

Press release: £1 million of charity funds returned after Commission inquiry

Around £1 million of funds have been made available for charity as a result of the Charity Commission's engagement with a grant-making charity.

In an inquiry report published today, the regulator outlines how governance failings resulted in unauthorised payments totalling approximately £650,000 to three trustees who were acting as consultants for the charity's wholly owned subsidiary limited company.

The Commission opened its inquiry in February 2017 after newly appointed solicitors sought the current and former trustees' relief from liability for the unauthorised payments, as well as permission to sell 99% of its shares in the subsidiary limited company.

The inquiry looked into the administration, governance and management of the charity, specifically regarding decision making and conflicts of interest; whether the proposed sale was in the best interests of the charity; whether there had been any private benefit to the current and former trustees; and whether restitution of funds was necessary.

The inquiry found that the consultants were conflicted as they had been trustees of the charity at the time of the payments, and had failed to identify or adequately manage this conflict of interest. The trustees were also unable to demonstrate that adequate records of their decisions had been maintained.

The inquiry considered the payments amounted to significant private advantage and financial benefit, as well as a direct breach of the charity's governing document and the trustees' legal duties. The trustees were also in violation of company law which requires them, as directors, to ensure records of their decisions are retained for at least 10 years.

Although the inquiry recognised that the trustees had made "honest mistakes", there was a strict prohibition against private benefit in the governing document. The Commission therefore engaged further and the trustees agreed to seek recovery of the £650,000 and adopt a formal conflicts of interest policy.

After reviewing the charity's records the Commission was satisfied that the trustees had correctly managed conflicts of interest around the sale of the shares; the conflicted trustees had been removed from decision making and a new independent trustee appointed. The trustees had also sought independent professional advice and negotiated better terms to ensure that the sale was in the charity's best interest.

The Commission therefore granted consent under s105 and s201 of the Charities Act to authorise the transaction, resulting in a further £350,000 going to the charity.

The inquiry remained open to ensure that the repayment took place, and was closed on 20 February with the publication of this report.

Harvey Grenville, Head of Investigations and Enforcement at the Charity Commission said:

Actively managing conflicts of interest is a fundamental principle of trustee decision making. We recognise that trustees are human beings who may make honest mistakes, but the bottom line is that you must always act in the best interests of your charity.

Our intervention has allowed this charity to claw back a significant amount of money that can now go to charitable causes. I hope this will encourage other charities to be mindful of their duties and consult our guidance when making important decisions.

The Commission's full report of its inquiry is available on [GOV.UK](https://www.gov.uk).

Notes to editors:

1. The [Commission's policy](#) is to report on the outcome of statutory inquiries unless the public interest in not publishing would outweigh the public interest in publishing. The Commission carefully considered submissions from this charity which said that its identification in the inquiry report would be severely detrimental to the charity and its beneficiaries. However the Commission concluded that our findings should be published anonymously so that lessons could be learnt by other charities.
2. The Charity Commission is the independent regulator of charities in England and Wales. To find out more about our work, see the [about us](#) page on GOV.UK.
3. Search for charities on our [check charity tool](#).