



Margaret Hodge
Chair of the Committee of Public Accounts
House of Commons
7 Millbank
London
SW1P 3JA

Charity Commission
PO Box 1227
Liverpool, L69 3UG

T: 0300 065 2066

Your Ref: :
Our Ref: :

Date: 27 March 2015

Dear Mrs Hodge,

Re: Durand Education Trust (charity registration number 1136362)

I am writing formally in response to your letter of 23 February 2015 and our meeting yesterday to set out the progress of our case into Durand Education Trust ('the charity').

As you know, the Commission has exercised its powers under s46 Charities Act 2011 and has opened a statutory inquiry into the charity. The scope of the inquiry is to examine various regulatory concerns including:

- whether or not the former trustees and trustees of the charity have discharged their duties and responsibilities as charity trustees
- the governance of the charity, including whether conflicts of interest were or are being identified and/or adequately managed and if there has been any unauthorised private benefits arising from the charity's activities
- whether or not and to what extent there has been mismanagement and/or misconduct on the part of those acting in the administration and management of the charity.

The inquiry is ongoing. We are making good progress and I am able to report to you on what we have done and can see so far, albeit that these operations are of course not yet definitive.

Joint working – what we have done

When I was before you at the Public Accounts Committee, I committed to the Commission working alongside the Education Funding Agency and Department for Education to investigate the claims of potential conflicts of interest and any private benefit which may have arisen.

I am pleased to be able to report that we have been and continue to work closely with the Education Funding Agency ("EFA") and Department for Education on this. EFA have now shared with us all the relevant documents and material they hold. The Commission and EFA have both obtained counsel's opinion and we have shared the results of these.

Charity trustees need to report actual or suspected serious incidents to the Commission and should do so as soon as they are aware of them. If trustees fail to report a serious incident, the Commission may consider this to be mismanagement and take regulatory action.

General Enquiries: 0300 066 9197

Textphone: 0300 066 9219

Website: www.gov.uk/charity-commission

The teams at EFA and the Commission have held weekly case conferences to update on progress and Peter Lauener, Chief Executive of EFA, and I have spoken regularly to ensure that we are working as closely and as quickly as possible in this matter.

Result of the Work to Date

The Commission's regulatory remit covers the registered charity, Durand Educational Trust. The charity does not run the school, but it holds much of the land on which the school is run. As the NAO report explains, the structure of Durand Academy Trust and the associations between related organisations are complex.

Our fact finding work to date has confirmed there are issues of apparent conflicts of interest and potential private benefit. The main contract for services for London Horizons Limited (LHL) to manage the facilities was with GMG Management and Resource UK Limited and the Durand Academy Trust. That said, we are scrutinising all the arrangements further as it is not yet clear whether the legal lines of accountability are through the charity or Durand Academy Trust, which as you know is regulated by EFA, or indeed a combination of the two.

As a result of the required actions we set the charity, the trustees carried out a benchmarking review to identify whether the price paid and the terms of the contract with GMG were at market rate and otherwise reflected commercial practice. This did not meet the required standards of rigour and, as a result, the trustees are appointing independent professional advisers to carry out a more thorough evaluation exercise. A full consideration of the legal position and the results of this review will be crucial to determining whether there is, and the extent of, any liability to account.

There is also an issue of regulatory concern relating to the ownership and purposes for which the land is held and can be used. Our view is that the charity is the owner of the land at Hackford Road and that the land is held on narrow charitable trusts for the benefit of the school – namely for the purpose of the school. This means there is now a question of whether the exploitation of some of the land for running a leisure centre is a use consistent with the trusts on which the land is held and whether any income generated from those activities, has similarly been properly applied.

So in summary, as I committed, significant progress has been made in our inquiry. Let me assure you that should it be appropriate we will not hesitate in exercising our remedial powers under the Charities Act 2011 further and if it is shown that that relevant parties have benefited from the administration of the charity inconsistent with charity law, then full consideration will be given to whether, in all the circumstances, such benefit should be recovered for the Charity.

Yours sincerely,



Paula Sussex
Chief Executive
Charity Commission