



Operational Case Report

Old Barn Youth and Community Association (283258)

About the organisation

The Old Barn Youth and Community Association was a charity based in East Finchley in north London (removed charity - registered number 283258). Its objects were to provide facilities for recreation and other leisure time occupation for children and residents of East Finchley. The charity has now been removed from the register.

Why the commission got involved

In 2012, the commission received a range of complaints about the management of the charity from the local MP, residents in Barnet, Barnet Council, and local community organisations. The main allegation set out by the complainants was that a small group of people had taken over the management of the charity without complying with the constitution. The commission was told that most of the building was used for a private nursery (subject to OFSTED regulations) and there was minimal evidence of charitable activity at the charity's premises. It was clear that the local community continued to be generally excluded from the premises by the group.

What we found

Initially, it appeared that the group in control of the charity was keen to seek and receive regulatory guidance from us, to establish a proper membership for the charity and to arrange elections for a new body of trustees. We provided advice and guidance in correspondence, and met the group to set out our concerns and provide guidance on how to get the charity's governance back in order. However, the group in charge did not act on our advice.

As they failed to supply us with the information we asked for, we used our statutory powers to secure information about the finances and running of the charity from the group in charge and the charity's bank.

In the meantime, concerns about the charity among the local community, Barnet Council, the local MP and OFSTED were growing. We found that:

- there was no evidence that trustees had been properly appointed when the group took over in 2010
- there was no evidence that the charity had any members during that period
- OFSTED had raised concerns about the management arrangements for the private nursery - the nursery closed on 27 June 2014, following a failed appeal to the Care Standards Tribunal

- there was no evidence of any financial activity from 2012 to 2014
- to all intents and purposes, the organisation was inactive as a community recreational charity

Although we offered our regulatory advice and guidance, we were unable to secure the community use of the building. As we found no evidence that trustees had been properly appointed or that there was a membership, we made an order on 31 October 2014 to appoint a trustee (Mobilise Public Ltd) to seek to manage the charity and to secure any charity assets.

The trustee confirmed our view that there was no evidence of properly appointed trustees or a membership, and the only significant asset was a lease with the council, as the council was the freeholder. The trustee undertook extensive consultation with the local community, when it became clear that the reputation of the charity had been damaged in recent years. There was no desire to re-establish the association in its old form, and the remaining asset may be a liability given the required refurbishment of the premises. The trustee thus took the view that it would be in the best interests of the charity to surrender that lease, which required our authority. The commission gave that authority on 10 December 2014 and the charity was removed from our register on 22 December 2014.

Impact of our involvement

As a result of our intervention, a facility which had been lost to the local community will in due course be used for community charitable purposes again.

The council intends to ensure the building is brought back into use for the benefit of the local community. It commissioned work to develop the potential tenant and activity mix for the centre, and to undertake an appraisal to assess which charitable community organisation might be best placed to take this forward. This work has identified significant community potential for the use of the building. The council is also exploring the potential to both refurbish the building and improve its grounds.

Lessons for other trustees

The charity trustees - those people with overall responsibility for and control of the charity - must ensure that it is being run according to the rules in its constitution or other governing document. In particular:

- that it is fulfilling its objects and operating in line with the powers in its governing document
- that trustees are all correctly appointed in line with the governing document

Charities exist only in order to carry out their objects to meet the needs of their beneficiaries. If a charity is not carrying out its objects, or pursuing the wrong ones, the trustees are failing in their duties. The commission will take action to ensure the situation is put right.

If trustees are not correctly appointed, it often causes disputes or legal challenges. If there are properly appointed trustees, they are responsible for putting right any improper trustee appointments, using provisions in their governing document or other legal powers.

If the trustees can't put things right, they should ask the commission for help. The commission can appoint trustees if the trustees themselves can't act (for example, if there are too few properly appointed trustees or none). We will usually try to work with the trustees to put things right. However, if trustees don't co-operate with us, or ignore our advice, we may have to take action to protect the charity's assets. This could include removing and replacing the existing trustees, appointing a third party as trustee or finding another charity that can take over.

Please see our guidance on [appointing](#) or [removing](#) trustees.

Note: The commission understands that an out of time appeal has recently been made to the First-tier Tribunal (Charity) with respect to the making of the order on 31 October 2014.