

# Inquiry Report

## The Oliver King Foundation

Registered Charity Number 1144485



# A statement of the results of the class inquiry into double defaulter charities in particular The Oliver King Foundation (registered charity number 1144485) ('the charity').

Published on 20 May 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, it then moved on to those over £250,000, and then moved to those with an income of between £200,000 and £249,000. The current phase of the inquiry is looking at charities with a last known income of between £150,000 and £199,999.

## The charity

The charity was registered on 1 November 2011. It is an unincorporated association governed by a Declaration of Trust dated 17 October 2011.

The charity's object is:

- '1) to promote and protect the health of children and adolescents in particular but not exclusively by funding testing of the cardio-vascular systems of children and sports players and funding research in to the cardio-vascular systems of young people
- 2) to advance the education of the general public in all areas relating to heart health in children and adolescents.'

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, report and annual return to the commission for the financial year ending 31 October 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 an attempt was made to contact the charity on 7 December 2015 by telephone and a final warning letter was issued the same day requesting that the missing documents be provided by 11 February 2016, 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 12 February 2016. The inquiry is confined to dealing with the trustees' mismanagement and misconduct<sup>1</sup> and remedying the non-compliance in connection with the annual accounting documents.

The outstanding annual accounts, report and annual return for the financial year ending 31 October 2014 were submitted on 23 February 2016.

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

On 10 May 2016 a charity representative informed the commission that the reason the charity had not complied with their statutory accounting requirements was due to the trustees' poor governance. The accounting information had been prepared by the trustees before the deadline (31 August 2015) but it was not submitted to the commission. The charity representative also stated that trustees have since revised their governance procedures to ensure that the annual accounting documents are filed on time in future. This does not excuse the failure of the trustees to fulfil their statutory obligations.

## 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 its annual accounting information. The accounts were filed and as a result £303,284 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 February 2016 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.

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

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<sup>1</sup> 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.

## 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.