and managing conflicts of interest within a charity can be found in the Commission's **Conflicts of Interest guidance** which is available on the Commission's website, [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk).

Our guidance in [Internal Financial Controls for Charities \(CC8\)](#) recommends that a written policy should be in force for payment of expenses. The policy should set out the requirement to complete expenses claims and to provide receipts. It should also clarify any fixed payments and any cap on total payments, for example hotel costs on a bed and breakfast basis for single occupancy, are only reimbursed on production of original receipts to a maximum of £xx a night. We also recommend that:

- a formal expenses policy should exist applying to all trustees, staff including the CEO and senior management and volunteers;
- the policy should be clearly communicated within the charity and included within induction training;
- expense claims should be authorised by someone other than the claimant and checked for accuracy before payment;
- expense claims should contain a self-declaration that the claim is accurate and incurred in connection with the business of the charity; and
- to minimise the charity's cash payments, reimbursement should be made by cheque or BACS transfer;

All registered charities are required by law to provide annual returns and accounts to the Commission and to keep their information on the public register up to date. The duty to file annual accounts and the Trustees' Annual Report with the Charity Commission applies to all registered charities whose gross income exceeds £25,000 per year. The way in which each charity must maintain, prepare and report its annual accounts depends on its income and expenditure, gross assets and constitution. Further information about accounting and filing requirements can be found on the Commission's [website](#). Where trustees feel that they do not have sufficient expertise or knowledge to do this, they should consider seeking appropriate professional advice.

In a similar vein, trustees must also ensure their charity has adequate financial and administrative controls in place. There should be a clear audit trail of where bank accounts are held, what they are held for and who has access to them. Trustees should not only ensure that financial controls are put in place but also that sufficient information is reported back at trustee meetings to satisfy them that the controls are being properly observed. The Commission has produced guidance to assist trustees in implementing robust internal financial controls that are appropriate to their charity. [Internal Financial Controls for Charities \(CC8\)](#) is available on the Commission's website. There is also a [self check-list for trustees](#) to help trustees to evaluate their charity's performance against the legal requirements and good practice recommendations set out in *Internal Financial Controls for Charities*.

