

# Scottish Charity Regulator (OSCR)

## Inquiry Report made under Section 33 of the Charities and Trustee Investment (Scotland) Act 2005

The King's Foundation, SC038770

### The charity

The King's Foundation (the charity) is a charitable company first registered as a charity in 2007. The charity was previously known as The Prince's Foundation.

The charity's main activities include:

- Education and training programmes
- Promoting and participating in sustainable development of communities
- Regeneration of heritage properties

The charity is managed by a Board of charity trustees.


### Inquiry scope

Between May and September 2021 articles were published in the media about financial transactions between the charity and one of its former charity trustees along with allegations about the charity's CEO at the time ('the former CEO').

The allegations raised several regulatory concerns. In addition, the charity submitted a notifiable event to OSCR in May 2021 about issues reported in the media. OSCR opened an inquiry into the charity on 9 September 2021.

OSCR's regulatory interest was whether the persons concerned in the general control and management of the administration of the charity had complied with their duties under section 66 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) to act in the interests of the charity. Any breach of the duties under section 66 of the 2005 Act is to be treated as being misconduct in the administration of the charity.

A charity's trustees are the persons who have the general control and management of the administration of a charity. However, given the nature of, and the responsibilities involved in the role of the charity's former CEO, OSCR considered them to also be concerned in the general control and management of the administration of the charity.



OSCR made inquiries to understand whether the former and current charity trustees and the former CEO had fulfilled their duty to act in the interests of the charity.

The inquiry was divided into two separate strands. The first strand considered the historical governance of the charity. The second strand looked at the charity's current and future governance arrangements. The inquiry into the second strand concluded on 28 September 2023.

The concerns that OSCR investigated as part of the first strand of the inquiry involved:

- Financial transactions between the charity and Havisham Assets Limited
- The purchase of an item of home furnishing by the charity on behalf of a former charity trustee for their personal use
- Allegations about the actions of the former CEO in relation to donations made to the charity and his approach in encouraging them
- A donation that the charity chose not to retain that was subsequently sent to a third-party rather than being returned to the donor.

During the course of OSCR's inquiry into the above issues, the media reported allegations that the charity's former CEO offered to use his influence to help a donor to the charity secure a knighthood and UK citizenship. These allegations were investigated by the Metropolitan Police under the Honours (Prevention of Abuses) Act 1925. In August 2023, the investigation concluded that no further action would be taken.

Due to the serious nature of the allegations made about the charity's former CEO at the time, OSCR's inquiry sought to establish whether the former charity trustees had any previous concerns about the former CEO's conduct. The charity advised that concerns had arisen regarding the former CEO's involvement in a situation involving loaned artwork and that it had become apparent the former CEO had also been in receipt of unauthorised payments via a third party.

The scope of OSCR's inquiry was therefore extended to include concerns that:

- The former CEO may have misled the former trustees in relation to the ownership and insurance status of loaned artwork.
- The former CEO may have been in receipt of unauthorised payments from the charity.
- The former charity trustees may not have exercised sufficient control over the former CEO.

The inquiry considered a significant body of information. OSCR engaged with the current charity trustees and executive team as well as with the charity trustees

who served during 2019–2020 (the former charity trustees) as this was a key time in relation to some of the historic concerns. OSCR also engaged with the former CEO.

## Findings

### **Historic governance strand**

- Transactions with Havisham Assets Limited, non-charitable expenditure and the former CEO's involvement with donors

The initial issues that were reported in the media such as the transactions between the charity and Havisham Assets Limited, the purchase of an item of home furnishings for a former trustee and the actions of the former CEO in relation to donations generally took place between 2013 and 2015. Despite the historic nature of those issues, OSCR did seek information from the charity about these matters.

The information gathered indicates that decision making and the recording of decisions at the time the initial issues occurred was inadequate as it was unclear how those transactions were in the interests of the charity. Monies were subsequently repaid to the charity where necessary. Through engaging with the current trustees regarding those issues, they recognised the previous governance arrangements had been lacking in this area, and this informed the governance review that they subsequently undertook.

### **Donation**

In May 2020, the charity accepted a donation from an individual (Donor A) that the charity's Ethics Committee subsequently decided not to retain. The Ethics Committee is a sub-committee of the charity's Board, and its members are charity trustees.

The donation from Donor A was received by the charity via The Mahfouz Foundation's bank account. The Mahfouz Foundation was, at the time, a charity registered with the Charity Commission for England and Wales (CCEW). Donor A has stated that they had no knowledge their donation had been routed through The Mahfouz Foundation's bank account. It was Donor A's belief that they had made the donation directly to The King's Foundation.

When the charity decided not to retain and to instead return the donation, the monies were transferred back to The Mahfouz Foundation's bank account, from which they had been received.

On receipt of the returned donation, The Mahfouz Foundation sent the monies to Children and the Arts (CATA), a body that was also a registered charity in England and Wales, rather than return the funds to Donor A.

There is no evidence to show that the former charity trustees of The King's Foundation were aware the original donation had been received via The Mahfouz Foundation's bank account or that it was not returned to Donor A following the decision of the charity's Ethics Committee not to retain it.

As the charity regulator of The Mahfouz Foundation, the CCEW carried out inquiries into the donation issue. CCEW's inquiry report can be found [here](#).


Information gathered by OSCR indicated that the decision to transfer the monies to CATA followed correspondence between the King's Foundation's former CEO and a third-party. OSCR understands from CCEW's inquiry that the charity's former CEO understood that the third-party had been in communication with Donor A regarding the transfer of Donor A's money to CATA.

### **Artwork**

In 2016 the charity had been loaned artwork by a donor (Donor B). In 2017 Donor B discussed lending further paintings and gifting two of them to the charity.

The charity advised that in November 2019 they were alerted to claims that the authenticity of certain paintings loaned to the charity was in doubt. At that time the former Chair and Vice Chair immediately authorised and oversaw an externally led review ("the artwork review"). Evidence gathered by OSCR's inquiry indicated that the other former charity trustees had little involvement or knowledge of the artwork review. The charity stated that while the artwork review concluded that there was no reason as to why the paintings should not have been accepted, concerns were also raised regarding some of the former CEO's actions.

OSCR's inquiry was told by the charity that the former CEO had indicated to the former Chair that two of the loaned artworks had been gifted to the charity and could have been used to support the charity's 'going concern' statement in its 2018 financial statements. The charity advised OSCR that it subsequently became clear that the paintings had not been gifted to the charity. In addition, the charity advised OSCR's inquiry that the former CEO had written a letter stating that all the loaned paintings were insured by the charity. In reality, the insurance policy had lapsed because the insurers did not receive details of valuations that they had requested from the charity.



The inquiry sought to establish whether the former CEO had obstructed the former trustees from exercising their charity trustee duties by misleading them about the ownership and insurance status of the artwork.

The artwork review identified that while two letters setting out the terms of the gift of the two paintings to the charity existed, they had not been signed by Donor B. The former CEO advised OSCR's inquiry that communication with Donor B and their representatives was difficult due to the chaotic way in which Donor B and their representatives conducted themselves.

The artwork review also established that the insurance for the artwork lapsed in 2017 and that the former CEO and a former member of the executive team who no longer works at the charity, were notified of this. Despite the former CEO being told the insurance had lapsed in 2017, the inquiry found that the Board were not informed of the lack of insurance until the artwork review was conducted in November 2019.

The former CEO stated that he and a colleague, who no longer works at the charity, dealt with different streams of communication and different areas of the administration regarding the artwork. These dual responsibilities, along with the difficult and chaotic nature of the correspondence with Donor B, led to the former CEO not being sufficiently clear in his understanding of the position. The former CEO accepts that this was in part due to a failure of adequate communication and organisation between him and his former colleague. The misunderstanding of the position is what ultimately resulted in the former CEO making the statements to the charity trustees about the ownership and insurance status of the artwork.

The artwork review noted that there was a lack of communication from the former CEO to the trustees in respect of both the acceptance of high value paintings and the issues that arose with the unsigned agreements and lapsed insurance.

OSCR considers the management and administration of the charity was lacking in relation to the artwork. The charity was exposed to significant risk due to the paintings not being insured. It was wholly unacceptable for the charity to have been placed in this position.

While OSCR notes the position of the former CEO regarding the confusion and misunderstandings in relation to the insurance status of the artwork, it is unclear when the former CEO realised that the insurance had lapsed and steps had not been taken to rectify the situation. In order for the charity trustees to exercise their duty to protect the assets of the charity, which includes the charity's

reputation, they must be kept informed of serious issues such as high value artwork in the possession of the charity not being insured.

Following these issues the charity promptly implemented new policies and procedures to prevent similar issues arising in the future.

### **Unauthorised payments**

The charity told the inquiry that they had become aware that the former CEO's personal events company was in receipt of payments from the charity via a third-party company, in contravention of a prior agreement with the Board.

OSCR sought further information from the charity and the former trustees about the nature of the prior agreement and to establish more about the payments.

The inquiry initially established from the former trustees that some were unaware of the previous agreement. Others explained it related to a previous situation whereby the former CEO's events company was a contractor to the charity providing event management services and was remunerated for his work as CEO through that company. It had been acknowledged that this was unusual and therefore an arrangement had been agreed whereby the former CEO would be remunerated for his work as a salaried employee of the charity instead.

The charity's former Chair advised OSCR that when it became apparent the former CEO's events company was in receipt of payments from the third-party, she asked the charity's auditors at the time, and an independent body to consider the payments. The former Chair advised the inquiry that neither body was concerned by the payments and the auditors had determined the payments were as a result of an administrative error. The former Chair advised the inquiry that the error involved a member of the former CEO's events company wrongly billing the charity.

The former CEO told the inquiry that the payments represented actual costs incurred by his events company. This position was supported by the former Chair. The inquiry established that an internal investigation was carried out when the payments came to light. The investigation found that not all of the sums paid to the third-party company were then paid to the former CEO's events company.

Despite the explanation that the payments represented costs incurred, the inquiry gathered information that indicated an alternative explanation. In both the internal investigation report and emails sent by the former CEO to the former Chair, reference is made to a grant being received from another charity that was intended to contribute to the former CEO's salary. The internal investigation report provided that while the grant paperwork did not suggest the sum was to

be paid in addition to the former CEO's basic salary, it did not expressly prevent it.

The inquiry was advised that when the ongoing payments were identified, the third party returned all the sums received by it in the year and the former CEO agreed to repay the previous years' sums. Full repayment was made in December 2020.

OSCR found there are differences in the accounts provided to the inquiry regarding the previous agreement and the ongoing payments. However, OSCR recognises that as the events date back to 2018, the recollection of events will therefore vary.

OSCR accepts that it is possible that the payments represented work genuinely carried out by the CEO's events company. However, it is inappropriate for such payments to be made without formal agreements being in place. Additionally, the inquiry would not have had to rely on the recollections of individuals had proper records of discussions been kept by the charity.

### **Oversight and management of the former CEO by the former charity trustees**

During the inquiry, OSCR sought to determine whether the former CEO had been subject to appropriate oversight by the former charity trustees.

The charity advised the inquiry that no job description existed for the former CEO and that there was no scheme of delegation setting out his responsibilities.

OSCR is aware that immediately prior to the scheduled Board meeting in December 2019, the former charity trustees held a closed Board session without the Executive or others in attendance. Some of the former charity trustees were unable to attend. OSCR understands that at the closed Board session the charity's Chair at the time told the charity trustees in attendance everything that was known at that time about the unauthorised payments and artwork issues. No agenda, minutes or formal records exist for the closed Board session. The inquiry was therefore unable to ascertain the exact detail of the discussion.

OSCR instead sought the recollections of the former trustees at the meeting. From those recollections, the inquiry understands that at the closed Board session the former trustees were advised by the Chair, as the former CEO's line manager, that they had dealt with the unauthorised payments issue and considered it closed. Information gathered during OSCR's inquiry indicates a divergence in views among the former charity trustees about how the issues should be dealt with.

Three of the former trustees advised the inquiry that they had challenged the information provided to them by the former chair both during and following the



meeting. At the meeting there were different views expressed by the former trustees about the information provided to them. Following the meeting other former trustees sought reassurance from the former Chair that the matter was being dealt with appropriately and that the relevant funds would be repaid.

While the recollections of those in attendance at the closed Board session were helpful, OSCR recognises these are memories of an event that took place back in 2019. Formal meetings of a charity's Board, whether held as normal or with more restricted attendance, should be minuted. This is particularly important when the issues being discussed include the conduct of the charity's most senior member of staff. The lack of a formal record or minute of the charity's closed Board session on 19 December 2019 is inappropriate.

### **Current and future governance**

In 2021, when the allegations were published in the media, the charity took steps to initiate a governance review. The review used the Charity Governance Code as a point of reference and independent advice was sought when needed. An action plan was drawn up as a result of the review with the actions being actively followed up to improve governance arrangements and address risks. OSCR concluded the current and future governance strand of the inquiry in September 2023. OSCR was content that the current charity trustees are fulfilling their legal duties in relation to the governance of the charity, noting the steps taken in conducting and acting on a governance review.

When OSCR concluded this strand of its inquiry, it set out observations on how governance could be further strengthened. This included:

- an ongoing need for the charity trustees to use their skills and experience to ensure the charity is responding appropriately to issues that arise, and
- matters relating to delegation from the charity trustees to members of the executive.


The charity has taken these on board.

OSCR acknowledges the steps the charity took in response to the allegations including the independent review of the allegations and the governance review. In addition, OSCR recognises the charitable work and achievements of the charity over the period examined during the OSCR inquiry.

OSCR has asked that the charity reflect on the historical issues set out in this report and consider these in the context of ongoing improvement and development.

### **Conclusions**





OSCR has a duty to encourage compliance with the requirements of charity law, to consider risk to charities and to identify and investigate potential misconduct in the administration of charities and respond appropriately.


The inquiry found the historical governance of the charity had not always been up to the standard required. This finding is in relation to the historical approach to decision making and record keeping. However, the inquiry did not find evidence of misconduct by any of the former or current trustees who were in office at the time. In considering these issues, OSCR has taken into account the unusual circumstances that arose in these instances. These do not indicate or demonstrate a sustained pattern of inappropriate governance or serious failings in the governance of the charity as a whole.

In relation to the former CEO, the inquiry found that while it was confirmed that correspondence with Donor B and their representatives was difficult and OSCR acknowledges the statement made to the inquiry that there had been miscommunication between the former CEO and a former member of staff, the situation resulted in the charity being exposed to substantial risk. It was unacceptable for the former CEO not to brief the charity trustees on these issues as soon as they arose. By not doing so the former charity trustees' ability to react to the risk was hindered.

The failure to brief the charity trustees was serious. However, OSCR has taken into consideration the context of the how the issue unfolded, particularly the chaotic situation with Donor B and the information from the former CEO about the misunderstandings between him and another former member of staff leading to a lack of clarity. It has not been possible for OSCR to establish when the former CEO realised that the insurance had lapsed and the position had not been rectified, and therefore when the charity trustees should have been informed of this. Based on the information gathered, OSCR does not therefore consider there to have been misconduct on the part of the former CEO.

### **Wider lessons for the charitable sector**

1. While circumstances may dictate that a closed charity trustee meeting needs to be held without anyone external in attendance – for example staff, volunteers or stakeholders – the meeting must still be recorded and ideally an agenda should still be circulated. Following the meeting, the minutes should be agreed by all of those in attendance and a copy retained for future reference.
2. When a charity considers entering into an agreement with one of its trustees or staff, either in their personal capacity or in their capacity as directors of other organisations, it must firstly consider whether the



agreement is in the interests of the charity. If it is the charity trustees should collectively ensure:

- any conflicts of interest are managed appropriately. This will usually mean following the charity's conflict of interest policy. If a charity does not already have such a policy, it should ensure one is implemented.
- the decision making leading up to the agreement is fully documented along with the terms of the agreement itself.

OSCR has provided further detail on conflicts of interest in its publication, [Guidance and good practice for charity trustees](#).

3. Charity trustees must ensure that any risk to the charity's assets is minimised. This includes risk related to the charity's reputation. Charities can minimise these risks by having simple and easily understood financial controls and having procedures to cover financial decisions such as the decision to purchase goods or services or the employment of staff and their salaries.

A further aspect of good financial governance is adequate communication among trustees and staff. Communication should be as open as possible. Early discussions about issues or potential issues are key to being able to resolve these appropriately.

There is further information about good financial management in OSCR's [Financial management report](#)

4. Charity trustees should ensure they have the appropriate level of oversight over senior staff. This should include clear performance objectives and regular evaluations of performance against those objectives. It is also important that all staff have job descriptions and when key responsibilities are delegated to them from the Board, there is a scheme of delegation and regular monitoring of how those delegated functions are being delivered on.

**OSCR**  
**07 January 2025**