CHARITY COMMISSION
FOR ENGLAND AND WALES

Inquiry Report

Kids Integrated Cancer Treatment

Registered Charity Number 1129394 (now removed from the register)

A statement of the results of an inquiry into Kids Integrated Cancer Treatment.

Published on 15 March 2017.

The charity

Kids Integrated Cancer Treatment Ltd ('the charity') was incorporated as a company limited by guarantee on 22 January 2009 and registered as a charity on 5 May 2009. It was governed by memorandum and articles of association dated 22 January 2009 ('the governing document').

The charity's objects were:

- to provide financial support for families, both in the UK and abroad, who have children suffering from cancer and other serious illnesses by providing grants, goods and services, in particular for the benefit of low to middle income families
- to preserve, protect and contribute to the improvement of the health of children who have been diagnosed with cancer and other serious illnesses by providing and assisting in the provision of medical treatment, wellness products, facilities, support services and equipment not normally provided by the National Health Systems in the UK or abroad, including providing equipment in order to facilitate a clean living environment for children suffering from cancer
- to provide educational information and services to parents, guardians and families of children with cancer, in particular providing information about different treatment approaches and about diet and nutrition with the aim of making medical treatments for children suffering from cancer as effective as possible

The charity reported income for the financial year ending 31 January 2013 of £90,336 and expenditure of £84,745.

The charity ceased operational activity in 2014. It was dissolved as a company on 19 May 2015 and subsequently removed from the register of charities.

Background

In 2012, the Charity Commission ('the Commission') received a complaint about the charity from a member of the public who questioned its links to a businessman named Kevin Wright.

The Commission established that Mr Wright is married to trustee C, who was one of the 3 original trustees of the charity from 2009. In 2012, Mr Wright and trustee C were charged with offences arising out of their connections with fundraising appeals for children with cancer - these appeals were not linked to this charity. Mr Wright stood trial and was convicted of theft and fraud by false representation in 2013. Trustee C was acquitted before resigning as a trustee of the charity on 18 September 2013 and was replaced by trustee D, who had previously worked as a fundraiser and administrator for Mr Wright. The Commission met with the trustees on 22 October 2013 and continued its engagement with them into 2014.

In the summer of 2014, a person purporting to be collecting cash on behalf of the charity was arrested on suspicion of fraud by the British Transport Police. There followed a lengthy criminal investigation, including a series of arrests of people connected to the charity including trustee D, who accepted a police caution for fraud by abuse of position in connection with their duties and responsibilities towards the charity. The charges and prosecutions for fraud of 2 other individuals connected to the charity were discontinued by the prosecutor on 8 October 2015 on the grounds that there was no reasonable prospect of conviction.

The Commission suspended its inquiry while the criminal investigation and subsequent prosecution were ongoing. The Commission co-operated fully with the police and prosecutor. With the discontinuation of criminal proceedings, the Commission resumed and now concludes its inquiry into the charity with the publication of this report.

Issues under investigation

On 29 July 2014, the Commission opened a statutory inquiry into the charity under section 46 of the Charities Act 2011 ('the act'), although that was suspended, as explained for a significant period due to ongoing criminal proceedings.

To assist the inquiry in considering the extent to which the trustees complied with and fulfilled their duties and responsibilities under charity law the inquiry specifically investigated regulatory concerns in the following areas:

- the nature and extent of the charity's association with Kevin Wright
- possible significant private advantage from the charity
- the financial controls and management of the charity
- whether the charity was operating for the public benefit

Findings

The nature and extent of the charity's association with Kevin Wright

When the charity was founded in 2009, its founding trustees were trustee A, trustee B and C. Trustee A had previously worked for Mr Wright. Trustee C is married to Mr Wright. Mr Wright was not a trustee. The inquiry was told that he acted as a 'parent advocate'. He also provided substantial financial support. The trustees noted in their annual accounts for the year ending 31 January 2010, 'a start-up grant of £10,000 was provided by a single benefactor'. In a meeting with the Commission on 22 October 2013, trustee A identified this benefactor as Mr Wright.

Mr Wright was the sole director and shareholder of a company called Health Truth News ('HTN'). In 2009, the charity entered into an agreement with HTN to receive a percentage of sales, advertising revenue and online sales of products advertised in material published by HTN, including a series of leaflets called 'Help Kids Beat Cancer' and a periodical called 'Children's Cancer Today'. The agreement was to run from 1 October 2009 to 1 October 2010 and specified that 'in the consideration of the licence granted to HTN by KICT hereunder, HTN shall pay a sum negotiated on a monthly basis that is satisfactory to both parties'.

Between September and October 2011, the charity made payments of £4,800 to cover rent at Mr Wright's domestic residence at the time in Tiverton ('the Tiverton property'). Mr Wright told the police that these payments had been made because he was turning the Tiverton property into a 'retreat' for sick children. The inquiry has not been provided with and did not see any evidence to demonstrate such a 'retreat' ever operated from this property.

In 2012, Mr Wright became the sole director of a company called Helping Kids Beat Cancer ('HKBC'). The charity entered into an informal agreement with HKBC, which was then converted into a formal agreement later on in 2012. The purpose of the agreement was to contribute to the work of the charity through the sale of publications, payment of advertising revenue, as well as online sales revenue generated through advertising. The agreement referred to - but did not specify - 'a royalty' and 'a percentage'. HKBC continued to publish 'Help Kids Beat Cancer'.

In a meeting with the Commission on 22 October 2013, trustee A said that over the three and a half years of its agreements with HTN/HKBC, the charity had benefitted to the sum of £61,000. They did however add that there had been no scrutiny of the accounts to confirm this and that the trustees had received funds 'on trust'. The inquiry established that just £7,820.45 was paid into the charity's bank account by HTN/HKBC during the period covered by the agreements.

The inquiry found that between 5 September 2013 and 2 July 2014, the charity also made payments of £18,918 for 2 printers in connection with the publication of leaflets and other printed material. Trustee A told the Commission on 22 October 2013 that these printers were owned by Mr Wright.

Mr Wright and trustee C were also directors of a company called Karowi Ltd. The charity purchased nutritional supplements from Karowi Ltd to the value of £13,524. Trustee A was in addition employed as a consultant by Karowi Ltd, which paid him a total of £6,434 between 10 May 2013 and 16 July 2014.

The inquiry established that there were numerous personal and business associations between the charity and Mr Wright. The inquiry found that these associations led to significant financial personal benefits for him and his companies.

Possible significant private advantage from the charity

The trustees were subject to fiduciary duties as charity trustees, and in addition were also subject to various statutory duties because the charity was also a company.

These include in particular the duties to act in accordance with the charity's governing document and to avoid conflicts of interest unless authorised in accordance with the governing document. Charity trustees are obliged to act in the best interests of the charity, and are not allowed to place themselves in a position where their personal interests, or interests or loyalties in another fiduciary capacity, conflict or may conflict with that duty.

In light of their fiduciary duties and voluntary nature of trusteeship, trustees can only receive a benefit from a charity if it is specifically authorised by the governing document, the commission or the court.

The charity's governing document required that the trustees ensured that any payment to a trustee or connected person (which would include other company directorships) did not exceed an amount that was reasonable in the circumstances and that any proposed payment would not result in a majority of the trustees receiving a financial benefit from the charity at the same time.

The charity's governing document also required the trustees to manage conflicts of interest, including when considering making a payment to a partner, close relative or business associate of one of the trustees.

The charity also had a conflicts of interest policy. The policy clearly states that 'as a trustee you have a legal obligation to act in the best interests of KICT and in accordance with our governing document'. It continues, 'all trustee interests will be recorded in KICT's register of interests'. The policy also states, 'you must declare any conflict of interest as soon as you can and withdraw from any further discussion. Where you have a conflict you must not vote or participate in the decision making process in any way'. It concludes, 'in any case where a trustee benefits from a decision we will report this in the annual reports and accounts'.

The inquiry established that trustee A was engaged as a contractor by the charity from 1 November 2013. Trustee B and trustee D signed trustee A's contract of employment on behalf of the charity. It is not possible to identify the exact total sum paid to trustee A, who told the police that they took cash from donations in lieu of wages; their contract however states that they would be entitled to 'a rate of £10.00 per hour up to a maximum of 40 hours per week' plus expenses. The trustees have provided no evidence to demonstrate why it was in the charity's best interests to enter into this agreement with trustee A. The trustees have not demonstrated to the inquiry how the payments made to trustee A did not exceed an amount that was 'reasonable in the circumstances'.

The Commission in addition found that from 2011, trustee B was paid £150 per month to store files for the charity. Trustee B also received £30 per month towards their phone bill. The Commission has been supplied with minutes of a trustee meeting of 24 October 2011, attended only by trustee A and trustee B, at which it was agreed to make these payments.

Between 9 November 2011 and 29 May 2014, trustee B attended 11 training courses in the USA. The courses were about nutrition and wellness. The inquiry was told that they formed part of trustee B's continuing professional development. The inquiry established that they were part funded by the charity. The Commission has been supplied with minutes of a trustees meeting of 3 October 2012, attended only by trustee A and trustee B at which it was agreed to fund this training.

Between 2 June 2010 and 25 July 2014, a total of £17,407 was paid by the charity to trustee B and to 2 companies owned by trustee B. The trustees have provided no evidence to demonstrate why it was in the charity's best interests to enter into agreements for the provision of goods and services by trustee B or indeed to pay for their continuing professional development by part funding courses for trustee B in the USA. The trustees have provided no evidence to the inquiry to demonstrate how the payments made to trustee B did not exceed an amount that was 'reasonable in the circumstances'. The inquiry in addition also established that due to pre-existing arrangements with trustee A from 2009, these payments resulted in 'a majority of the directors having received a financial benefit from the charity' contrary to the requirements of the charity's governing document.

The inquiry identified that trustee C also gained private advantage from their association with the charity, through the charity's transactions with Kevin Wright and companies that he controlled or owned, and the purchased nutritional supplements to the value of £13,524 from Karowi Ltd. The trustees have provided no evidence to the inquiry to demonstrate why it was in the charity's best interests to enter into agreements with these companies or to purchase these goods from Karowi Ltd. The trustees have provided no evidence to demonstrate how the payments did not exceed an amount that was 'reasonable in the circumstances'. The inquiry found that these agreements were contrary to the governing document because due to pre-existing arrangements with trustee A, it resulted in 'a majority of the directors having received a financial benefit from the charity' - by now, all 3.

The inquiry found no evidence that trustee D received remuneration from the charity. Trustee D told police that they had never attended a face-to-face meeting with the other trustees.

The inquiry in consequence found that there was significant private advantage and financial benefit from the charity to trustee A, trustee B and trustee C. This remuneration was not authorised in accordance with the terms of the charity's governing document and amounted to a breach of duty under both charity and company law.

The financial controls and management of the charity

The inquiry required the trustees to provide copies of their charity's financial policies, procedures, handbooks and accounting documents. The trustees failed to provide these items. They did however provide some documents, which were analysed alongside information obtained by the inquiry from the police and other sources, including the charity's bank. Under section 134 of the Charities Act 2011, trustees must keep and preserve accounting records for a period of 6 years.

The trustees sometimes made out cheques to 'cash'. The inquiry established that trustee A and trustee C were sole signatories for 5 cheques totalling approximately £16,000 during 2012 and 2013. In his police interview, Mr Wright said that he had cashed 4 of these cheques. He said one cheque for the sum of £5,000 was a personal loan from trustee A, who in turn told the police that although this sum of money had been channelled through the charity's bank account, the money in question was in fact his. The charity's accounts however indicate that this sum was paid for 'supplements'. Mr Wright told the police that the other 3 cheques totalling £9,569 had likewise been paid for supplements supplied by Karowi Ltd. The trustees have however been unable to supply supporting invoices.

Trustee A made a large cash withdrawal of around £10,000 on 30 May 2012. In trustee A's police interview, trustee A told the police that they made this withdrawal in order to pay for nutritional supplements purchased for child cancer sufferers. The trustees have however been unable to supply supporting invoices.

In view of the street fundraising activities carried out by and on behalf of the charity, the inquiry paid particular attention to policies, procedures and handbooks regarding cash handling, including handling cash collected by street collectors. In their police interview, trustee A said that they took cash from donations in lieu of wages. The inquiry also established that trustee A received payments into their personal bank account relating to charity fundraising activities.

The charity submitted accounts to the Commission for the years ending 31 January 2012 and 2013 in which it is claimed that there were no trustees' expenses, remuneration or other benefits. No further accounts were submitted by the trustees.

The inquiry found that there were serious deficiencies in the charity's financial controls and that the charity also failed to maintain and preserve adequate accounting records as required by the Charities Act 2011.

The inquiry also found that inaccurate and misleading information about trustees' remuneration, expenses and other benefits was supplied to the Commission.

Whether Kids Integrated Cancer Treatment was operating for the public benefit

The inquiry established that the charity did provide 'goods and services' to families who had children suffering from cancer and other serious illnesses. The charity did this by:

- providing nutritional advice and supplements, which were for the most part provided by professional nutritionist trustee B
- purchasing a hyperbaric oxygen chamber for use by sick children
- providing 'educational information and services' for the most part by distributing 'Help Kids Beat Cancer' and 'Children's Cancer Today'

The way the charity operated, gave rise to a number of payments which the trustees could not justify as being in the best interests of the charity. The inquiry established that there were numerous personal and business associations between the charity and Mr Wright which led to significant financial personal benefits for him and his companies and there was significant private financial benefit from the charity to trustee A, trustee B and trustee C. Part of the public aspect of the public benefit test is that the purpose did not give rise to more than incidental personal benefit, where it is a necessary result or by-product of carrying out the purpose. Therefore it was not possible for the inquiry to conclude that the charity was operating for the public benefit.

Conclusions

The Commission found some evidence that the charity had provided help, support and advice to families in need, in accordance with its charitable objectives, before it ceased operational activity in 2014. However, the trustees were unable to demonstrate to the Commission's satisfaction that the charity's assets were used solely to support or carry out its purposes, as required under charity law, in particular there were a number of payments and benefits arising to the trustees and Mr Wright.

The inquiry has identified that there were serious deficiencies in the management and administration in the charity. These included:

- repeatedly failing to avoid or adequately manage potential conflicts of interest between the trustees' private business interests and those of the charity
- permitting unauthorised remuneration to trustees
- inadequate management of the risks to the charity's reputation arising out of its association with Mr Wright
- poor and inadequate financial controls and management including a failure to maintain and preserve adequate accounting records
- providing inaccurate and misleading information about trustee remuneration in the charity's annual accounts for the year ending 31 January 2013
- the submission of inaccurate and misleading information about trustee remuneration to the Commission

In the light of these serious deficiencies the Commission has concluded that there was serious mismanagement and misconduct in the administration of the charity and the trustees failed to comply with their duties and responsibilities under charity law. The Commission considered using its existing powers to remove the trustees but this was not possible as they had ceased to be trustees in-law because the charity had ceased to exist. In view of this the Commission is considering the fitness of those individuals to be trustees and the use its powers under section 10 of the Charities (Protection and Social Investment) Act 2016 to disqualify the individuals from holding future trustee appointments.

Regulatory action taken

On 8 August 2014, the Commission made an order under section 76 (3) (d) of the Charities Act 2011, restricting transactions on the charity's bank account. The order was discharged following the dissolution of the charity on 19 May 2015.

On 15 August 2014, the Commission made an order under section 52 (1) (b) (i) of the Charities Act 2011. The effect of this order was to require the charity's bank to supply documentation about bank accounts held by the charity to the Commission.

On 9 November 2015, the Commission issued directions to trustee A, trustee B and trustee D under section 47 (2) of the Charities Act 2011. The effect of these directions was to require written responses from the trustees to 42 numbered questions about the matters under inquiry. Trustee B provided partial responses. Trustees A and D failed to respond. These failures in themselves constitute mismanagement, misconduct and a breach of duty under charity law.

Issues for the wider sector

Trustees must ensure that they discharge their duties and responsibilities under charity law. If their charity is also a company they must, in addition, discharge their duties and responsibilities under company law.

The Commission's guidance **The essential trustee: what you need to know, what you need to do (CC3)** explains the key legal duties of charity trustees. Trustees should take all reasonable steps to find out as much as they can about the charity including reading the governing document, and finding out what will be expected of them as a trustee.

The 'essential trustee' summarises trustees' duties under charity law into 6 key responsibilities, to:

- ensure the charity is carrying out its purposes for the public benefit
- comply with the charity's governing document and the law
- act in the charity's best interests
- manage the charity's resources responsibly
- act with reasonable care and skill
- ensure the charity is accountable

Of particular note in this case was the trustees' failure to identify and manage conflicts of interest, unauthorised trustee benefit and their failure to have in place adequate financial controls - the Commission's guidance covering **conflicts of interest** and **financial controls** can be found at GOV.UK.

It is an offence under section 60 of the Charities Act 2011 to knowingly or recklessly provide false or misleading information to the Commission.