



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Chevras Machzikei Mesifta

Registered Charity Number 1104022

A statement of the results of an inquiry into Chevras Machzikei Mesifta (registered charity number 1104022).

Published on 13 July 2016.

The charity

Chevras Machzikei Mesifta ('the charity') was registered on 28 May 2004. It is an unincorporated association governed by a trust deed dated 26 February 2004.

The charity's objects are:

The advancement of Orthodox Jewish religious education throughout the world and in particular by supporting the charitable work of the institute.

More details about the charity are available on the **register of charities** ('the register').

Background

On 20 September 2013, the commission opened a statutory class inquiry ('the class 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)

The charity was previously included in the class inquiry conducted by the commission on the basis that it had failed to submit accounts, reports and annual returns for the financial year ending 31 March 2013. That inquiry into the charity concluded on 3 June 2014 following compliance by the trustees with their legal duties in submitting the missing accounting information. A statement of the results of that inquiry summarising the commission's engagement with the charity was published on 4 August 2014¹.

The charity failed again to submit its accounts for the financial year ending 31 March 2014 by the deadline date of 31 January 2015. Despite having reminders and default notices being issued to the charity in the run-up to this deadline with the final reminder being sent to the charity on 8 January 2015, the charity fell again into default of its obligations to file the accounts on time.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/345531/chevras_machzikei_mesifta.pdf

Issues under investigation

As a result of the trustees' continuing non-compliance in failing to submit accounting information to the commission, a further statutory inquiry ('the inquiry') was opened under section 46 of the charities act 2011 ('the act') on 19 February 2015. The inquiry was confined to dealing with the trustees' mismanagement and misconduct² and remedying the non-compliance in connection with the annual accounting documents.

On 18 May 2015 the charity submitted the outstanding annual accounts, reports and annual returns for the year ended 31 March 2014. The accounts were referred for scrutiny by the commission's accountants. No issues have arisen as a result of that scrutiny.

The trustees informed the inquiry that the reason for not complying was due to them receiving misleading advice regarding a legacy that was due to the charity during that financial period. Delays had occurred in receiving the legacy, and the trustees were led to believe that the accounts could not be completed until the legacy was received by the charity. The trustees obtained subsequent advice from the charity's auditors which enabled them to resolve the issue and complete the accounts.

The commission extended the scope of the inquiry, as it was concerned about the charity's overall record for filing the accounting information on time. Despite the charity having received extensive advice and reminders in the past from the commission about the deadlines for filing annual accounts, reports and annual returns the trustees persistently failed to fulfil their statutory reporting responsibilities over a sustained period over 5 consecutive financial years, from 2010 to 2014.

The commission directed the trustees to review their procedures and implement such changes as were necessary to enable them to fully comply with their statutory responsibilities for the preparation and submission of the charity's annual reports, accounts and returns to the commission. The trustees subsequently provided the commission with written confirmation that they had complied with the terms of the direction, and had implemented changes to allow for any unforeseen delays that may arise during the preparation of the charity's annual report and accounts to enable the trustees to comply with their legal duties.

Conclusions

The trustees were in default of their legal obligations to file accounting information with the commission. Over the last 5 consecutive financial years, from 2010 to 2014, the trustees persistently failed to file the charity's annual accounts, reports and annual returns by the due date. This is regarded by the commission as mismanagement and misconduct.

As a result of the inquiry, the commission ensured that the charity complied with its legal obligations to submit annual accounting information, and as a result over £1,738,227 of charitable income is now transparently accounted for on the register of charities. The commission also ensured that the trustees took steps to put in place revised procedures to ensure that they complied with their legal duties to submit information to the commission within the statutory deadlines.

² 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 account statements and other financial information of the charity relating to the missing years accounts. These have been used in connection with the commission's scrutiny of the accounts.

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 annual returns for the charity for 31 March 2014 and provide copies of these to the commission.

The inquiry also exercised powers under section 84 of the act to direct the trustees, to review their procedures and practices and implement necessary changes to ensure that they fully complied with their statutory responsibilities for the preparation and submission of the charity's annual accounts, reports, and annual returns; and to also provide written details to the commission of the measures taken by the trustees.

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 or misconduct in the administration of the charity.

The commission will not hesitate to exercise its statutory powers to ensure that a charity's annual reports, annual accounts and annual returns are submitted to the commission within the statutory deadlines where trustees persistently fail to comply with their legal duties.