

Inquiry Report

Barnsley Dearne Community Partnership

Registered Charity Number 1089813



A statement of the results of the class inquiry into double defaulter charities in particular Barnsley Dearne Community Partnership (registered charity number 1089813).

Published on 19 May 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

Barnsley Dearne Community Partnership ('the charity') was registered on 17 December 2001. It is governed by a memorandum and articles of association incorporated 1 March 2000.

The charity's objects are:

The promotion or urban generation in areas of social and economic deprivation and in particular Thurnscoe, Highgate, Goldthorpe and Bolton-on-Deerne and their environs, Barnsley, by all or any of the following means: a) the relief of poverty; b) the relief of unemployment; c) the advancement of education, training or retraining, particularly among unemployed people, and providing unemployed people with work experience; d) the provision of financial assistance, technical assistance or business advice or consultancy in order to provide training and employment opportunities for unemployed people in cases of financial or other charitable need through help; (i) in setting up their own business, or (ii) to existing businesses; e) the creation of training and employment opportunities by the provision of workspace, buildings and/or land for use on favourable terms; f) the provision of housing for those who are in conditions of need and improvement of housing in the public sector or in charitable ownership provided that such power shall not extend to relieving any local authorities or other bodies of a statutory duty to provide or improving housing; g) the maintenance, improvement or provision of public amenities; h) the preservation of buildings or sites of historic or architectural importance. I) the provision of recreational facilities for the public at large or those who by reasons of their youth, age,

infirmity or disablement, poverty or social and economic circumstances have need of such facilities. j) the protection and conservation of the environment; k) the provision of public health facilities and childcare; l) the promotion of public safety and prevention of crime; and m) such other means as may from time to time be determined subject to the prior consent of the Charity Commissioners for England and Wales.

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 31 March 2012 and 31 March 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 10 April 2014 requesting that the missing documents be provided by 17 April 2014. The commission warned the charity what would happen if it remained in default on 22 April 2014. The charity subsequently became part of the inquiry on 22 April 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.

On three occasions between 25 April 2014 and 15 September 2014, the charity submitted its accounts and trustees' annual reports for the outstanding years. On each occasion these were scrutinised by a commission accountant and found to be inadequate to such an extent that the charity could not be said to have complied with its legal requirements. On each occasion the commission explained to the trustees why the documents were inadequate and provided them guidance. However, although the trustees provided accounts and trustees' annual reports they failed to provide the commission with the outstanding annual returns.

Following the commission issuing directions to the trustees made under s.47 of the act on 30 October 2014, the outstanding accounts and trustees' annual reports for the years ending 31 March 2012 and 31 March 2013 were submitted on 13 November 2014. These documents were scrutinised by the commission's accountants and deemed sufficient on 3 December 2014.

The outstanding annual returns for the years ending 31 March 2012 and 31 March 2013 were submitted on 29 May 2014.

The trustees informed the commission on 25 April 2014 that the reason for not complying with their legal obligations was that the charity lost its funding, and therefore its paid staff. This had the effect of making its submission of accounts for the year ending 31 March 2012 to Companies House late, and the trustees informed the commission that it did not receive those accounts at that time as they *"...did not appear to be in the format for the Charity Commission"*.

The trustees explained that the finance officer who had, at the time the charity lost its funding, volunteered to stay on to finalise the accounts resigned, coinciding with ill-health among others of the trustees.

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.

In their email of 25 April 2014, the trustees claimed that it took time for them to find the accounts on the charity's computer as "...non[e] of the volunteers had any understanding of the Quick Books system or the password for the computer".

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. Two sets of accounts were filed and as a result over £195,000 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 3 December 2014 when it was confirmed that the charity had filed compliant accounting 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.

On 23 April 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 13 May 2014, the commission made another order extending the deadlines by when the charity was required to submit the outstanding information.

On 30 October 2014 the inquiry exercised powers under section 47 of the act to direct the trustees to prepare and complete the relevant missing annual accounts and trustees' annual reports 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.