



Inquiry Report

Hadley Playing Fields and Recreation Ground

Registered Charity Number 522804



A statement of the results of the class inquiry into double defaulter charities in particular Hadley Playing Fields and Recreation Ground (registered charity number 522804) ('the charity').

Published on 6 July 2015.

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 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
- 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 then those with a last known income of between £200,000 and £249,999.

The charity

The charity was registered on 18 November 1963. It is an unincorporated association governed by a commission scheme dated 13 November 2007.

The charity's objects are:

The object of the charity is to promote community participation in healthy recreation in the area of benefit by the provision of facilities for indoor and outdoor recreation.

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 and reports to the commission required for the financial years ending 31 March 2010, 31 March 2011 and 31 March 2012. 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').

On 18 October 2013, the charity was contacted by telephone and written to by the commission notifying the charity that it was required to supply accounts by 8 November 2013, and warning the charity that if it remained in default on 11 November 2013 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 11 November 2013.

While the charity was part of the inquiry, the accounting information for the financial years ending 31 March 2013 and 31 March 2014 became due. The inquiry is confined to dealing with the sole trustee's mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

On 4 April 2014 the charity submitted annual accounts and reports for the financial years ending 31 March 2010 through to 31 March 2013. However, on examination, these were found to be inadequate as the charity's beneficial ownership of land was not recorded. The commission questioned the trustee over the discrepancy and the revised accounts and reports were re-submitted on 9 April 2015.

The trustee did not inform the inquiry of the reason for not complying prior to the charity becoming part of the inquiry, but reported on 28 November 2013 that incorrect annual returns information had previously been submitted in error.

On 28 December 2013, the charity forwarded a letter from its accountants, Baker Tilly, which stated the following:

"The finance information available on the Commission's website for the years ended 31 March 2009 through to 2013 show that the Charity had annual income in excess of £250,000 each year and should therefore have been subject to an annual audit for each of these years. The financial information for each of these years was taken from a summary of income and costs provided by Sandwell Council and Sandwell Leisure Trust representing activity in facilities based at Hadley Playing Field.

However the actual income received by the charity in each of these financial periods was zero as the financial information provided to the Commission was purely a combination of income and expenditure received by Sandwell Council and Sandwell Leisure Trust not the Hadley Field Playing Field & Recreation Ground. These amounts have already been accounted for in the audited accounts of the two independent bodies and should not have been reported to the Commission as income/ expenditure of the charity.

From our conversation my understanding is that the charity has had no financial transactions since it was created by the Charity Commission scheme in November 2007.

The information available at the Charity Commission is therefore incorrect...This will require the Annual Returns to be resubmitted showing the correct financial information, i.e. no financial transactions for the year."

The charity submitted annual returns showing the correct information on 17 April 2014.

¹ 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 23 January 2014 the trustee reported that it had been advised by its auditors that the charity was unable to produce the accounting information required within the deadlines set by the commission because of the involvement of two other organisations which required accounts to be audited; Sandwell Metropolitan Borough Council (SMBC), the sole trustee, and the separately registered charity Sandwell Leisure Trust (1102431), which is responsible for the operation of facilities on behalf of SMBC on the charity's land. The commission is satisfied that the income and expenditure associated with the use of the charity's land is properly and publicly accounted for through Sandwell Leisure Trust.

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 trustee was in default of its legal obligations to file proper accounting information with the commission. This was mismanagement and misconduct in the administration of the charity and a breach of its legal duties.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. Five sets of accounts were filed and the charity's finances are now transparently and publicly accounted for on the register. The accounts, whilst showing no income or expenditure, do properly record the land asset of the charity, the value of which is £1,024,000.

The charity ceased to be part of the inquiry when it was no longer in default of its accounting obligations. This happened on 9 April 2015 when the charity filed the last missing documents.

The reasons the trustee gave for non-compliance were not a legitimate excuse.

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.

On 14 November 2013 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.

For the reasons stated above the charity sought extensions to the deadline set out in the section 84 order. Two extensions, in accordance with section 337(6) of the act, were granted, on 24 January 2014 and 6 March 2014 respectively.

The commission provided regulatory advice and guidance about the trustee's 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 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.

It is not unusual for recreation grounds to be held on charitable trusts, like this charity, with the local authority acting as trustee. It is important that in such situations the trustee is clear about the legal basis on which the land is held, and ensure that that charity's assets are properly, and separately, accounted for.