



Case Report

Holmewood Animal Rescue Charitable Trust

Newly registered charity referred for monitoring

About the charity

The charity's objects are to relieve the suffering of animals in need of care and attention; in practice, the charity runs a rescue centre providing care for animals in need of treatment or care.

Why the Charity Commission got involved

When the charity applied to register, we were concerned about an arrangement that saw the animal rescue work operating from private land and buildings owned by 2 of the charity's 4 trustees, without formal agreements in place. This situation gave rise to concerns about the management of conflicts of interest and concerns that suitable arrangements were not in place to properly protect the interests of the charity and the property owners.

At the point of registration, the trustees gave us assurances that they would address this issue as a matter of urgency, by agreeing a formal license or lease agreement, setting out:

- the terms on which the charity occupies the premises
- the specific area occupied by the charity
- who is responsible for paying bills (for example gas, electricity, council tax)
- who is responsible for the maintenance and repair of the property
- how the charity might be compensated should it be asked to vacate the premises, especially if it had applied funds to improve the property

We explained that the terms of the document should be agreed and signed by the non-conflicted trustees on behalf of the charity, and reflect legal advice sought by the trustees.

As the trustees seemed to understand the need to address these issues quickly, and the organisation met the legal requirement for charitable status, we registered the charity. However, we referred the charity for future monitoring.

The action we took

Five months after the charity was registered, we contacted the trustees, to request evidence that the charity had put in place a formal lease or license agreement and could demonstrate that it had processes in place for managing any conflicts that may arise.

What we found

It quickly became clear that the trustees had not fully followed the advice we had provided at registration and that the charity continued to operate from land owned by 2 of the trustees without any suitable arrangements in place. The trustees did provide a short document setting out certain issues relating to the occupation of the land, but this was signed by the 2 conflicted trustees. The charity was not able to provide evidence that the document had been agreed by the 2 non-conflicted trustees and it appeared that the conflicted trustees had been dominant in managing significant aspects of the charity at the exclusion of the other trustees. The trustees were also unable to explain how the trustees were managing the ongoing conflict of interest arising from the situation.

We pressed the trustees to take action, and were told that, sadly, one of these non-conflicted trustees had passed away and the other was very ill. These issues understandably led to some delay in resolving the issues.

However, during the course of the case, we found further cause for concern. For example, we established that the charity purchased a vehicle that was also being used by the 2 founding trustees, who owned the property from which the charity operates, for personal use. This meant that the trustees may have been receiving unauthorised benefits from the charity.

Some of the trustees' responses, and our inspection of the charity's finances, also raised concerns about the charity's long-term financial viability.

Impact of our involvement

After considerable persistence and pressure from the commission, the charity eventually appointed additional trustees. There are now 5 trustees in place, with sufficient of these not connected to the founding trustees so that the charity is in a position to manage potential conflicts. The non-conflicted trustees agreed a formal licence, which reflected legal advice sought by the trustees.

Our original concerns have therefore been addressed by the trustees. However, given the length of time it took to resolve the issues, the continued conflict of interest inherent in the charity's operational model, as well as the subsequent concerns identified, we set the trustees an action plan, requiring them to take a number of actions, including to:

- ensure they do not put themselves in any position where their duties as trustee may conflict with any personal interest they may have
- review any trustees benefits and ensure that any in place are suitably authorised (eg by the charity's governing document)

- hold trustee meetings as prescribed in the charity's trust deed and keep records of these meetings
- ensure the charity is not financially over-committed and remains solvent, including by reviewing the charity's financial performance regularly, taking timely corrective action where needed
- regularly review any loans/financial arrangements that the charity has entered into and ensure that all are suitably documented

We have made clear to the trustees that we will be in touch with them in the near future, to ensure that they are fulfilling the action plan.

Lessons for other charities

Trustees will usually be volunteers but they carry important legal duties and responsibilities that must be fulfilled. Among the most important of these duties is to make decisions exclusively in the best interests of the charity.

This means that any conflict of interest or loyalty held by a trustee must be identified, recorded and carefully managed. Our guidance on '[Conflicts of interest](#)' includes some examples of how to avoid conflicts adversely affecting trustees' decisions.

Our guidance also explains how to identify a conflict in the first place. Doing this properly – and thinking widely about the ways in which you as a trustee may be conflicted – is crucial.

Trustees are free to operate a charity from their own property if they so wish; and the desire to do this is often rooted in a desire to help the charity by avoiding costs. However, trustees must bear in mind their legal duties and responsibilities and must approach a situation whereby their own home or land is used for the charity very carefully. They must always be able to make decisions that are exclusively in the best interests of the charity.

It is also vital that trustees make decisions properly and collectively, taking account of all the relevant information, and accessing professional advice if necessary. These decisions should also be properly recorded. It is not acceptable for individual trustees to make important decisions without consulting or involving other trustees. See our guidance '[It's your decision: charity trustees and decision making](#)' for further information.