

# Scottish Charity Regulator (OSCR)

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

Deansmeadow Allotment Association, SC017869

### 1. Background

Deansmeadow Allotment Association, SC017869 has been registered as a charity since 27 June 1991. It is an unincorporated association.

The charity operates in the Deans area of Livingston, West Lothian. The principal activities of the charity are managing a community allotment where residents of Livingstone can have their own plot and come together to discuss agriculture, horticulture and related matters.

### 2. Concerns received by OSCR

Between July and August 2024, OSCR received concerns about the governance of the charity. When we receive concerns, we assess each one to identify if there are regulatory matters for us to deal with.


Our assessment of the concerns indicated that there were some regulatory issues that we needed to make inquiries about, namely:

- allegations that the charity trustees were not following their constitution, and
- a lack of transparent decision making by the charity trustees due to the lack of record keeping

It was clear from the information received by OSCR that some of the charity's members were unhappy with how the charity was being run.

### 3. OSCR's inquiry

Based on our experience of undertaking inquiries we considered the best way to deal with the issues we had identified was to work with the charity. We sometimes do this by signposting the charity trustees to appropriate sources of support such as their local Third Sector Interface (TSI) and suggesting actions they could take to deal with the issues.



In the course of our inquiry, it became apparent that the charity trustees lacked understanding of their charity trustee duties as set out in the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) and did not understand the importance of following their constitution. Discontent amongst the charity's members seemed to have stemmed from the trustees' lack of transparency in their decision making. This resulted in meetings not being held as required by the charity's constitution and to a breakdown in communication between the charity trustees and the membership of the charity. We were also aware of a desire, among some of those who had raised concerns, to become involved in the management of the charity, both in terms of running it and removing the current trustees.

We met with the charity trustees alongside the local TSI, Voluntary Sector Gateway West Lothian (VSGWL) who have been supporting the charity, to gather information regarding the governance of the charity. This meeting allowed us to understand what has been happening in the charity and have an open and constructive dialogue with the charity trustees on a range of governance issues. It also allowed us to explain to the charity trustees the general charity trustee duties and how these should be taken into account in the running of the charity.

The purpose of publishing this report is to make clear what our role as regulator is, to explain our interest in the charity and how we have conducted our inquiry. We also want to make it clear to anyone considering being involved in the management of the charity that it is the charity trustees who are in management and control of the charity and any decisions about the running of the charity are made by them.

## 4. Findings

OSCR found that the charity trustees have not always fulfilled their legal duty to act in the interests of the charity. Charity trustees are collectively responsible for the running of the charity, for decisions that are taken, and should ensure that the rules in the constitution are followed.

However, it is clear that events over the past few years have been difficult for everyone involved. The charity trustees advised us that the volume and confrontational nature of the complaints from its members has been upsetting and difficult to manage.

While there are improvements that need to be made to how the charity is managed, there is now greater understanding and appreciation by the charity trustees of how the charity needs to be run to avoid further issues arising. We

expect the charity trustees to continue working with VSGWL to implement the necessary improvements in the coming months.

OSCR has concluded that it not necessary or proportionate to take formal action in relation to the failure of the charity trustees to meet their charity trustee general duties in the past. We have issued the charity with several recommendations about its governance, and we will follow up with the trustees in due course to understand the progress they have made. It is important the charity trustees are allowed time to implement the recommendations and that they are given a fair opportunity by all concerned to make the necessary improvements.

## 5. Learning points for the wider charitable sector

- Charity trustees are the people who have general control and management of the charity and are responsible for making sure that the charity works to achieve its charity's purposes. The conduct of charity trustees can have a significant impact on the reputation of the charity. It is important for the charity trustees to always act in the interests of the charity. More information can be found in our [guide and good practice for charity trustees](#).
- Charity trustees must ensure they understand the terms of the charity's constitution and operate in line with it.
- It is important for charity trustees to seek appropriate support from sector advisors or specialists to deal with complex or challenging issues to avoid these escalating and potentially affecting the reputation of the charity.
- Charity trustees should seek to engage with those who have concerns about the charity. However, when this becomes unmanageable given the nature of dissent and has the possibility to stop them from being able to undertake their day-to-day activities, they should seek appropriate professional advice and support to help them to deal with the situation.

**OSCR**

**19 December 2024**