

# Inquiry Report

Michael Batt Charitable Trust

Registered Charity Number 1040892



# A statement of the results of the class inquiry into double defaulter charities in particular Michael Batt Charitable Trust (registered charity number 1040892) ('the charity').

Published on 27 March 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 two or more years in the last five 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 19 September 1994. It is governed by a Trust Deed dated 22 August 1994 as amended on 13 May 2008 and 10 October 2013.

The charity's objects are:

To relieve sickness by supporting the works of hospice organisations throughout England and Wales registered as charities dedicated to the relief and welfare of the terminally ill and to promote the welfare of the elderly by advancing the relief of old age.

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 required for the financial years ending 30 November 2012 and 30 November 2013. During the whole period of default, the charity was sent various computer generated reminders from the commission requiring them to submit their annual accounting documents. Although, reminders were sent the charity remained in default of its obligations under the Charities Act 2011 ('the act').

The commission wrote to the charity with a final warning on 27 October 2014 requesting that the missing documents be provided by 17 November 2014, and warning the charity that if it remained in default on 18 November 2014 it would become part of the inquiry. The charity filed the outstanding accounting information for the financial year ending 30 November 2012 on 14 November 2014. The charity failed to submit its outstanding documents for financial year ending 30 November 2013 by the deadline and became part of the inquiry on 18 November 2014.

The inquiry is confined to dealing with the trustees' mismanagement and misconduct<sup>1</sup> and remedying the non-compliance in connection with the annual accounting documents.

The outstanding annual return for the year ending 30 November 2013 was submitted on 19 December 2014. The accounts and trustees' annual report for the year ending 30 November 2013 was submitted on 23 December 2014. The accounts were subsequently submitted for scrutiny by the commission's accountants. Any issues arising from that scrutiny will be dealt with outside the confines of the inquiry.

The charity's correspondent informed the commission on 8 December 2014 that the charity had experienced problems with their accounts as a result of changing auditors.

## 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 reason the charity gave for non compliance was not a legitimate excuse. All of a charity's trustees are legally responsible for ensuring accounting information is prepared and submitted to the commission as required.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. A set of accounts were filed and as a result over £790,000 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 23 December 2014 when the charity filed the last outstanding 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 have been used in connection with the commission's scrutiny of the accounts.

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<sup>1</sup> 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.

On 2 December 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.

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.

The position and role of a trustee is an important one, a responsibility held jointly with the other trustees of a charity. The task of submitting accounts might be delegated to one person, but all trustees are responsible for making sure this happens.

Trustees need to be aware that although roles can be delegated to individual trustees, responsibility cannot be, and they remain collectively responsible for ensuring their charity fulfils its legal obligations, including preparing and filing accounts.

Therefore, even if there is a reason the individual to whom a role has been delegated is no longer able to undertake that role, the other trustees must make sure that collectively they continue to carry out their legal duties and the charity continues to effectively run including filing their accounts and returns.

Reminders about accounts compliance are sent out by email to the charity's named correspondent, several reminders are issued and default information also goes to at least one of the charity's trustees, which is why it is important that all trustees ensure they provide details of their email addresses to the commission either on the annual return form, or by updating their details on the register of charities online.