

Inquiry Report

The A S Charitable Trust

Registered Charity Number 242190



A statement of the results of the class inquiry into double defaulter charities in particular The A S Charitable Trust (registered charity number 242190) ('the charity').

Published on 19 June 2015.

The class inquiry

On 20 September 2013, the Charity Commission ('the commission') opened a statutory class inquiry ('the inquiry') into charities that were in default of their statutory obligations to meet reporting requirements by failing to file their annual documents for two or more years in the last five years and 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)

At the point a charity met the criteria they would become part of the inquiry. The commission started by looking at and sending final warnings to charities with a last known income over £500,000 and then moved on to those over £250,000 and then those with a last known income of between £200,000 and £249,999.

The charity

The charity was registered on 20 May 1965. It is a trust governed by a Trust Deed dated 10 February 1965.

The charity's objects are:

To apply the Trust Fund for the benefit or in furtherance of such charitable purposes of charitable institutions in such a manner as the trustee see fit.

More details about the charity are available on the [register of charities](#) ('the register').

Issues under investigation

The charity failed to submit its annual accounts and reports and annual returns to the commission required for the financial years ending 5 April 2012 and 5 April 2013. During the whole period of default, the charity was sent various computer generated reminders from the commission regarding the submission of their annual accounting documents. Although reminders were sent the charity remained in default of its obligations under the Charities Act 2011 ('the act').

The commission wrote to the charity with a final warning on 5 January 2015 requesting that the missing documents be provided by 25 January 2015, and warning the charity that if it remained in default on 26 January 2015 it would become part of the inquiry.

The charity failed to submit its outstanding documents by the deadline and became part of the inquiry on 26 January 2015.

The inquiry is confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

The outstanding annual accounts and reports and annual returns for the financial years ending 5 April 2012 and 5 April 2013 were submitted on 17 March 2015, the annual returns for the financial years ending 5 April 2012 and 5 April 2013 were submitted on 23 March 2015.

At the time that the April 2012, and April 2013 accounts were submitted to the commission, the charity was also in default with its accounting information for financial year ending for 5 April 2014. The accounts were submitted on 17 March 2015, with the annual return being submitted on 23 March 2015.

The charity informed the inquiry on 9 March 2015 the reason for not complying was the death of the original settlor in September 2012 and the failure of the charity's accountants to submit the required accounts and annual returns even though the information had been supplied by the trustees. The charity has since appointed new accountants.

When the charity's missing documents were submitted, the accounts were referred for scrutiny by the commission's accountants. Any issues arising from that scrutiny will be followed up separately.

Conclusions

The reasons given by the charity's trustees for non-compliance were not a legitimate excuse. 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.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. Three sets of accounts were filed and as a result £928,177 of charitable income is now transparently and publicly accounted for on the register.

The charity ceased to be part of the inquiry when it was no longer in default of its accounting obligations. This happened on 23 March 2015 when the charity filed the last missing documents.

Regulatory action taken

The commission used its information gathering powers under section 52 of the act to order and obtain bank records and financial information of the charity relating to the missing years accounts. These will be used in connection with the commission's scrutiny of the accounts.

On 16 February 2015 the inquiry exercised powers under section 84 of the act to direct the trustees to prepare and complete the relevant missing annual accounts, reports and returns for the charity and provide copies of these to the commission by 16 March 2015.

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

¹ 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.

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 and misconduct in the administration of the charity.

For those individuals who were not trustees at the initial date of default, when they became a trustee, they became responsible for making good the default.

It is important that the financial activities of charities are properly recorded and their financial governance is transparent. Charities are accountable to their donors, beneficiaries and the public. Donors to charity are entitled to have confidence that their money is going to legitimate causes and reaches the places that it is intended to. This is key to ensuring public trust and confidence in charities.