

COMPLIANCE  
& SUPPORT

**Inquiry Report**  
**Diabetes Help Limited**



This is a statement of results of an inquiry under section 8 of the Charities Act 1993 as amended by the Charities Act 2006 (“the Act”) and published on 1 October 2008

## The Charity

1. Diabetes Help Limited is an unregistered charitable company (“the Charity”). Its purposes are to provide medical equipment and treatment for diabetics, and to support and advance research in the field of diabetes in the United Kingdom and throughout the world, and to provide material of an educational and informational nature to persons who are interested in and affected by diabetes by means of the consolidation of funds and centralised disbursement.
2. Arthur Bennett and his wife set up the Charity in 1990 as the Diabetic Society. Its name was subsequently changed to Diabetic Help Limited, and then to Diabetes Help Limited.
3. Its income has varied throughout its existence and it has filed dormant accounts with Companies House since 1991. However, during 2006 it had expected income of around £101,000 as a result of a bequest left in its favour.
4. During part of this inquiry Mr Bennett was also involved in a charity which was the subject of a separate inquiry, Diabetes Foundation. The statement of results of the inquiry regarding Diabetes Foundation is available on the Commission’s website.

## Background to the inquiry

5. In 1995 the British Diabetic Association (charity registration number 215199) (“BDA”) took and won legal proceedings against Mr Bennett and the Charity regarding the similarity of the two charities’ names<sup>1</sup>. In November 1996 the Commission received allegations that Mr Bennett had used funds from Diabetes Foundation to pay legal costs for the Charity in these proceedings. The Commission’s subsequent investigations led to the removal, in October 1998, of Mr Bennett as trustee of Diabetes Foundation. By virtue of this action and section 72 of the Act, Mr Bennett was, from the date of his removal, disqualified for being a charity trustee or trustee for a charity.
6. In 1999 the Commission became aware of concerns that Mr Bennett was raising funds through the Charity on behalf of other charities without their knowledge or permission, and without passing the funds on. His disqualification under section 72 of the Act meant that it was a criminal offence for Mr Bennett to act as trustee of a charity or charitable funds. The Commission approached Mr Bennett on this matter and he informed it that the Charity was dormant.

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<sup>1</sup> The British Diabetic Association v. The Diabetic Society and Others [1996] F.S.R. 1

## Source of Concern

7. In August 2000 the Commission received evidence that a donation sent to Mr Bennett's address for the 'Diabetes National Foundation' was received and banked by Mr Bennett on behalf of Diabetes Help Limited. This contradicted Mr Bennett's claim the Charity was dormant, as well as raising serious concerns about whether Mr Bennett:
  - had been entitled to bank these funds for the Charity;
  - was holding other charitable funds;
  - was acting as a charity trustee whilst disqualified from doing so and was therefore committing a criminal offence.

## Commission inquiry

8. The Commission opened an inquiry to establish if Mr Bennett was raising charitable funds, and if so to protect those funds and ensure they were applied for charitable purposes. The scope of the inquiry also included finding out if there was evidence Mr Bennett was acting as a trustee whilst disqualified.
9. During the course of this inquiry and as the Commission was concluding residual issues from investigating Mr Bennett's fundraising activities, a further issue arose. In April 2006 the Commission was notified of a bequest of around £101,000 due to be paid to the Charity imminently. It also became aware that Mr Bennett continued to be named as a director of the Charity on the register at Companies House despite his being disqualified for being a trustee and being convicted of acting as a trustee of the Charity whilst disqualified from doing so in 2003. He was also the Company Secretary of the Charity. At the same time, an article was published in the Croydon Advertiser of 7 April 2006 in which Mr Bennett was reported as saying he had used charitable funds to pay for legal costs concerning proceedings between him and BDA. Taken together, these issues were sufficient to raise serious concerns about the use of the bequest were it to be paid to the Charity.
10. By this time, the Charity had a sole trustee capable of acting: Mr Bennett's daughter Miss Jennifer Bennett.

## Issues

11. The original issue addressed by the inquiry was whether fundraising was being carried out by a disqualified trustee, Mr Bennett.
12. From 2006 an additional issue arose, concerning the conduct of Miss Bennett as trustee of the Charity.

## Timescale of inquiry

13. The inquiry was opened on 16 August 2000 and closed on 31 August 2007. Its length was the result of the involvement of the police, a criminal trial of Mr Bennett and Mr Bennett's involvement in the inquiry regarding Diabetes Foundation; as well as the thorough enquires and analysis undertaken by the Commission. Further delay in publishing this report has resulted from litigation between Mr Bennett and the Commission in respect of Diabetes Foundation.

## Findings

14. The Commission found that during 2000 and 2001 Mr Bennett used the Charity to raise charitable funds, despite his being disqualified from acting as a charity trustee. He sent appeals to many organisations, a number of which sent donations in good faith to the Charity. At least some of these donations were banked in the Charity's accounts. Mr Bennett was unable to account for the use of these funds.
15. The Commission found that Mr Bennett had informed potential donors that the Charity was charitable and was to be registered with the Commission, but he made no application to register it at that time. He also informed the Charities Aid Foundation that the Charity had tax-exempt status when in fact its application to the Inland Revenue had been turned down because it was not registered with the Commission. At the same time, Mr Bennett maintained to the Commission that it was not a charity at all.
16. These matters were referred to the police. In June 2003 Mr Bennett was convicted of acting as a trustee of the Charity whilst disqualified under the Act, fraudulent trading under the Companies Act 1985, furnishing false information to the Charities Aid Foundation and charges of forgery.
17. Despite these convictions, when the Commission became aware of the bequest left to the Charity in 2006, it found that Mr Bennett apparently retained a continued involvement as a registered director at Companies House and as Company Secretary of the Charity. In addition, the Charity's registered address was Mr Bennett's home address. Given his past conduct, the Commission found that Mr Bennett's continued involvement in the Charity, especially his acting as a trustee of the Charity whilst disqualified and his fraudulent activities concerning charity property, posed a significant risk to the proper use of the bequest to the Charity and its other property.
18. The Commission entered into correspondence with Miss Bennett in 2006 regarding the bequest and its proposed use. During this correspondence, Miss Bennett consistently failed to engage with the Commission and address the concerns raised as responsibly as would be expected of a charity trustee. This caused concern that Miss Bennett might adopt a similar approach to other organisations and individuals when representing the Charity and thereby place the Charity's reputation at risk. Miss Bennett did provide some explanation of her plans to manage the Charity but refused to address concerns about Mr Bennett's continued involvement in the Charity. The Commission did take account of Miss Bennett's inexperience as a trustee, and that she might find it difficult to deal with the involvement of Mr Bennett, being his daughter and as she was living in his house. Nonetheless, the Commission found that Miss Bennett was not willing to take the opportunities and advice the Commission provided and did not take reasonable steps to alleviate the Commission's concerns.

19. On 26 June 2006 Miss Bennett sent a Commission officer an email attachment containing a video of a hostage in Iraq being beheaded by a militia group, and referred to 'diabetes' when writing about the attachment. The Commission referred this to the police and Miss Bennett received a caution for sending this email. Whilst Miss Bennett did later apologise for sending this attachment she also sought to make excuses for her actions, arguing that she was 'testing' the Commission by sending it. The Commission considered that this conduct in her capacity as a charity trustee and her failure to acknowledge the seriousness of committing a criminal act while acting in that capacity amounted to misconduct in the administration of the Charity.

## Conduct of inquiry

### Fraudulent fundraising: 2000 – 2003

20. Upon receiving evidence in 2000 that Mr Bennett was using the Charity to raise funds, the Commission immediately contacted the Charity's bank and obtained details of accounts held by the Charity. This confirmed that the donation sent to the Diabetes National Foundation had been paid into an account in the Charity's name that was operated by Mr Bennett.
21. The Commission contacted Mr Bennett on 14 September 2000 and requested an explanation regarding the donation. Mr Bennett stated that the Charity had wound up in early 2000. However, the Commission obtained copies of fundraising literature sent in November 2000 demonstrating that the Charity was contacting organisations to ask for funds.
22. In order to ascertain if any other charitable funds were being held by the Charity, the Commission contacted a number of banks and sought details of any relevant bank accounts. In June 2001 it discovered two accounts connected to the Charity. The Commission found that one account had received funds via the Charities Aid Foundation. The Commission froze all identified accounts to protect the funds in them.
23. Throughout 2001 and 2002 the Commission became aware of other organisations and individuals that had donated to the Charity and of ongoing fundraising activities by it. Further accounts holding funds for the Charity were discovered, and in June 2003 these were frozen to protect the funds.
24. The Commission asked to meet with Mr Bennett and an employee at the Charity. Mr Bennett declined to co-operate with the Commission. The employee initially refused to attend a meeting but was then directed to do so by the Commission under section 8 of the Act. At the meeting the Charity's activities were discussed.
25. Having reviewed the evidence it held, the Commission took the view that Mr Bennett may have committed a criminal offence by raising charitable funds whilst disqualified for being a charity trustee or trustee for a charity. It referred the matter to the police and in June 2003 Mr Bennett was convicted, amongst other offences in connection with the Charity, of acting as a charity trustee whilst disqualified from doing so.
26. Following the outcome of Mr Bennett's criminal trial, the Commission considered various ways to ensure the Charity's funds were put to proper use.

## **Protecting the legacy and other charitable funds: 2006 – 2007**

27. Having discovered, on 10 April 2006, the bequest of £101,000 due to the Charity, on 25 April the Commission took the temporary and protective step of freezing the payment of the bequest and urgently contacted Miss Bennett for clarification about her plans for its use. It took this action as a result of the potential risks arising from Mr Bennett's continued involvement in the Charity.
28. Correspondence with Miss Bennett about how the bequest would be used and the Charity's activities and governance more generally continued until October 2006 and included two letters directing Miss Bennett to reply to questions, on 6 and 26 July 2006. The Commission also contacted Mr Bennett about his still being listed as a director of the Charity at Companies House. No response was received from Mr Bennett.
29. In June 2006 Miss Bennett sent the Commission an email attachment of a video showing the beheading of a hostage by an Iraqi militia group. Miss Bennett's actions were immediately referred to the police.
30. In addition to this email other Commission officers received offensive emails from Miss Bennett and individuals who appeared to be connected to her. Websites were established on which incorrect, unfounded and offensive statements were made about Commission officers relating to both their professional and personal lives. Whilst the Commission appreciated that sometimes its customers will strongly disagree with its actions and findings, and will make their disagreements known to the Commission, it took the view that the websites and some of the emails were unacceptable. The Commission made it clear that it would not respond to emails containing offensive or abusive comments.
31. By July 2006 the Commission concluded that given Miss Bennett's failure to engage responsibly with the Commission and alleviate the concerns raised by her conduct, her continued involvement with the Charity posed a significant risk to the proper application of the Charity's property. On 6 July 2006 Miss Bennett was suspended as a trustee, officer and agent of the Charity.
32. Correspondence with Miss Bennett continued but still did not alleviate the concerns of the Commission. On 11 October 2006 the Commission issued notice of its intention to remove Miss Bennett as trustee, officer and agent of the Charity. 54 emails plus attachments were received from Miss Bennett as representations about the Commission's intention to remove her, many of which made no points of any relevance to the grounds for removal, the Commission's inquiry or to the Charity generally. Nonetheless, 26 representations were considered by two Board members of the Commission. The Board members upheld the decision to remove her and Miss Bennett was removed as trustee, officer and agent of the Charity on 4 April 2007.
33. In order to secure the proper governance of the Charity and the proper application of its funds whilst Miss Bennett was suspended from acting, on 26 March 2007 the Commission appointed an Interim Manager to the Charity. The Interim Manager took steps to secure all the Charity's funds (from its frozen accounts and the bequest due to it). This resulted in the various freezing orders being discharged.

34. During and after Miss Bennett's removal and the appointment of the Interim Manager, the Commission received 11 requests for information under the Freedom of Information Act 2000 from individuals stating they were associated with Miss Bennett. Whilst responding to these, the Commission also received correspondence from individuals purporting to manage the Charity and emails continuing to make offensive or abusive statements about and to Commission officers. The Commission made it clear that the Interim Manager was managing the charity.
35. The Charity's property having been protected, the inquiry was closed on 31 August 2007.

## Subsequent action

36. In November 2007 the Interim Manager passed the Charity's funds to BDA for them to use for charitable purposes. The Interim Manager was discharged on 17 December 2007.
37. The Commission is aware of individuals purporting to raise funds through the Charity. The public should be aware that Diabetes Help Limited no longer operates. If they receive any request for a donation to Diabetes Help Limited they should contact the Commission at [enquiries@charitycommission.gov.uk](mailto:enquiries@charitycommission.gov.uk) and report it to the police.

## Conclusions

38. The Commission concluded that Mr Bennett's actions in fundraising through the Charity were improper and potentially criminal. This conclusion was supported by his subsequent conviction for fraudulent activities in connection with the Charity. The Commission found no evidence that funds raised through the Charity by Mr Bennett were spent on charitable purposes.
39. The Commission concluded that Mr Bennett's continued involvement in the Charity after his conviction posed a significant risk to the proper application of its funds. This was especially evident after his conviction in 2003 of acting as a charity trustee whilst disqualified and his fraudulent activities concerning charity property.
40. The Commission concluded that Miss Bennett's actions as trustee of the Charity during the inquiry amounted to misconduct and mismanagement in the administration of the Charity. Miss Bennett failed to acknowledge the seriousness of committing a criminal act as a charity trustee. She refused to address the Commission's serious concerns about the involvement of Mr Bennett in the Charity and put the Charity's reputation at risk by not being prepared to communicate constructively about serious risks to the Charity. In addition, the Commission concluded that Miss Bennett's conduct as trustee and refusal to address the Commission's serious concerns placed the bequest of around £101,000 (and other funds in the Charity's accounts) at risk.

## Regulatory action taken

41. During the inquiry, the following regulatory action was taken to secure information necessary to the Commission's investigation:
  - On 5 June 2001 the Commission ordered, under section 9 of the Act, various financial institutions to provide details of any accounts held in connection with the Charity. Additional information on the relevant accounts was ordered on 16, 30 and 31 July 2001, 7 November 2001 and 17 June 2003.
  - On 6 July 2001 the Commission ordered, under section 9 of the Act, a bank and the Charities Aid Foundation to provide details of charity funds. Further information was ordered from the Charities Aid Foundation on 13 July 2001.
  - On 17 August 2001 the Commission directed, under section 8 of the Act, the Charity's Co-ordinator to attend a meeting with its officers.
  - On 13 April 2006 the Commission directed, under section 8 of the Act, the solicitor administering the bequest due to the Charity to provide information about the bequest.
  - On 6 July 2006 the Commission directed Miss Bennett under section 8 of the Act to answer questions about the Charity's governance. A further direction was made on 26 July 2006.
42. The following temporary measures were taken to protect the Charity and its funds:
  - On 4 July 2001 and 13 June 2003 the Commission froze bank accounts containing charitable funds held in connection with the Charity, under section 18(1)(iv) of the Act.
  - On 25 April 2006 the Commission froze the payment of a debt to the Charity, under section 18(1)(v) of the Act. This is a power that the Commission does not use often. However, its use was appropriate in these circumstances, and reflected the serious nature of the risks to the proper application of the funds. In this case it meant it was necessary for the Commission to act to protect the funds whilst concerns about its proper management were considered. This order was discharged on 18 July 2007 after the Interim Manager had secured control of the charity's funds.
  - On 6 July 2006 the Commission suspended Miss Bennett as trustee, agent and officer of the Charity, under section 18(1)(i) of the Act.
  - On 26 March 2007 the Commission appointed an Interim Manager to run the Charity to the exclusion of its trustee. The Interim Manager's appointment was determined on 17 December 2007.
43. The following permanent action was necessary to protect the Charity and its funds:
  - On 4 April 2007 the Commission removed Miss Bennett as trustee, agent and officer of the Charity.

## Impact of Commission intervention

44. Mr Bennett is no longer acting as a trustee of the Charity. The Commission's inquiry was instrumental in the success of the criminal trial of Mr Bennett in 2003. Following his conviction, Mr Bennett no longer used this Charity to raise funds and could no longer act as a fundraiser for any other charity. The public, and in particular those organisations he had previously targeted for funds, were protected from Mr Bennett's fraudulent fundraising activities.
45. Miss Bennett is no longer a trustee of the Charity. Her removal, and the appointment of an Interim Manager to secure the Charity's governance and funds, protected the Charity from misconduct in its administration and secured the proper application of its funds.
46. Over £104,000 has been properly applied for charitable purposes.

## Resources applied

47. This inquiry was handled by a multidisciplinary team drawing on the Commission's Compliance and Support and Legal Divisions. Since January 2006 the Intensive Casework Unit took the inquiry forward within Compliance and Support. In addition to the core team, specialists from Compliance and Support in the Freedom of Information Act 2000 handled 11 requests under that Act, two Board members of the Commission made the decision to remove Miss Bennett as trustee, officer and agent of the Charity, with the Customer Services Division facilitating this process, and the Commission's Information Systems Division and Human Resources assisted in handling the harassment of Commission staff.
48. The Interim Manager costs of £2,303 were drawn from the Charity's funds.

## Lessons for other charities

49. Acting as a charity trustee or trustee for a charity whilst disqualified is a criminal offence. Where the Commission has evidence this offence may be committed it will liaise with the police as appropriate. The Commission will also seek and support prosecution where it has evidence of criminal activity relating to fundraising for charity.
50. 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>2</sup> and considering whether regulatory action is proportionate.
51. Charities can receive large donations or bequests unexpectedly and when the charity is not equipped to deal with such funds. The Commission acknowledges this can create difficulties for trustees and an immediate pressure to decide how to handle the funds. When dealing with this situation, trustees must ensure that their charity complies with charity law and with the requirements of the Commission as regulator. Trustees must act with integrity, and avoid any conflicts of interest or misuse of charity funds. Trustees must use reasonable care and skill in their work as trustees, using their personal skills and experience as needed to ensure that the charity is well-run and efficient.

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<sup>2</sup> Under section 18(13) of the Act the Commission is required to review most orders made under section 18(1) and, if it appears to the Commission that it would be appropriate to discharge the order in whole or in part, discharge it.

52. Charities can change their addresses and contact details during the course of their existence. When money is left to a charity in a will, a considerable amount of time can pass between the time of writing the will, and a legacy being paid out. To ensure that the money reaches the correct recipient, anyone dealing with legacies can check the Commission's website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) for the latest contact details of any registered charity. It is also worth checking with the charity itself, in case there is a specific person to whom enquiries should be addressed.
53. Failure to register a charity where there is a legal obligation to do so does not exclude the charity from the Commission's jurisdiction. A charity, for the purposes of charity law in England and Wales, is any institution, corporate or not, established for charitable purposes and subject to the control of the High Court. Generally, a charity must register with the Commission if it has an annual income of over £5,000.
54. The Commission considers that any occurrence of personal abuse or harassment of its staff is totally unacceptable. Whilst the incidence of such occurrences in the context of the Commission's work is small, nevertheless the Commission regards the safety and welfare of its staff as being of paramount importance and considers any abuse, harassment or assault – whether verbal, written or physical – of any member of staff, whilst acting in the course of their work, as unacceptable. Where the abuse or harassment of its staff may be criminal conduct, the Commission will, in discussion with the member of staff concerned, refer incidents to the police.



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