

## **Statutory inquiry report**

Woodvale & Shankill Community Housing  
Association

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July 2022



**Statutory inquiry report, instituted by the Charity Commission for Northern Ireland under section 22 of the Charities Act (Northern Ireland) 2008, into the charity 'Woodvale & Shankill Community Housing Association Limited'.**

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# Section 1: Introduction

## **The statutory inquiry report**

- 1.1** The Charity Commission for Northern Ireland (the Commission) categorises its investigations as self-regulatory, regulatory and statutory depending on the risk posed to the charity beneficiaries, the charity and the sector. These terms are indicative of potential outcomes whereby a charity may be encouraged to self-regulate, may be issued with regulatory guidance or where, due to the severity of risk assessed, there may be a requirement for the use of statutory powers assigned to the Commission by virtue of the Charities Act (Northern Ireland) 2008 (the Act). More information on the different types of investigation can be found in the *Concerns and decisions* sections of the Commission's website: [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)
- 1.2** The Commission instituted a statutory inquiry into the charity Woodvale & Shankill Community Housing Association Limited (the charity) on 10 February 2020 following concerns that the accounts and auditor's report for the year ending 31 March 2018 uploaded to the *register of charities* had not been completed or signed by the independent auditor appointed by the charity.
- 1.3** This inquiry was opened prior to the Court of Appeal judgment in the case of *McKee & Others v Charity Commission for Northern Ireland* on 19 February 2020. This judgment upheld a legal challenge to the delegation of decision-making powers by the Commission to members of staff. The relevance of the judgment to this case is that the decision to register Woodvale & Shankill Community Housing Association Limited (WSCHA) as a charity was taken by Commission staff. As such, the obligation to submit accounts and reports did not technically apply to WSCHA.

## **The charity**

- 1.4** The charity WSCHA registered as an Industrial and Provident Society on 25 June 1976 and joined the *register of charities* on 11 March 2015. Its objectives are to undertake for the benefit of the community and are as follows.
- The business of providing housing, accommodation, assistance to help house people and associated facilities and amenities for the prevention or relief of poverty or for those in need by reason of age, ill health, disability, financial hardship or other disadvantage;
  - Any other charitable object that can be carried out by an Industrial and Provident Society registered as a housing association by the Department.

The charity wholly owns four 'for profit' subsidiaries (the subsidiaries) which were incorporated in 2015.

## **Section 2: Summary of findings**

- 2.1** On 10 April 2019 the charity was issued with regulatory guidance for failure to submit an Annual Monitoring Return (AMR) for the year end 31 March 2018 within the ten month deadline.
- 2.2** Under section 65(2) of the Act, a charity must have their accounts audited if the charity's gross income in that year exceeds £500,000. On reviewing the accounts and reports for the financial year end 31 March 2018 submitted by the charity in response to the regulatory guidance, the Commission identified that the accounts and audit report had not been approved or signed off by the charity trustees or a qualified auditor.
- 2.3** A request was made to the charity's appointed auditors asking for:
- confirmation that an audit had been carried out on the accounts for financial year ended 31 March 2018 and the audit report approved.
  - a signed copy of the accounts and audit report for financial year ended 31 March 2018.
- 2.4** The charity's appointed auditors confirmed they had not yet completed the audit report for the year ending 31 March 2018 and they had not compiled the independent auditor's report uploaded on the register of charities. They further stated they had not received a final set of accounts from the charity in order to carry out an audit, and had not provided any draft audit report to the charity at any stage.
- 2.5** The audit report submitted to the Commission was therefore considered to be false. It is noted that it is an offence, under section 25 of the Act, to supply the Commission with information which is false or misleading.
- 2.6** The Commission received correspondence on behalf of the charity trustees stating that draft accounts for 2018 had been submitted as the charity had temporarily moved office space; final signed audited accounts for 2018 would follow later that month. Further correspondence was received stating "*the position surrounding the 2018 audit is that it is due to be completed within the next 2 to 3 weeks, and accounts will be filed as soon as possible thereafter. The problem has always been a logistical one and will not happen again.*"
- 2.7** A subsequent statement on behalf of charity trustees stated that "*under no circumstances was the auditor's report purported to be anything other than a draft report.*" The Commission does not accept this statement. This report was submitted to the Commission and published online for public view and therefore presented as a final report.
- 2.8** A committee, convened under Schedule 1 of the Act, issued charity trustees with the following orders.

- Order under section 23(1) of the Act to provide information in relation to charity meetings prior to submission of the accounts for the year ended 31 March 2018 to the Commission, confirmation that all trustees had viewed and agreed the accounts prior to submission and any other documentation relating to the submission of the accounts to the Commission.
  - Order under section 65(6)(a) of the Act to complete an audit of the charity accounts for the year ended 31 March 2018.
- 2.9** Following the order issued to charity trustees under section 23 of the Act a response was received on their behalf which confirmed the documents were submitted with their approval.
- 2.10** The charity was issued with further regulatory guidance to update the *register of charities* with all current trustees and their contact details, to which the charity duly complied.
- 2.11** Additional investigatory work identified potential governance issues, particularly in relation to the distribution and control of charity monies through the subsidiaries. This escalation in risk supported the institution of a statutory inquiry to allow the Commission to:
- investigate the eligibility of trustees to make decisions on behalf of the charity;
  - investigate the charity's funding to include a review of letters of offer, strategic outlook documentation and grant compliance;
  - complete a full review of the charity's policies and procedures; and
  - complete a review of all minutes held by the charity in relation to their AGMs and board meetings.
- 2.12** On 10 February 2020, following a review of the information noted at 2.11, the Commission opened a statutory inquiry under section 22(1) of the Act into the administration and governance of Woodvale & Shankill Community Housing Association. The Commission appointed PricewaterhouseCoopers (PwC) to conduct this inquiry on its behalf under section 22(2) of the Act.
- 2.13** On 18 March 2020 the Commission received an unqualified audit report for the charity from the Commission appointed auditors. This was accompanied by a report detailing a material uncertainty relating to the going concern of the charity due to two actions taken by the charity against two separate regulators. Although we were aware of these issues, they did not have any direct impact on our investigation.
- 2.14** The charity complied with all requests and queries as part of the statutory inquiry, which allowed PwC to produce an interim report. This report identified a number of areas for further investigation including loan agreements with the subsidiaries and corresponding loan repayments, potential non-disclosure of transactions with the subsidiaries, the

management of potential conflicts of interest, potential private benefit of trustees and senior management, establishing the accuracy of related party disclosures and seeking clarification around a number of irregular bank transfers.

- 2.15** A second phase of the investigation was conducted by PwC which addressed a number of the recommendations in the interim report. The second phase report presented a clearer picture of the position of the charity. On consideration of the second phase report, the Commission did not see any cause to consider the use of powers for the protection of charities under sections 33-36 of the Act.
- 2.16** Following the conclusion of PwC's investigation, Commission staff were appointed by Commissioners to carry out the remaining investigatory steps of the statutory inquiry. These steps included: a request to the charity to provide further information in relation to the loans made by the charity to the four subsidiaries, professional advice sought on the decision taken to convert loans into share capital, the financial performance of the subsidiaries, how conflict of interests are managed and an explanation of monies which appeared to have been transferred to a private account.
- 2.17** The charity complied with the request for information. The response received showed that:
- loan agreements to the subsidiaries were in place.
  - the conversion of loans to capital had been conducted only after thorough legal and accounting advice was sought.
  - the charity had complied with guidance in relation to how charities and subsidiaries may lawfully trade.
  - the financial performance of the subsidiaries was in support of the charities' objectives.
  - issues relating to the management of potential conflicts of interest were appropriately clarified and followed best practice guidance; and
  - the potentially irregular bank transfers were correctly identified as payments for services provided.

This information provided the comfort and satisfaction that the inherent risks to the charity as a result of the loans to the subsidiaries and the other potential governance issues were largely mitigated.

- 2.18** Having worked with the charity to address the issues identified, the Commission is satisfied the risks observed at the opening of the inquiry have been adequately managed to allow the statutory inquiry to be closed.

## **Section 3: Conclusions & recommendations**

- 3.1** The statutory inquiry into Woodvale and Shankill Community Housing Association Ltd could have been avoided had the charity not submitted draft accounts and an audit report which had not been approved or signed off by the charity trustees. The statutory inquiry was only initiated after these failures, which may constitute an offence, under section 25 of the Act, to supply the Commission with information which is false or misleading.
- 3.2** The statutory inquiry was further complicated and prolonged due to the additional risks to charity assets caused by the loans to the subsidiaries, as well as the investigation and consideration of other potential governance issues, including non-disclosure of transactions with the subsidiaries, the management of potential conflicts of interest, potential private benefit of trustees and senior management, establishing the accuracy of related party disclosures and seeking clarification around a number of irregular bank transfers.
- 3.3** The Commission's key conclusion relates to the submission of the accounts and audit report for the year ending 31 March 2018, which was considered to present a false and misleading position. With this in mind, charity trustees are reminded of their obligation to ensure the information presented to the Commission, and by extension stakeholders and the wider public, is up to date and accurate.
- 3.4** In addition, an element of the Commission's inquiry focused on the arrangements and management of subsidiaries. We would therefore encourage the charity to remain mindful of the risks associated with using charity funds to support subsidiaries and to ensure conflicts of interest are properly considered and managed. Delivery on the charity's objectives must remain the focus of the charity's activities.
- 3.5** The charity trustees are reminded that in all decisions made with regard to the subsidiaries, the interests of the charity are paramount. The interests of the subsidiaries, their directors, creditors or employees, must all be secondary to those of the charity. This is because the purpose of using a trading subsidiary is to benefit the charity in some way. If the charity's assets are employed or put at risk for the benefit of the subsidiaries, or its directors, creditors or employees then that purpose is frustrated.
- 3.6** Our actions and the compliance of the charity trustees during the course of the statutory inquiry have ensured that the charity trustees are now fully aware of their annual reporting obligations, as well as maintaining effective governance within the charity.

- 3.7** The Commission, as a risk based and proportionate regulator, closed the statutory inquiry when it was demonstrated that the risks were properly mitigated and fully managed.
- 3.8** WSCHA were provided with the opportunity to offer comment on the factual accuracy of the information within this report and have indicated they are satisfied with its content.
- 3.9** The Commission's inquiry into WSCHA is now concluded with no further recommendations for the charity.

**Further information on our activities is available from:**

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