

Inquiry Report

Vyoel Moshe Charitable Trust

Registered Charity Number 327054



A statement of the results of an inquiry into Vyoel Moshe Charitable Trust (registered charity number 327054) ('the charity').

Published on 20 May 2016.

The charity

Vyoel Moshe was registered on 13 March 1986. It is governed by a declaration of trust dated 9 January 1986.

The charity's objects are:

'To pay or apply both the capital and income thereof to such charities or for such charitable purposes in any part of the world as are charitable according to the law of England and Wales.'

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

Background

On 20 September 2013, the Charity Commission ('the commission') opened a statutory class inquiry ('the class inquiry')¹ 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.

Having failed to submit its annual accounts and reports, and annual returns to the commission for the financial years ending 31 March 2012 and 31 March 2013, the charity became part of the class inquiry on 2 May 2014.

On submission of the outstanding financial documents, the charity ceased to be part of the class inquiry on 9 July 2014. The commission published a [statement of the results of the class inquiry](#) into the charity on 4 August 2014.

Issues under investigation

The deadline for the charity to submit its annual accounts, reports and annual returns to the commission for the financial year ending 31 March 2014 was midnight on 31 January 2015.

Despite having been sent a number of reminders from the commission about submission of its financial documents and the fact that the charity had previously been subject of the class inquiry, the charity defaulted on its statutory obligation by failing to submit the required 2014 documentation to the commission by its due date.

¹ The latest update on the statutory class inquiry provides further information [press release](#).

On 25 February 2015 the commission opened a statutory inquiry ('the inquiry') into the charity under section 46 of Charities Act 2011 ('the act'). The issues under investigation were:

- the failure of the trustees to fulfil their statutory duty to submit annual accounts, reports and returns for the financial year ending 31 March 2014
- the administration of the charity by the trustees, particularly in relation to whether the trustees had fulfilled their legal duties and responsibilities as charity trustees
- the financial management of the charity to determine whether the trustees had failed to properly manage the charity's funds and therefore, had put the charity's funds at risk

The inquiry closed on 20 May 2016 with the publication of this report.

Findings

Issue (1) - failure to submit annual accounts and returns

Trustees of charities with an income of £25,000 or over are under a legal duty to submit annual returns, annual reports and accounting documents to the commission as the regulator of charities. Failure to adhere to these obligations is both mismanagement and misconduct in the administration of a charity.

The trustees failure to meet their legal obligations to file accounting information with the commission for the financial year ending 31 March 2014 before the deadline resulted in an order under section 84 of the act being issued to the trustees directing them to prepare and submit the outstanding accounting information. The trustees complied with the commission's order, submitting the overdue accounting information on 22 April 2015, in advance of the deadline of 27 April 2015.

The trustees contacted the commission on 24 April 2015 to explain the reason for the delay in filing the charity's accounts and annual report. The explanation provided was that this was due to the personal circumstances of the trustee to whom the responsibility for this task had been delegated resulting in him having insufficient time to file the documents before the 31 January 2015 deadline.

Due to the charity's repeated failure to file its accounting information on time, the inquiry arranged to meet with the trustees to review how they were administering their charity and complying with their legal obligations. This meeting did not take place until the 11 November 2015 ('the meeting') as 2 initial meeting invitations were issued to an e-mail account that was temporarily not in use and the trustees subsequent lack of availability due to them observing a number of religious holidays'.

During the meeting the trustees provided an additional explanation as to why they had failed to submit their financial documents, stating that prior to May 2015 all the charity's financial information had been stored on paper and the process of preparing the accounting information from these documents only began after the financial year end. The trustees told the inquiry that it was a consequence of this and the inability of the trustee delegated this task to prepare and submit the required information that had led to the failure to comply with their obligation to submit the financial information on time.

Although the trustees apportioned blame on one individual for their failure to file the outstanding financial information, they accepted that they were both legally and collectively responsible for ensuring the annual reports and accounts were prepared and submitted to the commission within 10 months of the financial year end.

The trustees provided verbal assurance to the inquiry that they had taken steps to ensure future compliance with their legal obligations to submit financial information to the commission. The trustees provided the inquiry with a copy of a draft accounting and finance policy document which detailed the legal responsibility of every trustee to ensure compliance with their legal obligation to file accounting information within 10 months of the financial year end, a finalised copy was provided to the inquiry on 8 December 2015. The trustees also confirmed at the meeting that since May 2015 the charity had implemented an electronic accounting system and have been providing reconciled income and expenditure figures to their accountants on a regular basis since then.

Although the trustees have put procedures in place to ensure future compliance with their legal obligations, the trustees should have been aware of this responsibility in particular as the charity had previously been part of the class inquiry for a similar failure. The explanation provided to the inquiry by the trustees for their non-compliance was insufficient and does not absolve them of their responsibilities, and as a result the inquiry finds that the trustees quite clearly breached their legal duties.

Issue (2) - administration of the charity by the trustees

The inquiry considered whether the trustee's failure to meet their legal obligations to file accounting information was an indication of wider mismanagement in the administration of the charity.

At the meeting the inquiry examined the trustee's day to day administration of the charity. The trustees provided an explanation as to how they exercise their duties and responsibilities as trustees with regards to decision making, the charity's financial controls and management, including the maintenance of appropriate records and how they apply their internal policies. Following the meeting the inquiry was provided with copies of the charity's written policies on financial controls, grant making, volunteers and accounting.

Based on the explanations provided by the trustees at the meeting and an examination of the charity's policies the inquiry saw no evidence that, other than the trustees non-compliance with their duty to prepare and submit financial documents to the commission, there were any other governance concerns relating to the administration of the charity which required regulatory action to be taken by the commission.

Issue (3) - proper management of the charity's funds and risk to charity's assets

Trustees must manage their charity's resources responsibly, reasonably and honestly. This is sometimes called the duty of prudence. Prudence is about exercising sound judgement. They have a duty to exercise such care and skill as is reasonable in the circumstances. What is reasonable in the circumstances will depend on any special knowledge or experience that the trustee has or claims to have. Where trustees are not experts it is expected that they would take appropriate advice².

The charity's income exceeded the audit threshold; it was therefore required to prepare accounts on the accruals basis in accordance with The Charities (Accounts and Reports) Regulations 2008 and the Statement of Regulatory Practice ('SORP'). A full trustees' annual report and statutory audit by a registered auditor was required. The report and accounts for the financial year ending 31 March 2014 included all the required information and were SORP compliant.

The inquiry examined the charity's bank statements for the period April 2013 to March 2014, comparing the income and expenditure with that stated in the charity's accounts for the same period: no anomalies were identified.

² CC3 - The essential trustee: what you need to know, what you need to do.

On 19 January 2016 the trustees submitted the report and accounts for the financial year ending 31 March 2015. These included all the required information and were SORP compliant.

The inquiry found no evidence that the trustees had not properly managed the charity's funds or put the charity's assets at risk.

Conclusions

Based on the evidence viewed by the commission, it is concluded that:

- there has been mismanagement and misconduct in the administration of the charity by the trustees due to their failure to provide financial information to the commission in accordance with charity law
- the commission's engagement with the charity has had a positive effect in that:
 - the charity's financial information for the financial year ending 31 March 2015 was submitted within the 10 month deadline for the first time in 9 years
 - £2,000,000 of charitable income is now transparently and publicly accounted for on the register

Regulatory action taken

The commission used its information gathering powers under section 52 of the act to obtain the bank records and financial information of the charity relating to the financial year ending 31 March 2014. These were used in connection with the commission's scrutiny of the charity's accounts.

On 30 March 2015 the inquiry exercised powers under section 84 of the act to direct the trustees to prepare and complete the charity's overdue annual accounts, reports and return and provide copies of these to the commission.

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

Issues for the wider sector

The trustees of a charity are collectively responsible for its proper management. Trustees of charities with an income of £25,000 or over 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 under £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.

Charities which have previously been included in the statutory class inquiry ('the inquiry')³ will be closely monitored to ensure that in future years they comply with their legal obligation to file accounting information within the 10 month deadline. Failure to do so may result in the opening of a further statutory inquiry.

The preparation and submission of annual returns, annual reports and accounting documents to the commission can be delegated; however a charity's trustees retain collective responsibility for complying with their legal duty to submit this information. Before responsibility for preparation and submission of annual returns, annual reports and accounting documents is delegated sufficient contingency plans should be in place to ensure compliance if the individual delegated these tasks is unable to complete them.

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.

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.

³ Opened on 20 September 2013 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.