

Inquiry Report

The British School, Tehran

Registered Charity Number 1092933



A statement of the results of the class inquiry into double defaulter charities in particular The British School, Tehran (registered charity number 1092933).

Published on 4 August 2014.

The Class Inquiry

On 20 September 2013, 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; and
- 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 other high income charities.

The Charity

The British School, Tehran (“the Charity”) was registered on 12 July 2002. It is a charitable company governed by memorandum and articles of association and incorporated on 24 December 2001.

The Charity’s objects are:

“the advancement of education by the running of an english-speaking school established primarily, but not exclusively, for the children of British and Netherlands expatriate national resident in Iran.”

More details about the Charity are available on the Register of Charities which can be accessed through the Charity Commission’s website¹.

Issues under Investigation

The Charity failed to submit to the Commission the annual returns required for the financial years ending 31 August 2009, 31 August 2010, 29 February 2012 and 28 February 2013. The Charity was sent various computer generated reminders from the Commission regarding the submission of their annual accounting documents.

¹ <http://www.charitycommission.gov.uk/find-charities/>

In addition, the Commission attempted to contact the charity by telephone on 8 April 2014. Further to this the Commission wrote to the Charity with a final warning on 8 April 2014 requesting that the missing documents be provided by 15 April 2014. The Commission warned what would happen if the Charity remained in default on 15 April 2014. The Charity has been in default of its obligations under the Act for a lengthy period of time, in respect of more than one set of documents and in spite of receiving numerous reminders.

The Charity met the criteria and became part of the Inquiry on 16 April 2014.

The Inquiry is confined to dealing with the trustees' mismanagement and misconduct² and remedying the non-compliance in connection with the annual accounting documents.

During the Inquiry the Charity filed the missing annual returns for the financial years ending 31 August 2009, 31 August 2010, 29 February 2012 and 28 February 2013 on 24 April 2014.

An adviser to the Charity ('the Adviser') informed the Commission on 25 April 2014 that the reason for not complying by 15 April 2014 was the Charity's inability to access the Commission's online services to submit the outstanding annual returns. In addition they stated that the Charity had been trying to resolve this issue since January 2014, and had not received any of the reminders sent by the Commission.

The Adviser stated that they contacted the Commission as soon as they received the letter dated 8 April 2014, which was on 11 April 2014, and explained that the Charity was unable to update the annual returns as the trustees did not have a password for the Commission's online services. The Adviser stated they chased the Commission for this password on 15 April 2014 and spoke with the online services team who subsequently incorrectly recorded the Adviser's email address leading to further delays in issuing a new password to the Charity. Once the Charity received a new password on 22 April 2014 the Adviser stated they "began to update the information from 22nd April but could not submit the annual returns until we had authorisation from the client [the Charity's trustee] who was away on holiday".

The Adviser was also of the view that the "annual returns would have been submitted within the deadline noted on the letter of the 8th April 2014 had the mistakes by the online services charity commission team not been made."

The Commission accepted that an administrative error occurred on 15 April 2014, which was not rectified until 17 April 2014, and led to a delay in issuing the Charity with a new password. However, after the Charity had submitted accounts for the financial year ending 28 February 2013 on 7 January 2014 the Commission had written to the Charity on 21 January 2014 to inform them that the accounts could not be accepted while the financial year end date for the Charity was 31 August 2013; consequently the Charity needed to amend the financial year end date online in the annual return for 2012 using their secure password.

The Charity, or the Adviser, contacted the Commission by telephone on 23 January 2014 to raise the issue of the change of trustees and the need for a new secure password to be issued. The Charity was informed that a copy of the minutes confirming the election of the new trustees was required for new details to be issued. The Charity failed to provide this information prior to the Commission's letter of 8 April 2014 being issued.

2 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.

On 15 April 2014 when the Adviser contacted the Commission they provided sufficient information to enable the Commission to issue a new secure password to enable the Charity to comply with its legal requirements.

When the Charity's missing documents were submitted, the accounts were referred for scrutiny by the Commission's accountants and if any issues arise from that they 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.

Charities which are companies are also under obligations under company law to prepare and file accounts at Companies House, irrespective of their size. From the Commission's enquiries, it was established that the Charity had filed their relevant documents with Companies House. There was therefore no excuse for it not submitting the Charity's annual returns to the Commission.

The reasons the Charity gave for non compliance was not a legitimate excuse. The actions required by the new trustees to acquire a new secure password could have been completed at any time after 23 January 2014 when the Charity became aware of the issue and the requirements to rectify it. It also doesn't excuse the failure to complete annual returns for the financial years ending 31 August 2009 and 31 August 2010.

The Commission accepted that the Charity had problems submitting the outstanding documents for the financial years ending 29 February 2012 and 28 February 2013 prior to January 2014 as there were significant challenges in accessing the Charity's records; these challenges are addressed in the trustees' annual reports and the audit reports for these financial years.

As a result of the Inquiry, the Commission ensured the Charity complied with its legal obligations to submit their annual accounting information.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 24 April 2014 when the Charity filed the last missing documents.

Regulatory Action Taken

The Commission used its information gathering powers under section 52 of the Charities Act 2011 (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 23 April 2014 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.

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 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.

