Operational Case Report

NC TLC Trust (1136332)

About the organisation

The NC TLC Trust (registered charity 1136332) is a children's cancer charity based in Northampton. The objects of the charity are to support and relieve sickness and advance the education of children suffering from tumours, leukaemia or cancer.

Why the commission got involved

The commission received allegations from 2 people connected with the charity, one a member of staff and one from a volunteer. This information alleged that one of the founder trustees was using the charity's funds for personal benefit.

In the process of considering the allegations the commission noted that there were only 2 trustees and they were connected parties being husband and wife. The 2 trustees had been advised, when they applied to register the charitable company, that they would not be able to manage conflicts of interest if they did not appoint more trustees (for example agreeing expenditure on expenses and agreeing any benefit to their child as beneficiary of the charity). There was mention of one of the trustees being the CEO of the charity and it was not clear whether this was a paid post or not.

We contacted the 2 trustees about our concerns regarding the governance of the charity, based on the information we had received from volunteers and staff at the charity and the information on our records.

We also obtained copies of the bank statements, which were analysed by our accountants.

What we found

We found that one of the founder trustees was claiming a salary for acting as CEO even though the charity's governing document prohibits trustees from benefiting in this way. There was also no record of consent being sought of the commission to remove the prohibition. We found there had been no open and fair competition for the role.

We found wider concerns about the charity's governance and financial controls. For example, cash collected in boxes was not counted and recorded properly, (making it difficult to account for the charity's incomings and outgoings overall); no controls on the claiming of expenses and no awareness on managing conflicts of interest. We were concerned that the trustees were not aware of the charity's governing document or their duties as trustees.

The action we took

In February 2014 we wrote to the trustees, outlining our concerns about the governance of the charity. At this stage, the trustees appeared to co-operate with the commission and agreed to look into the possible financial discrepancies identified by us. They also agreed to put robust governance procedures in place.

Two additional trustees were appointed and one of the original trustees resigned. The commission was told that other trustees would be appointed and robust financial controls were being implemented.

However, one of the new trustees resigned because of the difficulty he was having in implementing new financial controls. He also alleged that the trustee that had resigned was still continuing to make decisions that should have been for the trustees to make.

The commission arranged a meeting at the charity in July 2014 with the 2 trustees and with 2 people, who were helping the trustees to improve the charity's governance. After the meeting, an action plan was drawn up for the trustees with deadlines by which the commission expected improvements in the governance of the charity to be made.

However, 2 deadlines passed without being met and we had difficulty contacting the charity and found that the 2 people helping the charity had now left as they had no confidence in the charity. We then re-issued the action plan using our powers under section 52 of the Charities Act. This was not complied with, and the commission was left with no evidence that the charity would be administered correctly.

Impact of our involvement

The commission sent a formal notice in February 2015 to the trustees advising that they needed to appoint more trustees and, if that was not possible, to consider winding the charity up. We provided the trustees with guidance and advised them to obtain professional advice.

The trustees told us they are now actively looking to recruit new trustees and comply with our original action plan. We have therefore decided to give them a limited window in which to do this in the hope that the charity can be put back on track. We will continue to monitor the situation during this period and will step in if they fail. We will also want to be assured that robust governance systems, including strong financial controls, are in place.

Lessons for other trustees

We found a number of serious shortcomings in the trustees' management and control of this charity. These were all on basic matters on which we provide clear guidance.

Compliance with the charity's governing document: it is difficult to see how trustees can effectively run their charity without being familiar with the terms of its governing document. We make this clear in The essential trustee (CC3).

Trustee benefits: before any decision involving trustee benefit is made, trustees must ensure that there is an appropriate authority in place. Payment of unauthorised trustee benefits is a breach of trust and, where trustees have not acted properly, they may have to repay any sums paid by the charity. See Trustee expenses and payments (CC11).

Conflict of interest: where trustees are making a decision which involves trustee benefit, the affected trustee has a conflict of interest. The trustees have a legal duty to prevent the conflict of interest from affecting the decision.

We expect trustees to follow three simple steps to handling conflicts of interest - identify the conflict, prevent it from affecting the decision, and record it. Our guidance Conflicts of interest: a guide for charity trustees (CC29) explains what trustees need to do.

Internal financial controls: it is a duty of the charity trustees to ensure that the charity's resources are protected in order that the charity can fulfil its aims. We expect trustees to have effective financial controls in place: where they are lacking or inadequate, trustees not only place the charity at risk but may face regulatory action. Our guidance Internal financial controls for charities (CC8) sets out the steps trustees need to take.

Proper accounting: trustees have legal responsibilities to keep accounting records, and to prepare an annual report and accounts with the appropriate level of external scrutiny. Trustees must also safeguard their charity's assets and take steps to ensure the charity is protected against financial abuse. Accounting records must be kept for at least 6 years (or a minimum of 3 years if a company charity).