

Inquiry Report

Little Love Lane Pre-School

Registered Charity Number 1099863



A statement of the results of the class inquiry into double defaulter charities in particular Little Love Lane Pre-School (registered charity number 1099863) ('the charity').

Published on 29 January 2016.

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 2 or more years in the last 5 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 the last known income of between £200,000 and £249,000.

The charity

The charity was registered on 6 October 2003. It is an unincorporated association governed by a Constitution dated 25 September 2001 as amended on 8 November 2002 and 8 April 2009.

The charity's objects are:

To enhance the development and education of children primarily under statutory school age by encouraging parents to understand and provide for the needs of their children through community groups and by:

- (a) offering appropriate play facilities and training courses, together with the right of parents to take responsibility for and to become involved in the activities of such groups, ensuring that such groups offer opportunities for all children regardless of race, culture, religion, means or ability
- (b) encouraging the study of the needs of such children and their families and promoting public interest in and recognition of such needs in the local areas
- (c) instigating and adhering to and furthering the aim of the pre-school learning alliance

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

Issues under investigation

The charity failed to submit to the commission its annual accounts, reports and annual returns for the 3 financial years ending 31 August 2011 through to 31 August 2013, and the accounts and annual report for the financial year ending 31 August 2014. 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').

In addition, the charity was contacted by telephone on 6 October 2015 and a final warning letter was issued the same day requesting that the missing accounting documents be provided by midnight on 26 October 2015, and warning the charity that if it remained in default 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 27 October 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.

Although the commission acknowledged that all the outstanding accounting information was submitted on 27 October 2015, one day after the deadline, the charity had in fact been in default of its obligations over a lengthy period of time, the longest period being 1,214 days in relation to the accounting information for financial year ending 31 August 2011. The trustees had been made aware by the commission of the consequences of failing to file the accounting documents by the deadline.

On 29 November 2015 the trustees informed the commission that the reasons for not complying with their statutory accounting obligations were due to a lack of understanding of their obligations at hand over from the previous chair and trustees, due to the illness of the chair.

The trustees were under the assumption that their reporting was being completed by their accountant, and no checks were in place to ensure that this was completed. This does not excuse the failure of the trustees to fulfil their statutory obligations.

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 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. Four sets of accounts were filed and as a result over £916,601 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 27 October 2015 when the charity filed the last missing documents.

¹ The terms misconduct and mismanagement are taken from section 76 of the act. 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.

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.

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

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.

The trustees of a charity are collectively responsible for its proper management. They should act together, in accordance with the requirements of their governing document and the general law, and they must always bear in mind their over-riding duty to take decisions that are in the best interests of the charity. Where financial duties are delegated, information needs to be provided to the trustees regularly to ensure effective monitoring of the charity's finances. Further guidance about the obligations and responsibilities of trustees can be found in the [The essential trustee: what you need to know, what you need to do \(CC3\)](#).