



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Bfon Trust

Registered Charity Number 1112466

A statement of the results of an inquiry into Bfon Trust (registered charity number 1112466).

Published on 21 July 2016.

The charity

Bfon Trust ('the charity') was registered on 9 December 2005. It is an unincorporated association governed by a declaration of trust dated 17 November 2005.

The charity's objects:

'The relief of poverty sickness and infirmity among persons of the Jewish faith throughout the world and in particular by supporting the charitable activities of the Organisation.

The trustees shall hold the capital and income of the Trust Fund upon trust to apply the income and all or such part or parts of the capital at such time or times and in such manner as the Trustees may in their absolute discretion think fit for or towards such of the objects of the Charity as the trustees may from time to time at their absolute discretion determine including payments by way of gift or loan (with or without interest) to individual persons in any part of the world provided that such persons qualify as objects of the charity and in particular for the charitable activities of the Organisation as determined by English law'.

In practice, the charity provides financial grant payments to institutions in Israel who assist vulnerable families.

More details about the charity are available on the **register of charities** ('the register').

Background

On 20 September 2013, the commission opened a statutory class inquiry ('the class inquiry') into charities that were failing to comply with their statutory obligations to file annual documents with the commission and which 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)

The charity was previously included in the class inquiry conducted by the commission on the basis that it had failed to submit its annual accounts, report and return for the financial year ending 31 March 2010, 31 March 2011, 31 March 2012, and 31 March 2013. That inquiry concluded on 3 June 2014 following compliance by the trustees with their legal duties in submitting the missing information. A statement of the results of that inquiry summarising the commission's previous engagement with the charity was published¹ on 4 August 2014.

¹ <https://www.gov.uk/government/publications/bfon-trust-inquiry-report>.

The charity failed again to submit its annual accounts, report and return for the financial year ending 31 March 2014 by the deadline date of 31 January 2015. Reminders and default notices were issued to the charity in the run-up to this deadline. The charity fell into default of its obligations to file the required information and documents on time in spite of these reminders and notices.

Issues under investigation

As a consequence of the trustees' continuing non-compliance, a further statutory inquiry ('the inquiry') was opened under section 46 of the Charities Act 2011 ('the act') on 19 February 2015. The inquiry was confined to dealing with the trustees' mismanagement and misconduct² and remedying the non-compliance in connection with the submission of the outstanding information to the commission.

On 2 April 2015 the trustees submitted the annual accounts and report for the financial year ending 31 March 2014 to the inquiry. However the submitted annual accounts were found by the commission not to fully comply with the Charities Statement of Recommended Practice 2005 ('the SORP')³, in that the submitted accounts did not disclose sufficient details of the charity's donations and grant expenditure. The commission directed the trustees to re-submit the annual accounts and report to correct this issue.

The corrected annual accounts and report for the financial year ending 31 March 2014 were re-submitted by the trustees on 15 October 2015.

During the inquiry, the annual accounting information for the financial year ending 31 March 2015 became due, and the accounts and report for the financial year ending 31 March 2015 were submitted by the trustees on 26 January 2016. The annual return for the financial year ended 31 March 2015 was subsequently submitted on 12 February 2016.

The re-submitted annual accounts and report for the financial year ending 31 March 2014, and the annual accounts and report for the financial year ending 31 March 2015, were scrutinised by the commission's accountants and were found to be fully compliant with the SORP.

The trustees informed the inquiry that the reason for not complying with the statutory deadline for the submission of information to the commission was due to the trustee who was responsible for preparing and submitting the outstanding annual accounting information working abroad, and when he returned he had to provide care for an elderly friend who was extremely ill. This reason does not excuse the failure of the trustees to fulfil their statutory obligations, as the trustees could have allocated the task regarding the submission of the accounting information to another member of the trustee body for completion.

Although the trustees had co-operated with the inquiry to supply the outstanding information, the commission had concerns about the charity's overall record for filing the accounting information on time. Despite the charity having received extensive advice and reminders in the past from the commission about the deadlines for filing annual accounts, reports and annual returns the trustees persistently failed to fulfil their statutory reporting responsibilities over a sustained period over 4 consecutive financial years, from 2010 to 2014.

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.

3 The SORP provides a framework for charities to report their activities, income and expenditure and financial position in their annual report and accounts.

The commission directed the trustees to review their procedures and implement such changes as are necessary to enable them to fully comply with their statutory responsibilities for the preparation and submission of the charity's annual reports, accounts and returns to the commission.

Conclusion

The trustees were in default of their legal obligations to file accounting information with the commission. This is regarded by the commission as mismanagement and misconduct.

As a result of the inquiry, the commission ensured that the charity complied with its legal obligations to submit annual accounting information, and as a result £1,484,380 of charitable income is now transparently accounted for on the register.

The commission has directed the trustees to implement such changes as are necessary to enable them to fully comply with their statutory responsibilities for the preparation and submission of the charity's annual reports, accounts and returns to the commission. The commission will monitor the trustees' actions to ensure that they comply with the terms of the direction.

Regulatory action taken

On 31 March 2015 the inquiry exercised powers under section 84 of the act to direct the trustees to prepare and complete the relevant missing annual accounts, report and annual return for the charity for the financial year ending 31 March 2014 and provide copies of these to the commission.

On 21 August 2015 the inquiry exercised powers under section 84 of the act to direct the trustees to re-submit the annual accounts and report for the financial year ending 31 March 2014 to show that they fully comply with the SORP, in particular regarding the disclosure requirements for donations and grants payable to institutions.

The inquiry also exercised powers under section 47 of the act to direct the trustees to provide a copy of the charity's grant-making policy and procedures operated during the financial year ending 31 March 2014, and also provide details of the due diligence checks and monitoring undertaken by the trustees to verify the end use of grants made by the charity during that year.

The commission provided regulatory advice and guidance about the trustees' duty to file the charity's annual accounting information.

The inquiry subsequently exercised powers under section 84 of the act to direct the trustees, to review their procedures and practices and implement necessary changes to ensure that they fully complied with their statutory responsibilities for the preparation and submission of the charity's annual accounts, reports, and annual returns; and to also provide written details to the commission of the measures taken by the trustees.

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 or misconduct in the administration of the charity.

The commission will not hesitate to exercise its statutory powers to ensure that a charity's annual reports, annual accounts and annual returns are submitted to the commission within the statutory deadlines where trustees persistently fail to comply with their legal duties.

Trustees are expected to follow the requirements and recommendations in the relevant Charities SORP when preparing annual reports and accounts, except where an alternative reporting framework applies to their charity. A charity's annual report and accounts should not be viewed simply as a statutory requirement or a technical exercise. The report and accounts, when read together, should help users of the information to understand what the charity is set up to do, the resources available to it, how these resources have been used and what has been achieved as a result of its activities.

Providing timely, accurate and informative financial information that will help funders, donors, beneficiaries and others to understand a charity and its work will encourage trust and confidence in that charity.