



## Case Report

# Nice Time (1060306)

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### About the charity

The charity was registered in 1997 to provide facilities for recreation and to advance the physical education of children and young people. The charity and its subsidiary Ice Time Ltd operate Bradford's ice skating rink.

### Why the Charity Commission got involved

Concerns were raised with us in April 2015 by another charity which had received an application for funding from Nice Time. As part of its grant application assessment, the funding charity had reviewed Nice Time's accounts and governing document, and identified that two of the charity's trustees were receiving unauthorised payments. The charity also raised the concerns with the trustees of Nice Time, who took professional advice and approached us for additional support.

Unauthorised personal benefits are a serious cause for concern, so we needed to get involved to establish whether the two trustees were receiving unauthorised payments and to ensure that any unauthorised payments stopped and the charity considered restitution of the funds used to pay the individuals to date.

### What we found

We established that two of the charity's trustees were benefiting from payments made by charity's trading subsidiary, which runs the ice rink. One trustee was paid to serve as managing director of the trading subsidiary, the other, a qualified accountant, benefited from fees for financial advice and assistance provided to the charity and its trading subsidiary by his accountancy practice.

We established that the payments were not authorised, as the charity's governing document prohibited trustee benefits, and the charity had not sought permission from the commission or the courts.

However, we acknowledge that, once they became aware of the issue, the trustees responded swiftly by stopping the payments immediately and seeking legal advice. The trustee who acted as management director of the trading subsidiary stepped down as a trustee and ceased acting as managing director, pending the outcome of the performance review. They also appointed independent trustees.

## The action we took

We provided regulatory advice to the new independent trustees explaining they needed to:

- formally review the previous payments made to both trustees through the trading subsidiary to decide whether the payments had been made in good faith and whether they were in the best interests of the charity
- review the employment of the managing director to decide whether continuing to employ that person was in the charity's best interests
- amend the charity's governing document to allow trustees to be paid for goods and services by the charity or by its subsidiary
- if they decided to re-employ the previous trustee as managing director, to review the terms of such employment and obtain consent from the commission to do so

## Impact of our involvement

The independent trustees commissioned a firm of accountants to review all previous payments to the other two trustees and produce a report. The independent trustees reviewed the report and concluded that all payments to the trustees were for work undertaken were necessary and needed to be made in order for the charity to operate, that the level of the payments made was reasonable and that they were made in good faith. The two trustees of the charity had invested considerable amounts of time and money into keeping the ice rink open working to ensure the rink could stay afloat.

The independent trustees concluded that the funds had not been misused and so decided it was not necessary to recover those funds from the trustees.

The independent trustees also decided that re-employing the managing director (who was no longer also a trustee) was in the best interests of the charity. They obtained the necessary consents from the commission.

We considered the independent trustees' review of the payments and were satisfied they had gone through a proper decision-making process when reaching the conclusion that the payments had been made in good faith and were in the charity's best interests.

Our involvement therefore ensured that the new independent trustees went through a proper process to review the past payments and ensure charity funds had not been misused.

As a result of our advice, the independent trustees made proper decisions about future payments and ensured that the necessary consents were obtained.

## Lessons for other trustees

Where trustees decide to pay or employ a trustee, such as for carrying out a paid role at the charity or its subsidiary trading company, they:

- must first make sure that they have the necessary authority; this may be available from the Charities Act or the charity's governing document - if not, the trustees will need to approach the commission for authority before any payment is made
- should identify that payments to trustees, even where authorised, create a conflict of interest which should be recognised and handled properly
- should consider key factors about the proposed payment including being able to demonstrate that it is clearly in the best interests of their charity

Where they have not acted properly, trustees may have to repay any sums paid by the charity.

You can find out more in these publications:

[Trustee expenses and payments \(CC11\)](#)

[Conflicts of interest: a guide for charity trustees \(CC29\)](#)

[Charity Commission policy on restitution and the recovery of charitable funds](#)