



Operational Case Report

The Melton Arts and Crafts Trust (803162)

About the charity

The charity's objects included:

- promoting the education of the public, particularly in the appreciation of music, drama and the arts
- advancing the education of young people over the statutory school leaving age and
- providing facilities for recreation and other leisure-time occupation

The initial intention of the trustees was to run artistic events at Melton Hall, in Norfolk, which it did over several years; however events at the Hall ceased in the late 1990s as restoration work at Melton Hall precluded practical use of the building.

Why the commission got involved

North Norfolk District Council contacted the commission in November 2013 to outline its concerns that the charity was being used as a tool to avoid paying national non-domestic rates at a number of industrial units.

The action we took

We opened an operational compliance case into the charity. We asked the charity to explain what activities it was undertaking. We asked for a copy of the minutes of trustee meetings and the charity's business plan, but none was available. We were informed that only two simple decisions had been taken (one to accept the gift of goods and another to take on premises at a nominal rent to store them) and a business plan would be formulated once funds had been raised from the sale of goods.

What we found

The charity explained that it had received a quantity of donated goods (such as surplus furniture, household goods, machinery and commercial goods) that had to be moved to a new location, following an auction and the donation of some of the remaining goods to various other charities.

The trustees intended to sell the balance of the goods to raise funds. It therefore entered into leases with a company at Tattersett Business Park, Norfolk at nominal rents where the goods could be stored prior to sale. At the time of the agreements, the founder trustee was sole director of this company. There was no evidence that the trustees had taken professional advice.

The commission found no evidence of charitable activity. There are questions about whether the leases are valid and whether the transfer of property was accepted in a conflict of interests. However, even if the trust does have title to the goods and has title to the leases, the trust does not operate as a charity.

Impact of our involvement

We decided that the charity should be removed from the register of charities on the grounds that it does not operate. If the trustees disagree with this decision, they have 42 days in which to appeal to the First-tier Tribunal (Charity). We have informed North Norfolk District Council of our decision, who we liaised with throughout the case.

Lessons for other charities

Trustees have a legal duty to act only in the best interests of their charity. They must not put themselves in any position where their duties as trustee may conflict with any personal interest they may have. This is particularly relevant where a trustee may benefit financially or otherwise from their charity, either directly or indirectly. In cases of serious conflicts of interest it may mean not pursuing a particular course of action.

Before entering into any tenancy agreements to occupy empty properties, charity trustees need to:

- be assured that the tenancy agreement is for the exclusive benefit of the charity, will further the charity's purposes and is in its best interests
- ensure the property is genuinely required and is fit for purpose
- consider the potential liability of the charity to pay outstanding rates if the local authority disputes occupation and refuses discretionary rates relief
- very carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company
- where appropriate, take suitable professional advice, including legal advice, before entering into a tenancy agreement