

Inquiry Report

Nanyuki Show Ground (NSG) Canteen/Bar

Registered Charity Number 1132302



A statement of the results of the class inquiry into double defaulter charities in particular Nanyuki Show Ground (NSG) Canteen/Bar (registered charity number 1132302) ('the charity').

Published on 3 September 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 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. 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 other high income charities.

The charity

The charity was registered on 23 October 2009. It is an unincorporated association governed by a constitution adopted 1 January 2009.

The charity's objects are:

The charity's object (the object) is 'the promotion of the efficiency of the armed forces of the crown by the provision and support of mess, welfare, social, sporting, adventurous training and other facilities for the efficiency and well-being of service personnel - with particular emphasis on battle group troops'.

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 October 2011 and 31 October 2012 and its annual return for the financial year ending 31 October 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').

In addition, the commission attempted to contact the charity by telephone on 10 April 2014. Further to this the commission wrote to the charity with a final warning on 10 April 2014 requesting that the missing documents be provided by 3 May 2014, and warning the charity that if it remained in default on day after that deadline 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 5 May 2014.

The inquiry is confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

During the time the charity was in inquiry, its accounts, annual reports and annual returns for the financial year ending 31 October 2013 became overdue.

The outstanding annual accounts and reports for the financial year ending 31 October 2011 were submitted on 11 March 2015, those for the financial year ending 31 October 2012 were submitted on 29 September 2014 and those for the financial year ending 31 October 2013 were submitted on 5 June 2015. The outstanding annual return for the financial year ending 31 October 2012 was submitted on 20 May 2014 and the annual return for the financial year ending 31 October 2013 was submitted on 26 June 2014.

The correspondent informed the commission at various times during inquiry that the reason for not complying was down to a lack of continuity, and other problems, caused by several changes in personnel.

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 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.

The reasons the charity gave for non compliance was not a legitimate excuse.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. Three sets of accounts were filed and as a result over £893,000 of charitable income is now transparently and publicly accounted for on the register.

The charity ceased to be part of the inquiry when it was no longer in default of its accounting obligations. This happened on 5 June 2015 when the charity filed the last missing documents.

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.

Regulatory action taken

On 8 May 2014 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.

On 3 November 2014 the inquiry exercised powers under section 47 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.

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.