

COMPLIANCE

Inquiry Report

The Trust of St Benedict's Abbey Ealing

Registered Charity Number 242715



A statement of the results of two Inquiries into The Trust of St Benedict's Abbey Ealing (registered charity number 242715)

These Inquiries were conducted by the Commission during 2006-2008. Both Inquiries were opened in response to issues raised with the Commission regarding child protection at the Charity. Prior to the publication of the report of the first Inquiry, the Commission was informed by the Charity of new allegations similar to those raised and addressed in the first Inquiry. These new allegations resulted in the opening of a second Inquiry.

This document reports on the findings and conclusions of both Inquiries conducted by the Commission into the Charity.

Published on 15 December 2009.

The Charity

1. The Trust of St Benedict's Abbey Ealing ("the Charity") was registered on 2 March 1966 and is currently governed by a scheme of the Charity Commission dated 5 September 1997. The Charity is administered and managed by a board of trustees, the majority of who must be members of the Benedictine Community. Currently all of the trustees are members of the Benedictine Community.
2. The Order of St Benedict is a Roman Catholic religious order of independent monastic communities that observe the Rules of St Benedict¹.
3. The object of the Charity is to promote the charitable work of members of the Order of St Benedict established at Ealing Abbey, West London. The Charity operates a catholic day school for approximately 1000 boys and girls from ages 3 to 18.
4. The income of the Charity for the financial year ending 31 August 2008 was £10,579,559 and its spending was £9,582,787.

¹ More information regarding the work and history of the Charity can be found on its website <http://www.stbenedictsealing.org.uk/>

The First Inquiry

Source of Concern

5. The Commission received an anonymous complaint in June 2006 alleging that one of the monks of the Order of St Benedict, Ealing, Father Pearce (“Individual A”) who had previously taught at the school, had been accused of ‘paedophile activity’ with pupils of the school. One of the alleged incidents was in 1984 and the second was in the early 1990s.
6. The complainant said that the accusations against Individual A had been dealt with in the Civil Court system and damages had been awarded against Individual A in favour of the victim. The complainant further alleged that the Charity’s funds had been used to satisfy damages awarded and that this was a misapplication of charitable funds.
7. The complainant also stated that a second monk of the Order of St Benedict, Ealing (“Individual B”) was due to appear soon in Court on criminal charges of sexual assault on a pupil of the school.
8. The complainant further alleged that a member of the teaching staff had claimed travelling expenses for his spouse, for an unauthorised purpose, and that this was a misapplication of charitable funds.

Commission Inquiry

9. Due to the serious nature of the complaints raised, the Commission opened its first statutory Inquiry on 28 July 2006.
10. In cases where there are allegations of abuse of a Charity’s beneficiaries, it is not the role of the Commission to investigate these allegations. This would fall to the Police, Social Services or another appropriate agency to investigate. The Commission’s regulatory concerns in these cases is whether the trustees have taken appropriate action in response to these allegations, that they are responding appropriately and taking steps to protect the Charity’s beneficiaries in the future.
11. The purpose of the Inquiry was to establish and verify the facts of what had occurred and determine what action, if any, was required to protect the Charity’s beneficiaries, its reputation and assets.

Timescale of Inquiry

12. The Inquiry opened on 28 July 2006 and the Commission’s substantive investigations were concluded on 29 March 2007.
13. Before publication of the first Inquiry report a second Inquiry was opened following concerns that were brought to our attention by the Charity after the arrest of Individual A in January 2008. The Commission determined that a joint Inquiry report should be published once the second Inquiry had concluded.

Issues

14. The first Inquiry looked at whether:
 - (a) the trustees were taking appropriate and sufficient steps to safeguard vulnerable beneficiaries at the school;
 - (b) the trustees had properly applied charitable funds to meet the civil damages award and any legal costs of Individual A; and
 - (c) there was any evidence of misapplication of funds when paying staff expenses.

Findings

Safeguarding the Charity's beneficiaries

15. The Commission received assurances from the Charity that both Individual A and B were immediately removed from access to any vulnerable beneficiaries within the school and parish. Individual B was a trustee of the Charity at the time the complaint was made. The trustees sought and received his resignation. As the Charity operates and runs a school the trustees were required to report the allegations against Individual B, due to his position at that time as a trustee, to the then Department for Education and Skills (DfES)². The Commission obtained confirmation from DfES that the trustees had advised them accordingly.
16. The Commission received confirmation from the trustees that the appropriate statutory agencies had been informed of the allegations through the Archdiocese of Westminster's Child Protection Service. The Commission was also able to confirm that the necessary Criminal Records Bureau (CRB) checks had been carried out by the trustees as appropriate.
17. The Commission obtained copies of the Charity's child protection policies and procedures. The Charity was able to demonstrate that these policies had been reviewed by the appropriate authorities and that these were adequate.
18. Individual B who was tried on criminal charges relating to indecent assault, was acquitted in March 2007.

Use of charitable funds to meet civil damages and legal costs of Individual A

19. The Charity confirmed that both Individual A and the Charity were co-defendants in the civil claim. The Charity also confirmed that its legal costs in this claim and the award of damages against Individual A were covered by an insurance policy held by the Charity. The legal fees for Individual A were paid for from the Charity's funds. The Charity explained that it had a responsibility to cover these costs for the following reasons:

² The Department for Education and Skills (DfES) became the Department for Children, Schools and Families (DCSF) on 28 June 2007.

- (a) Individual A is a beneficiary of the Charity and therefore entitled to support from the Charity;
 - (b) it is important to defend Individual A and the priests more generally, as their reputation is tied to that of the Charity. If the Charity's reputation is tarnished this could lead to future financial loss to the Charity through fewer pupils attending the school;
 - (c) it is the nature of the community life that the Charity is a part of, that it cannot turn its back on its members prior to them being found guilty of the allegations made. A failure on the part of the Charity to be supportive in these circumstances could be damaging to the principles of community; and
 - (d) there was a realistic prospect that the Charity could be held liable for Individual A's actions as a former employee of the Charity.
20. Whilst the Commission did not accept all of the explanations offered by the Charity for using its funds to cover Individual A's legal costs, it did consider, given the circumstances of this particular case, it was arguable that this decision fell within the reasonable range of decisions available to the trustees.

Misapplication of funds (expenses)

21. The Commission obtained information from the Charity in relation to this allegation and determined, as a result of this, that there was no evidence to support the allegations of misapplication of charity funds for payment of travel expenses.

Conduct of Inquiry

22. The first Inquiry was opened to determine if there was any substance to the complaint made against the Charity and to ensure that appropriate steps were taken by the trustees to remedy this.
23. The Commission reviewed and assessed the information contained in the original complaint and met and corresponded with the trustees, their insurers and legal advisors on the issues raised with the Commission.
24. The Commission examined the Charity's child safeguarding policy procedures and controls to ensure they were proper and adequate. The Commission also reviewed the recent inspection reports for the school conducted by other regulators and agencies.
25. As part of the first Inquiry the Commission also considered the child safeguarding relationship between the Charity and the Archdiocese of Westminster Child Protection Service.

Conclusions

26. The Commission concluded, in relation to the three issues investigated by the Inquiry, the following:

Safeguarding the Charity's beneficiaries

27. On the basis of the assurances given to the Commission that restrictions were imposed on Individual A, which precluded access to the children and young people at the Charity's premises, the Commission determined that no further action was necessary.
28. The trustees at the time appeared to be taking appropriate steps in response to the allegations made, to safeguard the Charity's beneficiaries and limit damage to the reputation of the Charity after the allegations against the individuals were made (refer to paragraphs 15-18 above).

Use of charitable funds to meet civil damages and legal costs of Individual A

29. The Commission considered that it was arguable that the decision taken by the trustees to use charitable funds to meet the legal costs of Individual A fell within a reasonable range of decisions open to them. The Commission determined that this decision was open to challenge and that the trustees could have approached the Commission for advice on this issue (refer to paragraphs 19-20 above).

Misapplication of funds (expenses)

30. There was no evidence to support this allegation.

The Second Inquiry

Source of Concern

31. Whilst issues relating to the content of the first Inquiry report were being finalised, on 31 January 2008 the Charity submitted a Serious Incident Report³ to the Commission reporting the arrest of Individual A, after new allegations of sexual abuse were made against him by a beneficiary of the Charity, who had obtained employment at the monastery. It was through the beneficiary's employment at the monastery that Individual A was able to come into contact with him. Whilst it is understood that Individual A first made contact with the beneficiary at the monastery, the alleged abuse was reported to have occurred largely outside the Charity's premises. These allegations were made after the Charity gave the Commission assurances during the first Inquiry that Individual A had restrictions imposed on him to prevent any contact with children and young people at the Charity's premises.
32. The new allegations of sexual abuse were reported to have occurred during the 18 months (July 2006-January 2008) preceding the report being made by the Charity in January 2008.

³ It has always been good practice for trustees to report to the Commission any serious incidents within their charity which has or could result in a significant loss of funds or a significant risk to the charity's property, work, beneficiaries or reputation. It has always been good practice that trustees should report a serious incident to the Commission as soon as they are aware of it. Since 2007 it has been a legal requirement for trustees of charities with an income over £25,000 to sign a declaration in their Annual Return that there are no serious incidents which they should have reported to the Commission and have not. More information on reporting serious incidents can be found on our website via the attached link <http://www.charitycommission.gov.uk/library/investigations/pdfs/rsinotes.pdf>

33. The Charity had reported the allegations to the Police, Social Services and the Archdiocese of Westminster Child Protection Officer.

Commission Inquiry

34. Following receipt of the Serious Incident Report in January 2008 and due to the serious and similar nature of the allegations that were made and the previous assurances from the trustees, the Commission opened a new statutory Inquiry (the second Inquiry) on 1 February 2008.
35. The Commission as a non-prosecuting body has no role in the investigation of criminal matters, which in this instance were led by the Metropolitan Police.
36. The Commission liaised with the Metropolitan Police throughout the course of its investigation.
37. There was no immediate risk to the Charity's beneficiaries as Individual A left the Charity at the request of the trustees following his arrest in January 2008.
38. The Commission monitored the progress and outcome of the criminal prosecution and was informed that on 17 August 2009 Individual A pleaded guilty to indecent assault of five boys. On 2 October 2009 he was sentenced to eight years imprisonment.
39. The purpose of the second Inquiry was to examine how the trustees exercised their duty of care to the beneficiaries of the Charity in light of the recent arrest of Individual A and how the trustees managed any risks to the Charity's reputation as a result of the arrest following the new allegations.

Timescale of Inquiry

40. The second Inquiry opened on 1 February 2008 and the Commission's substantive investigations were concluded on 15 September 2008.
41. Publication of the Inquiry Report was delayed for a number of reasons. These included allowing the criminal investigation, and subsequent prosecution into the most recent allegations of abuse to take place without prejudicing their outcome.

Issues

42. The second Inquiry looked at the assurances given to the Commission in the first Inquiry and whether the Charity had acted in accordance with its child protection policies and procedures. The second Inquiry also looked at the actions taken by the trustees in respect of the reputational risks for the Charity following the arrest of Individual A in January 2008

Findings

Child Protection

43. The second Inquiry established that following the previous allegations against Individual A the Charity took advice from the Diocese of Westminster Child Protection Commission as to what future role, if any, he should have in the Charity.
44. The Commission established that following consideration of advice obtained the trustees decided that Individual A could remain at the Charity's premises. The following conditions were imposed:
 - (a) that he has no public ministry with the parish setting;
 - (b) that he is only allowed to say Mass in private, or within the monastery setting, with no members of the public present; and
 - (c) that he is allowed to continue in a non-executive role within the monastery, as long as this does not bring him into contact with children and young persons
45. The Charity informed the Commission that the Chair of trustees was responsible for ensuring that Individual A was monitored whilst on Charity premises.
46. The trustees' response to the Inquiry was that they were successful in ensuring that Individual A had no access to children or young people in the school or parish and were not aware that Individual A had access to a child on the Charity's premises until the complaint was made in January 2008.
47. The Inquiry found in light of the allegations made and subsequent prosecution, that the trustees failed to ensure that the restrictions imposed on Individual A were properly implemented.

Actions taken to protect the reputation of the Charity

48. Following the arrest of the Individual A in January 2008 the trustees took positive steps to manage the reputational risks to the Charity. This included releasing a statement through the Charity's solicitors, speaking to parishioners from the pulpit and writing to the parents of pupils at the school and outlining the steps taken by the trustees in response to the arrest.

Conduct of Inquiry

49. During the second Inquiry the Commission met with the trustees of the Charity to discuss the Commission's regulatory concerns and to gather information regarding the allegations.
50. During the course of the second Inquiry the Commission provided the trustees with regulatory advice and guidance to assist them to discharge their duties to the Charity.
51. The Commission liaised with the Metropolitan Police which was the lead organisation responsible for conducting the criminal investigation into the allegations made.

Conclusions

52. The Commission concluded, in relation to the two issues investigated by the second Inquiry, the following:

Child Protection

53. Despite assurances from the trustees, they failed to implement the restrictions placed on Individual A whilst on Charity premises and the Commission is extremely critical of the trustees in this regard. One of the terms of Individual A's continued role in the Charity was that he was to have no access to children and young people on the Charity's premises – the trustees failed to ensure this was the case (refer to paragraph 47 above).

Actions taken to protect the reputation of the Charity

54. Following the arrest in January 2008 the trustees took positive steps to protect the reputation of the Charity and continue to do so – the trustees have confirmed publicly that an independent review will be carried out to ensure that this situation can not reoccur.

Regulatory action taken

55. Due to the serious nature of the concerns raised, both in the original anonymous complaint and following the arrest of Individual A, the Commission opened a statutory Inquiry in July 2006 (the first Inquiry) and a second statutory Inquiry (the second Inquiry) in February 2008 to investigate matters further.
56. The Commission provided regulatory advice and guidance to the Charity, which was accepted by the trustees.
57. The Commission monitored the progress and outcome of the criminal investigation to determine if further regulatory action was required. In light of the criminal prosecution and sentencing, this was not necessary.
58. The Commission has requested a copy of the independent review and will actively monitor the Charity to ensure that this happens.

Impact of Commission intervention

59. The Commission has provided the trustees with regulatory advice to ensure that they adequately discharge their duties as trustees.
60. The trustees are aware of their duties and responsibilities to report serious incidents to the Commission. It is because of this that the trustees reported a serious incident to the Commission in January 2008 which led to the opening of the second inquiry. Guidance is set out on the Commission's website⁴.

Resources applied

61. The Commission adopted a multi-disciplinary team working approach on this case both before and during the Inquiry. The team consisted of investigators, lawyers and forensic accountants. The Inquiry was led by investigators from the Commission's Compliance Investigations Unit.

Issues for the wider sector

62. Trustees of charities which work closely with vulnerable beneficiaries must pay particular attention to the risks associated with their activities and a duty of care to the charity's beneficiaries which arises. They must ensure that they react quickly and effectively to allegations of harm to beneficiaries, whatever the source of the abuse, identify what action they need to take and ensure that no other beneficiaries are at risk. Not to do so could both seriously endanger beneficiaries and increase the risk of charity trustees being in breach of their duties. The safety of beneficiaries must be paramount and they must take reasonable steps to ensure this.
63. Trustees must ensure that they have adequate policies and procedures in place to safeguard the charity's vulnerable beneficiaries as a matter of priority. This involves both the production of adequate policies and procedures and actively ensuring these are implemented and monitored in practice.
64. The Commission has a duty to promote public trust and confidence in charities and this includes ensuring that trustees take appropriate and sufficient steps to ensure that a charity's vulnerable beneficiaries are properly safeguarded. The Commission should be informed of allegations of abuse of vulnerable beneficiaries.
65. Trustees risk being in breach of their duty of care and duty to act in the best interests of the charity if they fail to take reasonable and proper steps to protect vulnerable beneficiaries from harm. Trustees of charities working with vulnerable beneficiaries must therefore:
 - (i) take sufficient steps to ensure incidents of abuse cannot and do not take place;
 - (ii) have adequate and proper safeguarding policies and systems in place, including appropriate vetting procedures for trustees and others who work with vulnerable people; and
 - (iii) ensure they deal with allegations of abuse of concerns seriously and responsibly and in the interests of the charity.

⁴ <http://www.charitycommission.gov.uk/library/investigations/pdfs/rsinotes.pdf>

- 66. Trustees should provide the Commission with information about serious incidents as soon as possible after they become aware of them. If a charity has an income over £25,000 trustees must, as part of the Annual Return, confirm that there are no serious incidents or matters relating to the charity over the previous financial year that should have brought to the Commission's attention but have not. Failure to confirm this is a breach of legal requirements and may be taken as evidence of misconduct and mismanagement in the administration of a charity.
- 67. Any serious incident that has resulted or could result in significant loss of funds or a significant risk to a charity's property, work, beneficiaries or reputation should be reported to us immediately, not just on completion of the Annual Return. More information can be found on the Commission's website www.charitycommission.gov.uk

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