



## Case Report

# Deafinitions Limited (1144504)

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## About the charity

The charity was registered in 2011. Its charitable objects include advancing the education of deaf people and the public, including by providing access to information and resources to the deaf community and advocating with deaf people to improve awareness of deaf people's needs among statutory and private service providers.

## Why the commission got involved

The charity's accounts for the year ended 2013 indicated that 3 of the charity's 4 trustees were benefiting privately from the charity. This was contrary to the charity's governing document, which did not provide such a power unless the commission's prior written consent is obtained. That consent was not obtained prior to the employment of the trustees.

This amounted to a potential breach of trust. The situation also gave rise to significant conflict of interest. For these reasons, we needed to get involved to ensure the trustees were aware of their legal duties and responsibilities to act in the charity's best interests and were managing conflicts of interest.

## The action we took

We contacted the charity to explain our concerns and put a number of questions to the trustees. We asked them to confirm what the payments related to and why they were in the charity's best interest, how the level of pay was calculated, how the conflicts of interests were managed, and whether the trustees took any advice before deciding to make the payment.

## What we found

The trustees made clear that none of the charity's trustees were being remunerated for serving as trustees; instead 3 trustees are employed as staff members. The charity made a convincing case for this arrangement being in the charity's best interest. They explained that all 3 positions had been externally advertised but that no suitable candidates had been found. This was partly because of specific technical skills required for each of the roles (for example, video editing or filming skills), which also needed to be filled by candidates fluent in British sign language.

The trustees explained that they believed they had sought the necessary authority to amend the charity's governing document. We acknowledged that there had been a misunderstanding on the part of the trustees as to the process they needed to follow to request our permission.

The trustees were able to demonstrate that they had taken steps designed to manage the conflicts of interest arising from 3 of the 4 trustees being employed as staff members. However, we were of the view that the conflicts of interest could not be properly managed unless the majority of trustees were unpaid. The unpaid trustees could then consider whether or not the employment of the remaining trustees was, and continues to be, in the best interests of the charity.

The trustees cooperated with us throughout and were keen to address our regulatory concerns as quickly as possible.

## The impact of our involvement

We ensured the charity regularised the arrangement so that it is no longer operating in breach of trust. We did this by insisting the charity had a majority of unpaid trustees who could then independently review the payments to trustees to establish whether or not they were, and continue to be, in the best interests of the charity.

We provided advice and guidance to the trustees to ensure they continue to act in the charity's best interest and in line with the charity's governing documents and properly address any conflicts of interest.

## Lessons for other trustees

One of the most fundamental of trustee duties is to ensure your charity complies with its governing document. This means that all trustees must understand the provisions of their governing document, and follow the correct procedure in requesting our permission should they decide that certain provisions are no longer in the charity's best interest. The governing document usually makes it clear what amendments must have our consent and [our guidance](#) can help if there is any doubt.

Our guidance [The essential trustee](#) sets out trustees' duties in simple and easy to understand terms.

Trustees must also identify, record and manage any conflicts of interest in their charity. Conflicts of interest often arise in charities, but they must be managed carefully as they have the potential to undermine a charity's reputation. Our guidance explains the steps trustees must take to ensure that their charity is effectively [managing conflicts of interest](#).