



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Urban Relief

Former Registered Charity Number 1114537

A statement of the results of an inquiry into Urban Relief (former registered charity number 1114537).

Published on 31 January 2017.

The charity

Urban Relief ('the charity') was registered on 3 June 2006. It is governed by a constitution dated 13 February 2005.

The charity's objects are to relieve poverty and financial hardship amongst West African people, particularly in Nigeria, Ghana, Sierra Leone, Gambia and England by:

- giving money to beneficiaries who are in genuine financial need
- providing food, clothing or housing
- giving advisory or other services to those in need
- providing support for other organisations which give help to people suffering hardship

The charity's entry on the register of charities ('the register') can be found on [GOV.UK](https://www.gov.uk).

Issues under investigation

On 3 February 2015, the Charity Commission ('the Commission') opened a statutory inquiry ('the inquiry') into the charity under section 46 of the Charities Act 2011 ('the act'), having identified from information in the public domain that a trustee of the charity ('trustee A'), had appeared at Blackfriars Crown Court, and on 14 January 2015, had been convicted of a number of offences, including managing a brothel, concealing criminal property and using the charity's bank account to launder funds from the proceeds of crime.

Further enquiries conducted by the Commission and scrutiny of the charity's bank account established that the charity's income and expenditure as reflected in the charity's annual returns submitted to the Commission, did not match with the amount of funds which have flowed through the charity's bank account, raising concerns that the accounts had been falsified.

The fact that the charity appears to have been abused for non-charitable purposes raised serious regulatory concerns for the Commission in relation to the level of control exercised by the trustees regarding the charity's administration and the transparency of its activities.

The inquiry was opened to investigate and consider the following issues:

- the governance, management and administration of the charity by the trustees, particularly whether the trustees had acted prudently and exercised reasonable care in respect of the day-to-day running of the charity
- whether the charity's decision making process was adequate, taking account of relevant risk factors, cost implications and safeguarding charitable funds

- the financial controls, management and application of charitable funds donated to the charity
- whether there had been any misconduct and/or mismanagement by the trustees and whether remedial regulatory action was necessary

The inquiry closed on 31 January 2017 with the publication of this report.

Findings

1. The governance, management and administration of the charity by the trustees, particularly whether the trustees had acted prudently and exercised reasonable care in respect of the day-to-day running of the charity

Charity trustees are legally responsible for ensuring that their charity's resources are properly managed and that they fulfil their legal obligations. They must act reasonably, honestly and exercise sound judgement, making sure the charity's assets are only used to support or carry out its purposes and avoid exposing the charity's assets, beneficiaries or reputation to undue risk.

The inquiry identified that in addition to trustee A, there were 3 other individuals named as trustees on the charities register. Between 24 February and 15 October 2015 several letters and 4 directions under section 47 of the act were sent to the trustees at their respective addresses. Only one of the named trustees eventually responded to the inquiry having received correspondence intended for another trustee, who Commission records indicated to reside at that address. On contacting the inquiry, trustee B confirmed that the person named on the correspondence did not live at that address. The trustee named on the correspondence was later identified as being the wife of trustee A ('trustee C').

The inquiry attended the addresses of the trustees who had not responded to the inquiry, in an attempt to ascertain if the individuals were or had been trustees of the charity. The inquiry managed to locate and speak to all of the trustees named on the register (excluding trustee A) and established that 2 of those individuals (trustees B and D respectively) were unaware of the fact that they had been named as trustees of the charity. Trustees B and D confirmed that they were both former acquaintances of trustees A and C (hereafter referred to as 'the trustees'), but they had not been in contact with them for a number of years. They confirmed to the inquiry that they had never consented to be trustees or had acted in that capacity. The inquiry was not provided with any information to contradict the representations made by the trustees and on that basis, their details were subsequently removed from the register.

In an attempt to establish what activities, if any, the charity had undertaken, the inquiry visited the charity's registered address on 14 May 2015; a community hall in West Ham, London, part of which had been stated to have been used by the charity since February 2006. It was established through the centre manager that the charity had ceased using the premises in 2014. The centre manager was unable to confirm what, if any, activities the charity had undertaken at the premises.

The inquiry attempted to interview trustees A and C to determine whether any charitable activity had been undertaken by the charity. Under s47 of the act, the inquiry directed trustees A and C to attend interviews on 23 September and 15 October 2015. Both individuals failed to attend the interviews, or respond to further attempts made by the inquiry to contact them.

The inquiry was unable to establish or identify evidence of any charitable activities the charity had undertaken or how it had generated or applied its income and is unable to make a finding in this respect. However, to the extent that the trustees permitted the charity to be used for a criminal purpose the inquiry finds that the trustees failed to properly exercise their legal duties and responsibilities, and had not exercised reasonable care in respect of the day-to-day running of the charity.

2. Whether the charity's decision making process was adequate, taking account of relevant risk factors, cost implications and safeguarding charitable funds

Although the trustees were requested on several occasions to provide information to the inquiry in relation to the administration of the charity, and also directed under s47 to meet with the inquiry to provide such evidence, they failed to respond to the inquiry.

As the trustees failed to co-operate with the inquiry and provide the required records, the inquiry is unable to make a finding in respect of the adequacy of the trustees' decision making, whether risks were properly managed and the charity's funds safeguarded as it has seen no evidence upon which to base those findings. However, on the basis that the trustees failed to co-operate with the inquiry and provide the documentation that had been requested the inquiry has proceeded on the basis that the trustees have kept insufficient records to demonstrate how decision making was undertaken in contravention of their legal duty to do so under the act.

3. The financial controls, management and application of charitable funds donated to the charity

Due to the fact that the allegations which formed the basis for the inquiry related to issues concerning the financial transparency of the charity, the inquiry sought to further scrutinise the charity's financial records and determine how the charity's funds had been applied.

The inquiry obtained the charity's bank account records under section 52 of the act on 13 February and 2 October 2015. Although a detailed analysis of those records was conducted the inquiry was unable to establish the source of the charity's incoming funds or how they had been applied in furtherance of the charity's objects, as the records consisted of numerous unreferenced cash deposits and withdrawals. The analysis also revealed that there were discrepancies between the levels of income and expenditure shown in the bank account records and the information contained in the charity's annual returns submitted to the Commission by the charity for the same period.

In an attempt to further examine the financial activity of the charity and determine what controls the trustees had in place, the inquiry sought to inspect the charity's books and records. Although on 2 occasions in September and October 2015 the trustees were directed under s47 of the act to attend the Commission and produce evidence to show how they managed their finances, the trustees failed to co-operate with the inquiry and did not attend the Commission or provide the required evidence.

Although the inquiry's analysis of the bank account records indicates that the charity did receive and expend funds, the inquiry has seen no evidence that those funds were obtained or applied in furtherance of its objects. As no records are available to the inquiry which would assist in verifying this and as no evidence had been seen which would enable the inquiry to determine whether the charity had financial controls in place and whether those controls were properly applied, the inquiry is unable to determine how the trustees managed the finances of the charity.

Again, as the trustees failed to co-operate with the inquiry and provide the required records, the inquiry has proceeded on the basis that the trustees have kept insufficient records to demonstrate how they managed the charity's finances in contravention of their legal duty to do so under the act and also in breach of their legal duties as trustees to protect the charity's assets.

4. Whether there had been any misconduct and/or mismanagement by the trustees and whether remedial regulatory action was necessary

With regards to whether there has been misconduct and mismanagement in the administration of the charity, the inquiry finds that there have been a number of instances of mismanagement and misconduct committed by the trustees in the administration of their charity.

The fact that the charity has been used for a criminal purpose is clear evidence of abuse of the charity. Whether or not the trustees were or were not aware of this fact is irrelevant, as being responsible for the administration of the charity they should have been aware of this fact and either failed to act to prevent that abuse or condoned it. In either case the inquiry finds that this would amount to misconduct and mismanagement in the administration of the charity.

In addition to this, on a number of occasions during the course of the investigation, the inquiry directed the trustees under s47 of the act to either provide information or attend meetings with the inquiry, to all of which the trustees failed to respond. The Commission's guidance **Statutory inquiries into charities: guidance for charities (CC46)**, clearly points out to trustees that a failure to comply with a Commission direction will be regarded as mismanagement by the trustees. The inquiry also finds that the trustee's failure to comply with statutory directions of the Commission is also clear misconduct and mismanagement.

In addition, although the inquiry was unable to establish how the charity was governed by the trustees and whether they did so in accordance with their statutory duty under the act, the charity kept insufficient accounting records and, with only 2 trustees in place was therefore inquorate and, as per its governing document unable to transact the business of the charity. As a result, any decisions that were taken would have been invalid. As the trustees ought to have known from their own governing document that they required 3 trustees to operate the charity, this would be a clear breach and mismanagement in the administration of charity.

The Commission has a statutory general function under the act to identify and investigate misconduct and mismanagement in the administration of a charity and take remedial or protective action in relation to the misconduct or mismanagement. Taking remedial or protective action is dependent on legal thresholds being met to enable those powers under the act to be used to take regulatory action.

In this case, although there is clear evidence of misconduct and mismanagement, the full legal test could not be met to exercise the Commission's permanent protective powers, as this would require there to be not only misconduct and/or mismanagement, but an on on-going or future risk to the charity's assets. As the charity ceased to operate as of August 2014¹ this legal threshold could not be made out.

¹ The last discernable date that any funds were transacted through the charity's bank account.

Conclusions

The Commission has concluded that there has been mismanagement and misconduct in the administration of the charity, specifically through the trustees’:

- failure to co-operate with the Commission during the course of its investigation, by not responding to legal directions to provide information and attend meetings with the Commission to provide evidence
- failure to act in the best interests of their charity, protect its assets or exercise reasonable care and skill in the administration of the charity by allowing the charity to be used for an unlawful purpose
- failure to operate the charity in accordance with the provisions of charity law and the charity’s governing document

Regulatory action taken

Three section 52 orders were made under the act for the charity’s bank account opening documentation and transaction records for the period 13 February 2005 to 2 October 2015.

Two section 47(2)(c) directions were also made under the act to the trustees to attend interviews on 23 September and 15 October 2015.

The charity ceased to operate on 11 August 2014, consequently under section 34 of the act the charity has been removed from the register.

Issues for the wider sector

Charities have a responsibility to ensure that their own reputation, and the good name of ‘charity’ in the public’s perception, is not brought into disrepute by inappropriate activities, or association with inappropriate organisations or individuals. Every charity must have validly appointed trustees.

The Commission expects charity trustees to engage appropriately with the Commission as regulator and to co-operate fully when it is exercising its statutory powers. This is particularly relevant where the Commission has opened a statutory inquiry.

It is a fundamental duty of all charity trustees to protect the property of their charity and to secure its application for the objects of the charity. In order to discharge this duty it is essential that there are adequate internal financial and administrative controls over the charity’s assets and their use. The Commission has produced guidance to assist trustees in implementing robust internal financial controls that are appropriate to their charity. **Internal financial controls for charities (CC8)** is available on GOV.UK.

Trustees should provide the Commission with information about serious incidents including matters of fraud and theft as soon as possible after they become aware of them. Any serious incident that has resulted or could result in significant loss of funds or a significant risk to a charity’s property, work, beneficiaries or reputation should be reported to us immediately, not just on completion of the annual return. More information can be found on GOV.UK.

The abuse of charities for fraudulent purposes is absolutely unacceptable. In instances where the Commission uncovers or has evidence to suggest that a criminal offence may have been committed it will share this information, through its statutory gateway, with either the Police or other appropriate law enforcement agencies. The Commission will seek and support prosecution where they believe that criminal activity relating to maladministration or fraud is occurring in respect of a charity.