

COMPLIANCE

# **Inquiry Report**

## **African Development Agencies and the Hackney African Organisation**

Registered Charity Numbers 297950 and 288997



## This is a statement of results of an inquiry under section 8 of the Charities Act 1993 (“the Act”) and published on 18 August 2009.

### The Charities

1. The African Development Agencies (“ADA”) was incorporated as a company on 26 November 1985, and governed by a Memorandum and Articles of Association of the same date. It was registered with the Commission on 13 November 1987.
2. ADA’s purpose was to promote the benefit of the community, and in particular that of the African and other ethnic minorities, by relieving poverty and distress, advancing education and providing or assisting in the provision of facilities for recreation and other leisure time occupations in the interests of social welfare, with the object of improving the conditions of the community, particularly Africans.
3. Hackney African Organisation (“HAO”) was an unincorporated organisation governed by a constitution dated 17 March 1984. It was registered with the Commission on 29 April 1984 and had the same purposes as ADA.
4. Dr Adu Aezick Seray-Wurie was the chair of the charity trustees of both ADA and HAO (together “the Charities”) from their formation onwards.
5. According to the information submitted to the Commission prior to the opening of this Inquiry, both Charities had annual incomes below £10,000. As such, and in accordance with the Act, they were not required to submit their accounts to the Commission. During the Inquiry accounts were submitted for both ADA and HAO, and they gave the principle activity of both Charities as: *‘providing various legal and voluntary advisory services to the local community.’*<sup>1</sup>

### Source of Concern

6. An allegation was made to the Commission in February 2004 that ADA and HAO had been involved in litigation<sup>2</sup> with the London Borough of Hackney, but that the funds recovered for the Charities had not been passed to either Charity.
7. The court case concerned the alleged non-payment of grants to the Charities by the London Borough of Hackney for projects carried out between 1985 and 1991. Dr Seray-Wurie acted in the court case on behalf of himself and the other trustees of HAO. HAO in turn acted as an agent for ADA in respect of those aspects of the court case relevant to ADA. The court case concluded in 2000 with a substantial sum of money being recovered for the Charities: a total of £294,315.67 with interest, of which £89,775 plus interest was owed to ADA, with the remainder being owed to HAO. By the time the funds were paid over in May 2001, the total with interest came to £609,740.62.
8. The Commission established that on 24 May 2001 the sum of £609,740.62 was paid by the court into a personal bank account held in Dr Seray-Wurie’s name. Using its powers under section 9 of the Act, the Commission obtained statements on all the bank accounts that it was aware either ADA or HAO held. These statements showed that Dr Seray-Wurie did not pass on the funds received from the court to either ADA or HAO.

<sup>1</sup> ADA’s annual accounts for the financial year ending 31 March 2004; HAO’s annual accounts for the financial year ending 31 March 2000.

<sup>2</sup> Thornton J 1999 HT 33 – referred to in this report as “the court case”.

## Commission Inquiry and Issues

9. The situation raised serious regulatory concerns about whether the funds due to the Charities from the court case were properly applied. The Commission's statutory objectives include promoting compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities, and increasing public trust and confidence in charities. Given these, and the risk to the Charities' funds, on 6 September 2004 an Inquiry was opened under section 8 of the Act.
10. The issues looked at by the Inquiry were:
  - a. **Issue 1: Whether the funds resulting from the court case had been received by ADA and HAO.**
  - b. **Issue 2: Whether those funds had been properly applied in furtherance of the purposes of the two Charities.**
  - c. **Issue 3: The conduct of Dr Seray-Wurie as a trustee of the Charities.**

## Timescale of inquiry

11. The inquiry was opened on 6 September 2004 and its investigations finished on 30 March 2007. In April 2007 Dr Seray-Wurie initiated an appeal against the Commission's decision to remove him as a trustee, officer and agent of ADA<sup>3</sup>, and made an application to bring judicial review proceedings against the Commission. These matters concluded in January 2009 (see "Subsequent Action" below), following which the Commission considered the impact of this litigation on this report, which delayed its publication.

## Conduct of inquiry

12. In September 2004, in order to establish how the funds from the court case were used once they were received by Dr Seray-Wurie, the Inquiry by way of order directed his bank to provide copies of his bank statements for the accounts into which the charitable funds had been received.
13. In the same month, the Inquiry referred the matter to the police service to consider if they had an interest in investigating it.
14. Also in September 2004, the Inquiry contacted Dr Seray-Wurie, as a trustee of both Charities, to explain that it had received allegations that the income of both Charities had exceeded £10,000, and to request copies of the Charities' annual accounts since 2000. In response, Dr Seray-Wurie provided accounts up to and including the financial year ending 31 March 2003 for ADA and the accounts for the financial year ending 31 March 2000 for HAO. None of the accounts showed the receipt of the funds from the court case or any reference to it as an ongoing case in earlier years.
15. Dr Seray-Wurie requested the name of the complainant. In accordance with the Commission's published procedures<sup>4</sup>, and at the request of the complainant, the Inquiry maintained the complainant's confidentiality.

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<sup>3</sup> See paragraph 22.

<sup>4</sup> See the Commission's publication *Complaints about Charities on the Commission's website*.

16. In order to ascertain what ADA and HAO did in practice, and what funds or property they held, the Inquiry visited ADA's premises in London. In December 2004, it followed this visit with a meeting with Dr Seray-Wurie and another trustee of ADA and HAO, and then a request for information about the Charities. Despite several exchanges of letters with the trustees of both Charities, and further meetings in July and September 2005, by March 2006 the Inquiry still awaited key information explaining the Charities' activities from the trustees.
17. In January 2006 the police service confirmed that after their initial enquiries they were not going to take further action. It was then open to the Inquiry to request an explanation from Dr Seray-Wurie as to the use of the £609,740.62 recovered for the Charities from the court case. Due to the serious nature of the issue, this request was made by way of a direction under section 8 of the Act. Dr Seray-Wurie's response did not account for the use of the funds<sup>5</sup>.
18. In light of the serious concerns about how he had applied these funds, on 8 May 2006 the Inquiry suspended Dr Seray-Wurie, using its powers under section 18(1)(i) of the Act, from acting as trustee, agent and officer of ADA and HAO. This was a temporary and protective measure, taken while the Inquiry continued to seek to establish the use of the funds, and investigated the activities of both Charities and Dr Seray-Wurie's conduct in running them. Between May 2006 and January 2007 the Inquiry continued to seek clarification and evidence from Dr Seray-Wurie to establish how the funds had been used. This included, in June 2006, directing Dr Seray-Wurie, under section 8 of the Act, to explain how he applied the funds and to supply the outstanding information about the Charities from 2004-2005. His responses were not supported by any documentary evidence<sup>6</sup>.
19. The Inquiry also contacted the other trustees of ADA and HAO to establish their knowledge of the use of the funds recovered from the court case and, more generally, whether the Charities continued to operate or hold charitable property. Those who responded were unable to provide any documentation about the use of the funds but did state that HAO ceased to operate in 2003.
20. In September 2006 one individual confirmed that he was a trustee of ADA but that it had no assets or premises. The Inquiry requested to meet with him in October 2006 but he declined to meet before Christmas. The Inquiry had been requesting this information since 2004, and the suspension of Dr Seray-Wurie resulted in ADA having only one trustee capable of acting ("the other trustee") when two were required to manage it. As a result, the Inquiry considered the meeting to be urgent. The Inquiry directed the other trustee to attend a meeting and provide it with the outstanding information. The other trustee did not attend. Two further directions were issued to the other trustee, but neither was complied with. Issues relating to his non-cooperation and ADA's activities were then taken forward outside the Inquiry (see "Subsequent Action" below).
21. During this time the Inquiry tried to establish if ADA held any charitable property. To do this the Inquiry:
  - a. visited ADA's premises in London to see if it continued to operate. It noted the Charity's name and logo outside these premises and discussed with both Dr Seray-Wurie and the other trustee what interest ADA had in the premises; and
  - b. contacted a number of major banks to ask if they held accounts for the Charity. No accounts were located.

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<sup>5</sup> See paragraph 29.

<sup>6</sup> See paragraph 32.

22. On 15 September 2006, following consideration of the explanations provided by Dr Seray-Wurie about his use of the funds recovered by the court case, the Inquiry issued notice of its intention to remove Dr Seray-Wurie as trustee of ADA. On 30 January 2007, following consideration by the Commissioners of representations made by Dr Seray-Wurie, the Commission removed Dr Seray-Wurie as trustee of ADA. By virtue of this removal and section 72 of the Act, Dr Seray-Wurie was disqualified from being a charity trustee or trustee of any charity and therefore he ceased to be a trustee of HAO.

## Findings

### Issue 1: Whether the funds resulting from the court case had been received by ADA and HAO

23. The judgement given in the court case stated that the action was brought by the *'Hackney African Organisation ("HAO") on its own behalf and on behalf of African Development Agencies Ltd ("ADA")'*.<sup>7</sup> It went on to say that *'so far as ADA's grant is concerned, that money is part "of the assets of the HAO" that the trustees are authorised to hold since the money is held in HAO's name, albeit as a trustee for the ADA once it has been recovered'*.<sup>8</sup>
24. The court records showed that on 24 May 2001 the court paid out the £609,740.62 to a personal bank account in Dr Seray-Wurie's name. Dr Seray-Wurie was responsible for giving the court details of the account to collect the funds. The funds were received into his account on 30 May 2001. The statements for Dr Seray-Wurie's account and those for the Charities, as well as the Charity's annual accounts, all showed that none of the funds were passed to either Charity.
25. **The Inquiry concluded that the funds recovered in the court case were charitable funds due to ADA and HAO. However, they were not received by ADA or HAO but were instead, at Dr Seray-Wurie's request, put into a personal bank account in his name. This left £609,740.62 belonging to the Charities unaccounted for.**

### Issue 2: Whether those funds had been properly applied in furtherance of the purposes of the Charities

26. The Inquiry obtained copies of the bank statements for the account, held by Dr Seray-Wurie, which had received the Charities' funds from the court. It analysed the use of those funds to ascertain whether they were used for the proper charitable purposes, even though they were not paid over to the Charities.
27. From this analysis, the Inquiry found that:
- Prior to receiving £609,740.62 from the court, Dr Seray-Wurie's bank account had a nil balance. Therefore the entire funds held in that account on 30 May 2001 were held on trust for ADA and HAO.
  - Between May and November 2001, £500,933.14 was transferred to other accounts in the name of Dr Seray-Wurie, including a total of £476,000 to one particular account.
  - £52,956 was applied through International Money Orders.
  - Cash withdrawals were made totalling £31,710.
  - £20,700 was transferred to other accounts, the holders of which were unidentified.

<sup>7</sup> Paragraph 1 of the judgement.

<sup>8</sup> Paragraph 157 of the judgement.

- f. £4,682.19 was withdrawn through other debits.
  - g. By November 2001 only £754.41 remained in the account.
28. Of the £476,000 transferred to another account held in Dr Seray-Wurie's name, the Inquiry's financial analysis made the following key findings:
- a. Prior to the first transfer to that account, of £300,000, the account was overdrawn. Between June and November 2001, £7,040.53 was credited to the account from other sources, while £478,839.29 was withdrawn.
  - b. Of the withdrawals, £63,038.22 was taken out as cash. Many of the other payments were made by cheque to organisations and individuals who did not appear, on the face of it, to be related to the Charities. They included, for example, magazine subscriptions and a payment to a local authority for car parking fines.
29. In April and May 2006 Dr Seray-Wurie told the Inquiry, in response to its questions about the use of the funds, that the funds recovered in the court case did not belong to the Charities but to a separate organisation called the African Development Agency Central Administration (ADACA). He described ADACA as *'a not for profit and an unincorporated association which came into being in 1982 long before ADA.'* Dr Seray-Wurie told the Inquiry that: *'It is not right for you to state that the recovered funds were the property of the Charities HAO and ADA. What you have called recovered funds were really the property of ADACA... It was ADACA which had paid the debts which [London Borough of Hackney] reneged on.'*
30. However, in July 2006 Dr Seray-Wurie told the Inquiry that the funds recovered in the court case actually belonged to him. He stated that: *'through ADACA and ADA I and other directors and trustees had paid for the projects'* run by the Charities between 1985 and 1991. Dr Seray-Wurie stated that in this context "ADA" did not refer to that Charity but to the African Development Agency, which was *'a community and voluntary organisation that was founded in 1982 as an unincorporated association'*. Dr Seray-Wurie told the inquiry that the funds were due to him because he had *'paid for the projects and what was owed to the other creditors of ADACA and ADA [African Development Agency] who had demanded and received payments from me before I got the £609,740.62.'*
31. By July 2006, the Inquiry had two explanations provided by Dr Seray-Wurie describing how the funds recovered in the court case were used.
- a. First, that they were used to reimburse ADACA for payments made during 1985-1991 to cover the costs of projects run by ADA and HAO.
  - b. Second, that they were owed to Dr Seray-Wurie to reimburse him for payments made out of his personal funds to pay the creditors of ADACA and a second organisation, the African Development Agency, which had met the costs of projects run by ADA and HAO during 1985-1991.

<sup>9</sup> The Charity was called the African Development Agencies, and was a charitable company rather than an unincorporated association.

32. Dr Seray-Wurie was unable to provide any documentation or other evidence<sup>10</sup> to support either of the financial arrangements he claimed were in place. None of the other trustees of ADA and HAO were able to provide any supporting documentation. Instead, in April 2006 Dr Seray-Wurie told the Inquiry that *'it is now many years since we concluded a number of court cases with [London Borough of Hackney], and we do not know where the documents are presently.'* He went on to say, during 2006, that he had provided all the records that were available.
33. The Inquiry noted that charity trustees are legally obliged to retain charity accounting records for a minimum of six years. Financial documents dating from 2001, when the funds were recovered and disbursed by Dr Seray-Wurie, should have been available.
34. Further, the Inquiry found no record of any of these financial arrangements in either of the Charities' accounts. Neither ADACA nor the African Development Agency was shown as a creditor of either Charity. No individuals who could have been the directors and trustees of those organisations were shown as creditors. In May 2006 Dr Seray-Wurie told the Inquiry that the arrangements he described between the Charities and ADACA, under which ADACA purportedly paid for projects run by the Charities during 1985-1991, were *'treated outside the Charity accounts<sup>11</sup> or else it would never have been able to provide balanced budgets and continue to exist.'*
35. **The Inquiry concluded that it could not be satisfied that the £609,740.62 recovered for the Charities from the court case was properly applied for the purposes of the Charities. The actual use of the funds, seen through the Inquiry's analysis of the relevant bank statements, did not support Dr Seray-Wurie's claim that the funds were due to ADACA: there was no transfer of funds to this organisation. Further, Dr Seray-Wurie's explanations of the use of the funds and who they belonged to were inconsistent between April and July 2006. They were unsupported by any documentation or records. The Inquiry was not satisfied that the funds had been properly applied.**

### **Issue 3: The conduct of Dr Seray-Wurie as a trustee of the Charities**

36. The Inquiry examined Dr Seray-Wurie's conduct as a trustee of both Charities in relation to the funds recovered from the court case. It also examined his conduct during the Inquiry when dealing with the Commission as regulator.
37. The Inquiry found that Dr Seray-Wurie could not demonstrate that the funds recovered in the court case were used to pay legitimate creditors and he had failed to keep any records to support his claims about their use. The Inquiry took into account the fact that Dr Seray-Wurie was responsible for arranging for the funds recovered from the court case to be put into his personal bank account.
38. Furthermore, the Inquiry found that Dr Seray-Wurie's deliberate exclusion of material information such as loans and creditors from the Charities' accounts was in breach of his duties as a trustee. This was particularly concerning when Dr Seray-Wurie had signed the accounts in his capacity as chair of the trustees.

<sup>10</sup> This could have included loan receipts issued to the creditors or ADACA or the African Development Agency, or any agreements between ADA or HAO and ADACA or the African Development Agency.

<sup>11</sup> Dr Seray-Wurie did not specify whether this referred to ADA or HAO, although the arrangements appeared in neither Charity's accounts.

39. The Inquiry further found that Dr Seray-Wurie failed to engage with the Commission as regulator in a reasonable manner. Information, which should have been accessible from the Charities' records, was never provided despite requests and, ultimately, directions made by the Inquiry under section 8 of the Act. This failure to provide information significantly hindered the Inquiry's efforts to establish the use of the funds recovered from the court case and the activities or continued existence of ADA and HAO.
40. Finally, the Inquiry found that Dr Seray-Wurie gave different explanations of who owned the legal interest in the premises occupied by ADA and HAO in London, whether it was ADA or the African Development Agency. He could not explain what interest that Charity had in those premises. ADACA and the unincorporated association called the African Development Agency also appeared to operate from these premises at various points, but the status and structure of these organisations and the relationships between them and the Charities were not made clear to the Inquiry. From what was known, the Inquiry concluded that ADA may have a valuable interest in those premises.
41. **The Inquiry concluded that Dr Seray-Wurie's conduct made him unsuitable to be a charity trustee of ADA. He failed in his legal duty as a trustee to keep clear and accurate records of both Charities' property in respect of the funds recovered from the court case, and in his legal duty as a trustee to produce accurate annual accounts for the Charities.**

## Conclusions

### **The decision to remove Dr Seray-Wurie**

42. The funds recovered from the court case were due to the Charities. Dr Seray-Wurie arranged for those funds to be put into his personal bank account and did not pass them to either of the Charities. Instead, he used the funds for a variety of payments that he could not account for as charity trustee, and gave different explanations about why the funds were used in that way. The Inquiry could not be satisfied the funds were applied in furtherance of the Charities' purposes.
43. Based on its findings, the Inquiry concluded that Dr Seray-Wurie had been responsible for or privy to misconduct or mismanagement in the administration of ADA, or had by his conduct contributed to it. Furthermore, given the serious nature of this misconduct or mismanagement, Dr Seray-Wurie's continued involvement in ADA would pose a significant risk to the proper application of its property. Consequently, the Inquiry concluded that it was proportionate to remove Dr Seray-Wurie as trustee, officer and agent of ADA. This action was taken on 30 January 2007.
44. As a result of his being removed by the Commission, and by virtue of section 73 of the Act, Dr Seray-Wurie was disqualified for being a charity trustee or trustee of any charity. As a result he was no longer a trustee of HAO.

### **The possibility of recovering the funds**

45. The Inquiry could not be satisfied that the £609,740.62 recovered for the Charities from the court case was properly applied for the purposes of the Charities. The Commission requested the other trustee of ADA consider whether to seek restitution from Dr Seray-Wurie of the funds unaccounted for. However, it was made clear that he did not intend to do so.
46. The police service had already told the Inquiry, in March 2006, that they were not going to take further action. The Inquiry therefore considered seeking restitution from Dr Seray-Wurie of the funds arising from the court case with the London Borough of Hackney.
47. The Inquiry adopted a commercial approach to the question of restitution, including considering not only the strength of the claim against Dr Seray-Wurie but also the costs and likelihood of recovery, and ultimately if it was in the public interest to take action. Although there was a strong case to demonstrate Dr Seray-Wurie's breaches of trust in respect of the funds, the costs would be high and the prospects of successfully enforcing judgement against Dr Seray-Wurie were low. The money had been spent. After careful consideration, the Inquiry concluded that it would not be proportionate not in the public interest to seek to recover the funds from Dr Seray-Wurie.

## Regulatory action taken

48. During the Inquiry, the following regulatory action was taken to gather information about the Charities:
  - a. 7 September 2004: The Commission obtained copies of the statements for Dr Seray-Wurie's personal bank account that received the charitable funds from the court, using section 9 of the Act.
  - b. 28 March and 15 June 2006: The Commission issued directions under section 8 of the Act requiring Dr Seray-Wurie to explain what happened to the charitable funds paid to him by the court.
  - c. 19 October, 16 November and 30 November 2006: The Commission issued directions under section 8 of the Act to the other trustee of ADA to provide information relating to the Charity's activities and the use of funds due to it from the court case.
  - d. 17 November 2006: Orders under section 9 of the Act were sent to a number of banks to clarify if they held any accounts in the name of ADA.
49. In addition, the following regulatory action was taken in respect of Dr Seray-Wurie:
  - a. 8 May 2006: The Commission suspended Dr Seray-Wurie as trustee, agent and officer of HAO and ADA as a temporary and protective measure, on the grounds that he had failed to properly account for charity funds and there was a serious risk that those funds had not been properly applied for the purposes of the Charities.
  - b. 30 January 2007: The Commission removed Dr Seray-Wurie as a trustee of ADA.

## Subsequent action

### ADA and HAO

50. Following the closure of the Inquiry the Commission sought to establish if ADA was still operating and the extent of its charitable property. To clarify this point the Commission contacted the other trustee of ADA but no information was forthcoming from him. Despite maintaining that the Charity had dissolved in February 2006 he did not provide any resolution to that effect or a final set of accounts confirming that any remaining funds had been properly applied. He also did not clarify whether the Charity retained any interest in its premises. The Commission also contacted the Land Registry and the London Borough of Hackney to clarify if the Charity had ceased to operate. This provided some evidence to indicate it may hold a potentially valuable interest in a property.
51. In January 2007 the Inquiry discovered, from Companies House records, that on 21 November 2006 Dr Seray-Wurie and the other trustee of ADA signed an application for ADA to be struck off the register of companies and dissolved. They did not inform the Commission of this application. The Commission noted that by signing the form in his capacity as trustee of ADA, Dr Seray-Wurie acted in breach of its order suspending him as trustee, agent and officer of that Charity.
52. There was no evidence that ADA had been properly wound up or its charitable funds properly applied. However, in 2007 it was removed from the Register of Companies. Consequently, the Commission concluded that it should be removed from the Register of Charities and it was removed on 4 March 2008.
53. As it has ceased to exist, HAO was removed from the Register of Charities on 12 August 2009.

## Legal action following from the removal of Dr Seray-Wurie

54. In April 2007 Dr Seray-Wurie initiated an appeal of his removal from ADA and also initiated an application for a judicial review of that decision. He was refused permission to bring judicial review proceedings; he renewed his application and in April 2008 it was refused.
55. The appeal of Dr Seray-Wurie's removal was heard in April 2008 and was dismissed. The appeal judgement<sup>12</sup> confirmed that the Commission had proved misconduct and mismanagement by Dr Seray-Wurie in the administration of ADA: *'being the failure to prepare accounts for ADA reflecting the loans allegedly made and also the failure to reflect in the accounts for either 2001 or 2002 the receipt of money received by the Appellant [Dr Seray-Wurie] and its disbursement to discharge alleged loans.'*<sup>13</sup>
56. The judgement went on to state that *'the failure to make and keep proper records amounted to serious mismanagement,<sup>14</sup>'* and that it was *'inexcusable'*, in light of his knowledge of his suspension as a trustee and its effect, for Dr Seray-Wurie to sign the application to strike off ADA from the Register of Companies without seeking the prior approval of the Commission.
57. The judgement stated that ADA *'probably had an interest in the property'*, (meaning its premises in London), and that *'there was a substantial risk that if the Appellant [Dr Seray-Wurie] continued to be involved as a trustee then that interest would be lost. I reach that conclusion because the Appellant has shown that he has scant regard for the legal niceties and, in that context, has described the ownership of the proprietary interest in the property in a number of different ways and attributed it to different entities as suited the need of the moment, and had done so in various different ways prior to the date when the removal order was made.'*
58. In May 2008, following the dismissal of the appeal, Dr Seray-Wurie applied for permission to appeal the judgement. On 23 January 2009 his application for permission was refused.

## Impact of Commission intervention

59. Dr Seray-Wurie had received £609,740.62 which was due to the Charities but that he cannot account for. Following his removal as a trustee, officer and agent of ADA, Dr Seray-Wurie was no longer a trustee of either Charity and no longer posed a risk to the proper application of the Charities' property.
60. ADA and HAO have been removed from the Register of Charities.

<sup>12</sup> Dr Adu Aezick Seray-Wurie v Charity Commission and Her Majesty's Attorney General [2008] EWHC 1091 (Ch)

<sup>13</sup> The judgement went on to call this *'a conscious flouting of the general law and of the obligations owed by a charity trustee.'*

<sup>14</sup> The Judgment stated: *'Where a trustee is seeking reimbursement of sums loaned to a charity of which he is a trustee, there is a pressing necessity, given the self-dealing element to ensure transparency. The best and perhaps the only way that this can be achieved is making and keeping up to date proper records as well as involving fellow trustees in the process and recording the process in a formal manner.'*

## Resources applied

61. The Commission adopted a multi-disciplinary team working approach to this case both before and during the Inquiry. The team consisted of investigators and lawyers. The Commission, as a non-prosecuting body, does not record the full costs of each inquiry.

## Issues for the wider sector

62. It is the fundamental duty of all charity trustees to protect the property of their charity and to secure its application for the objects of the charity. As part of this it is a duty of charity trustees to account for charity property, including a duty to keep clear and accurate accounts of charity property. Every charity must comply with the legal requirements for the preparation of accounts and reports. In the case of some categories of charity (for example, charitable companies or those registered social landlords which are exempt charities) these requirements will be set out in legislation appropriate to that type of organisation. Charities which are not covered by specific legislation must comply with the requirements set out in Part VI of the Charities Act 1993 and, where appropriate, the related **Charities (Accounts and Reports) Regulations** issued in 2005.
63. All charities must keep accounting records and retain these for a minimum of six years.
64. All charities must prepare accounts and make them available on request. The duty to file accounts and the Trustees' Annual Report with the Charity Commission applies to all registered charities whose gross income exceeds £10,000.
65. Charity trustees are under a statutory duty to cooperate with the Commission. Whether they do so or not is a relevant factor in assessing whether misconduct or mismanagement may have taken place in a charity<sup>15</sup> and considering whether regulatory action is proportionate.

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<sup>15</sup> Scargill and Cave v Charity Commissioners and HM Attorney General (unreported, reference CH 1997-5-No. 5180 and CH 1998-5-No. 2423.)



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