



CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

The Sunrise Education Trust

Registered Charity Number 284833

A statement of the results of the class inquiry into double defaulter charities in particular The Sunrise Education Trust (registered charity number 284833) ('the charity').

Published on 29 September 2016.

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

The charity was registered on 6 May 1965. It is an unincorporated association governed by a Scheme dated 11 July 2007.

The charity's objects are:

'To advance the education of and promote and preserve the health of children.'

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 years ending 31 March 2014 and 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, the charity was contacted by telephone on 12 May 2016, and a final warning letter was issued on 13 May 2016 requesting that the missing documents be provided by 2 June 2016, and warning the charity that if it remained in default it would become part of the inquiry.

The charity submitted the annual return, accounts and report for the financial year ending 31 March 2014 on 17 May 2016. However, the charity became part of the inquiry on 3 June 2016 because it failed to fully comply with the regulator's request and submit the outstanding documents for the financial year ending 31 March 2015 by the deadline. The inquiry was confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

A charity trustee informed the inquiry that they had no knowledge of the computer generated reminders being issued by the commission. The commission subsequently provided the trustee with details of the dates and the address where the reminders were mailed.

The charity trustee also informed the commission that the reason for not complying with their statutory accounting requirements was due to the trustees having relied on their voluntary book-keepers to prepare the charity's accounts. The book-keepers suffered illnesses over a period, and as a consequence there were delays in the charity's financial records being prepared and submitted. This does not excuse the failure of the trustees to fulfil their statutory obligations, as they have the overall responsibility for submitting accounting information to the commission on time.

The outstanding annual return, accounts and report for the financial year ending 31 March 2015 were submitted to the inquiry on 29 June 2016.

Although the trustees had co-operated with the inquiry to supply the outstanding information, the commission had concerns about the charity's overall record for filing the accounting information on time. Despite the charity having received extensive reminders in the past from the commission about the deadlines for filing annual accounts, reports and annual returns the trustees persistently failed to fulfil their statutory reporting responsibilities for a sustained period over 5 consecutive financial years.

This issue was raised by the commission with the trustees, who have since reviewed their procedures and implemented necessary changes to enable them to fully comply with their statutory responsibilities for the preparation and submission of the charity's annual accounts, reports and returns to the commission in future.

When the charity's outstanding documents were submitted, the accounts were referred for scrutiny by the commission's accountants. Any issues arising from that scrutiny 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.

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 £359,037 of charitable income is now transparently and publicly accounted for on the register.

The charity ceased to be part of the inquiry on 29 June 2016 when it was no longer in default of its accounting obligations.

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.

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.

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.

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.