



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

M B Foundation (also known as Mossad Horav Moshe Aryeh Halevy)

Registered Charity Number 222104

A statement of the results of the class inquiry into double defaulter charities in particular M B Foundation (also known as Mossad Horav Moshe Aryeh Halevy) (registered charity number 222104) ('the charity').

Published on 8 February 2017.

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

M B Foundation (also known as Mossad Horav Moshe Aryeh Halevy) was registered on 3 March 1965. It is an unincorporated charity governed by a declaration of trust dated 1 December 1958.

The charity's objects are to operate for the benefit of any such one or more charities as the trustees in their absolute and uncontrolled discretion may select.

In practice the charity furthers its objects by the provision of grants towards charitable causes in the Jewish community.

More details about the charity are available on the **register of charities** ('the register').

Issues under investigation

The charity had failed to submit its annual accounts, report and annual return to the Commission for the financial year ending 31 March 2015 within the statutory deadlines. 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, a final warning letter was issued on 10 May 2016 requesting that the missing documents be provided by 1 June 2016, and warning the charity that if it remained in default it would become part of the inquiry. The charity became part of the inquiry on 2 June 2016 because it failed to supply the outstanding annual accounting information by the deadline.

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 accounting documents were submitted in December 2016.

A charity representative informed the Commission that *"the trustees used best endeavours to prepare the accounts in a timely manner but ,....., matters were taken out of their hands when the appointed (and incumbent) auditor advised belatedly that his firm had relinquished its audit credentials"*. This does not excuse the failure of the trustees to fulfil their statutory accounting obligations.

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 their annual accounting information. One set of accounts was filed and as a result £1,544,503 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 20 December 2016 when the charity filed the last missing documents.

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 27 July 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.

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.

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.

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.

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.