



**CHARITY COMMISSION**  
FOR ENGLAND AND WALES

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# **Inquiry Report**

## **The Grail Trust**

Registered Charity Number 272411

# A statement of the results of an inquiry into The Grail Trust (registered charity number 272411).

**Published on 28 March 2017.**

## The charity

The Grail Trust ('the charity') was registered with the Charity Commission ('the Commission') on 8 December 1976. The charity is an unincorporated body and governed by trust deed dated 22 October 1976 ('the governing document').

The charity's primary objects are the advancement of religion and education and the relief of poverty.

Further details about the charity can be found on the [register of charities](#).

## Background and issues under investigation

The charity provides financial support and advice to Grail Trust India ('GTI'), an Indian registered society which helps disadvantaged children in South India. GTI operated a children's home ('the home') which is now closed and an outreach project which together accommodated up to 100 vulnerable children aged between 6 and 16. Representatives of the charity periodically visited the home as a result of the financial support provided to GTI.

On 22 August 2011 the Commission was alerted to an allegation of child abuse within GTI which involved a person connected to the charity. The allegation is still being investigated by the appropriate overseas authorities and although the inquiry has awaited the outcome of the case, it has not yet reached its conclusion.

Following initial investigation, the Commission opened a statutory inquiry ('the inquiry') under the Charities Act<sup>1</sup> on 5 December 2011 to investigate:

- the trustees' handling of the allegation
- whether the charity has adequate safeguarding policies and procedures in place which are properly implemented to protect vulnerable beneficiaries
- how the trustees managed and continue to manage the risk to the charity's reputation in relation to the allegation
- whether the trustees adequately discharged their legal duties and responsibilities as charity trustees

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<sup>1</sup> At the time the inquiry was opened under Section 8 of the Charities Act 1993 so some powers and legislation referred to in this document are under that act. Statutory inquiries are now opened under Section 46 of the Charities Act 2011.

## The Commission's role in safeguarding issues

The Commission has an important regulatory role in ensuring that trustees comply with their legal duties and responsibilities as trustees in managing and administering their charity. Its aim is to protect public confidence in the integrity of charities. In the context of safeguarding issues, it has a very specific regulatory role which is focused on the conduct of the trustees and the steps they take to protect the charity and its beneficiaries.

The Commission's safeguarding work is often part of a much wider investigation involving or being led by other agencies. The Commission is not responsible for dealing with incidents of actual abuse and it does not administer safeguarding legislation. It cannot prosecute or bring criminal proceedings, although it can and does refer any concerns it has to the police, local authorities and the Disclosure and Barring Service which each have particular statutory functions.

The Commission's aim is to ensure that charities that work with or provide services to vulnerable beneficiaries take reasonable steps to protect them from harm and minimise the risk of abuse. It may consider any failure to do so as misconduct or mismanagement, or both, in the administration of the charity.

In the context of international safeguarding issues, where charities use overseas partners, the Commission has no direct regulatory remit over overseas partners or not for profit organisations which are not registered with it. Where a registered charity supports or has overseas partners it works closely with, the Commission's regulatory remit is over holding the registered charity to account over the prudence and management of that relationship, including management of the risks and ensuring the proper use of any funds transmitted to the partner. Charities should ensure they have reasonable assurance that the partner is capable of delivering the proposed activities or services and also has appropriate systems of control in place.

The Commission's published guidance on its regulatory role and its expectations of charities and trustees on safeguarding is available on [GOV.UK](https://www.gov.uk). This includes lists of essential elements of a child protection policy and for child protection procedures and systems.

## Findings

### The trustees' handling of the allegation

The trustees told the inquiry that, when the allegation was brought to their attention, they did not believe it was appropriate to report it to the Commission, because they were not aware of any formal charges and the allegation appeared, in their view, to be malicious and unsubstantiated. They did not report the allegation to the police in the United Kingdom because they assumed they were already aware of the matter. They told the inquiry this was a 'wholly new situation for them'. In instances where serious allegations are made which relate to a charity this should be reported to the Commission.

The inquiry found that the trustees' initial handling and response to the allegation was inadequate.

## **Whether the charity has adequate safeguarding policies and procedures in place which are properly implemented to protect vulnerable beneficiaries**

The inquiry requested the trustees to provide details of the charity's safeguarding policies and procedures and how these are monitored, reviewed and disseminated within the charity. The trustees said that because the charity did not manage any beneficiaries in the UK, it was not responsible for safeguarding procedures adopted by GTI. They told the inquiry that Indian state guidelines and safeguards applied to GTI and the Indian trustees and staff were responsible for compliance.

Whilst the trustees are correct that GTI is responsible for its activities and ensuring appropriate safeguarding procedures are in place, there is a clear link between the 2 organisations. They share the same name and the founder of Grail Trust UK was also the founder of GTI and was responsible for most of the fundraising, which almost all came from the UK. Although GTI is overseen by a board of local trustees, they consult with Grail Trust UK on matters of policy.

Trustees have a responsibility when funding activities of partners, where they involve vulnerable beneficiaries, to comply with their duty of care and duty of prudence, assess the risks and ensure they have reasonable assurance, not only that the partner is capable of delivering the proposed activities or services, but also that they have appropriate systems of control in place.

The inquiry found the charity failed to take adequate steps to ensure the safeguarding measures employed by its key partner in relation to the activities the charity funded were adequate because the UK trustees lacked knowledge in relation to their own and others' safeguarding obligations, most specifically guidance given in relation to the conduct of and the charity's expectations of visitors to the home.

## **How the trustees managed and continue to manage the risk to the charity's reputation in relation to the allegation**

The inquiry established that the allegation attracted the attention of the international press. However the trustees' initial response was to publicly reject the allegation.

Incidents of abuse against vulnerable beneficiaries are wholly unacceptable. Charity trustees risk being in breach of their duties and responsibilities if they fail to address such incidents properly and act appropriately. Such events are of particular concern where they are connected to organisations and people whose work is meant to help vulnerable groups or children and in which children and the public place their trust.

The inquiry found the trustees' initial rejection of the allegation was not impartial and was therefore inappropriate and risked damaging the charity's reputation.

## **Whether the trustees adequately discharged their legal duties and responsibilities as charity trustees**

Trustees are under a duty to act in the best interests of the charity, comply with the legal principles of duty of care and duty of prudence and to protect the charity from undue risk. The inquiry found the trustees failed to discharge their legal duties and responsibilities as trustees due to their initial inappropriate response to the allegation, their lack of safeguarding knowledge, policies and procedures and failure to ensure there were proper systems of control. The trustees failed to conduct proper checks to ensure that adequate safeguarding measures were in operation by the key partner organisation.

When working with partners, trustees must carry out appropriate and proper due diligence on organisations that the charity gives grants to or uses to carry out charitable projects and help deliver its work – this involves assessing and managing the risks.

Trustees should ensure they have reasonable assurance that the partner is capable of delivering the proposed, activities or services and has in place appropriate systems of control, which include appropriate safeguarding measures and respond appropriately to allegations or incidents of abuse. Otherwise their beneficiaries could be put at risk and public trust and confidence damaged.

The trustees failed to identify the allegation as a serious incident and deal with it effectively having failed to report the incident to the police and the Commission.

As part of the action taken in the inquiry, having received regulatory guidance and been directed, under order, to comply with a formal action plan, the trustees have now taken steps to rectify this.

## Conclusions

The Commission concluded there were serious governance failures in the charity due to the trustees' lack of proper oversight in relation to safeguarding measures and their failure to identify or report the allegation to the police or the Commission as a serious incident.

In the context of international safeguarding issues, the Commission has no direct regulatory remit over overseas partners or not for profit organisations which are not registered with it. However, where a registered charity supports or has overseas partners it works closely with, the Commission's regulatory remit is over holding the registered charity to account over the prudence and management of that relationship, including management of the risks and ensuring the proper use of any funds transmitted to the partner. Charities should ensure they have reasonable assurance that the partner is capable of delivering the proposed, activities or services and also has in place appropriate systems of control, which include appropriate safeguarding measures.

The Commission concluded that the trustees failed to fully understand that their safeguarding obligations extended to visitors to GTI. The trustees failed to check that GTI had proper safeguarding systems and controls in place prior to working with them.

The Commission concluded that the trustees' initial approach to the allegation, which had been reported in the international press, was not impartial and their handling of it risked public trust and confidence in the charity and the wider charitable sector.

In light of the above, the Commission concluded that the trustees did not discharge their legal duties and responsibilities and there had been misconduct and mismanagement in the administration of the charity. The Commission exercised its powers under s84 of the act to direct the trustees to carry out various steps in an action plan to ensure they understood their safeguarding responsibilities and put adequate measures in place to manage the risks to beneficiaries.

The Commission is now monitoring compliance with the action plan and is satisfied that the current trustees are now better aware of their safeguarding obligations and the need to protect the charity's beneficiaries and its reputation. The trustees are acting on the regulatory advice and guidance given and taking the steps they are required to in the direction issued under this inquiry to address the concerns raised. The Commission will continue to monitor the charity's progress.

## Regulatory action taken

The inquiry met with the trustees to question them about the allegation made and how they handled the allegation.

The inquiry used its powers to issue a direction under section 47 of the 2011 Act requiring the trustees to provide information and copies of documents relating to their safeguarding policy and procedures.

The inquiry used its powers to direct action be taken under section 84 of the 2011 Act by way of an action plan to ensure the trustees understood their safeguarding responsibilities and put adequate measures in place to manage the risks to beneficiaries.

## Issues for the wider sector

### Charity trustees' safeguarding duties

Charity trustees are under a fiduciary duty to act prudently and all times to act exclusively in the best interests of the charity and to discharge their duties in accordance with their duty of care. The Commission expects charities engaged with children or vulnerable people (a) to have adequate safeguarding policies and procedures in place which reflect both the law and best practice in this area, and the responsibilities of trustees; and (b) to implement fully these policies in practice. This is particularly pertinent in charities where there have been allegations made in connection with abuse (whether children or otherwise) and concerns raised with the charity regulator. In such a case, given the higher risks involved, the Commission would expect to see and be satisfied as to the robustness of safeguarding policies and procedures which have been created and which are in place and their implementation and that they are both fit for purpose and commensurate with these higher risks, given the duties of the trustees.

Trustees should have particular regard to a charity's overseas activities where children or other vulnerable beneficiaries may face different or additional risks of abuse or exploitation. In light of these risks safeguarding arrangements should include regular monitoring of staff and volunteers abroad. This has the additional benefit of protecting both the interests of staff, volunteers and the good name of the charity. Trustees should also ensure that staff and volunteers working overseas follow safeguarding policies and procedures in place at a local level.

The Commission's guidance **The essential trustee: what you need to know, what you need to do (CC3)** explains the key legal duties of charity trustees.

For further help about safeguarding and trustee duties see the commission's guidance on **safeguarding children and young people**.

## Reporting serious incidents

The Commission expects trustees to act responsibly in responding to allegations of abuse and to take steps to ensure they and the people working in the charity know how to deal with incidents or allegations of abuse if they arise and, where appropriate, report incidents to the police, social services and the Commission. When an incident is very serious the Commission expects it to be reported immediately.

Trustees must submit a serious incident report if any one or more of the following things occur:

- there has been an incident where the beneficiaries of your charity have been or are being abused or mistreated while under the care of your charity or by someone connected with your charity such as a trustee, member of staff or volunteer
- there has been an incident where someone has been abused or mistreated and this is connected with the activities of the charity or charity personnel
- allegations have been made that an incident may have happened, regardless of when the alleged abuse or mistreatment took place you have grounds to suspect that such an incident may have occurred

Further guidance about serious incident reporting to the Commission is available at **[how to report a serious incident in your charity](#)**.