



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Karphaha Vinayaga Trust

Registered Charity Number 1092252

A statement of the results of the class inquiry into double defaulter charities in particular Karphaha Vinayaga Trust (registered charity number 1092252) ('the charity').

Published on 25 August 2016.

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 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)

At the point a charity met the criteria they would become part of the inquiry.

Charities that have been identified for inclusion in the class inquiry have a last known annual income of at least £150,000.

The charity

The charity was registered on 29 May 2002. It is an unincorporated association governed by a declaration of trust dated 7 January 2001.

The charity's objects are:

- a. to advance the Hindu religion, in particular, but not exclusively by the establishing and maintaining a temple for followers of the Hindu religion ('the beneficiaries')
- b. to relieve or assist in the preservation and protection of the health of such beneficiaries
- c. to assist in advancing the education of the said beneficiaries.'

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, reports and annual returns to the commission for the financial years ending 31 May 2010, 2011, 2012, 2013, 2014 and 2015. 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').

In addition an attempt was made to contact the charity on 7 December 2015 by telephone and a final warning letter was issued on the same day requesting that the missing documents be provided by 11 February 2016, and warning the charity that if it remained in default it would become part of the inquiry.

The charity failed to fully comply and submit its outstanding documents by the deadline and became part of the inquiry on 12 February 2016. The inquiry is confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

The outstanding annual accounts, reports and annual returns for the financial years ending 31 May 2013 and 2014, were submitted shortly after the inquiry was opened in February 2016. The remaining outstanding annual accounts, reports and annual returns for the financial years ending 31 May 2010, 2011, 2012 and 2015, were submitted in June 2016.

A charity trustee informed the commission that the reason for not complying with their statutory accounting requirements was due to the trustees having relied on the charity's accountants to submit the accounting documents to the commission. This does not excuse the failure of the trustees to fulfil their statutory obligations.

When the charity's outstanding accounting documents were submitted, the accounts were referred for scrutiny by the commission's accountants. Any issues arising from that scrutiny will be followed up separately.

Although the trustees had co-operated with the inquiry to supply the outstanding information, the commission had concerns about the charity's overall record for filing the accounting information on time. Despite the charity having received extensive 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 for a sustained period over 6 consecutive financial years.

The commission directed the trustees to review their procedures and implement such changes as are 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.

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.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit its annual accounting information. Six sets of accounts were filed and as a result £1,189,851 of charitable income is now transparently and publicly accounted for on the register.

The commission has directed the trustees to implement such changes as are 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 commission will monitor the trustees' actions to ensure that they comply with the terms of the direction.

The charity ceased to be part of the inquiry on the publication of this report.

¹ 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 records and financial information of the charity relating to the missing years accounts. These are being used in connection with the commission's scrutiny of the accounts.

On 3 June 2016 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.

The commission subsequently 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 comply 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 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.

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.