

# Regulatory Case Report

## Muslim Aid

Registered Charity Number 295224



**This is a Regulatory Case Report of an investigation by the Charity Commission ('the Commission') concerning Muslim Aid ('the Charity') following public allegations that the Charity had made payments to organisations that are "allegedly linked to terrorist groups"<sup>1</sup>. The Charity denied these allegations.**

**Support by a charity for terrorism is unlawful and therefore unacceptable. An allegation of such support, whether true or not, needs to be assessed by the Commission as it may impact not just on the work and reputation of the charity but also on public trust and confidence in charities generally.**

**This report focuses on the allegation of direct support for a designated organisation that justified the need for the Commission's regulatory engagement.**

**Accordingly, having regard to the principles of best regulatory practice the Commission has decided to publish this Regulatory Case Report<sup>2</sup>.**

**This report also identifies issues for the wider sector.**

**The date of the publication of this report is 17 December 2010.**

## **The Charity**

1. The Charity was registered as a charity on 28 October 1986. It is established by a trust deed dated 30 November 1985.
2. Its objects are:

*"To relieve the poor, the elderly, children, and all those who are in need in any part of the world as a result of natural disasters, such as floods, earthquakes, droughts, famines, epidemics, poverty and plagues, to relieve those who are refugees fleeing from war zones and war victims."*

---

<sup>1</sup> The Daily Telegraph 2 March 2010

<sup>2</sup> More information on Regulatory Case Reports can be found on the Commission's website under the heading 'Our regulatory activity'.

3. The Charity's income in the year ending 31 December 2009 was £44.0m and its expenditure was £42.4m.
4. The Charity operates in over 70 countries worldwide working through its 13 field offices and local partner organisations. As well as providing emergency relief the Charity's activities include providing long-term sustainable development programmes such as: healthcare and nutrition, shelter and construction, education, and economic empowerment and micro-finance schemes.

## Source of Concern

5. On 1 March 2010 the Commission's Press Office was contacted by a journalist alleging that in 2005 the Charity had made payments to two organisations he considered to be linked to Hamas<sup>3</sup>. On 2 March 2010 a national newspaper<sup>4</sup> published an article stating that the Charity had paid funds to two organisations "*allegedly linked to terrorist groups*", such as Hamas. This included an organisation that the article stated had been designated by the US Government as a "*sponsor of terrorism*".
6. A subsequent article by the same journalist in a related national newspaper<sup>5</sup> dated 28 March 2010 expanded on these allegations. It contended the Charity had channelled funds to a number of named groups which it asserted were linked to Hamas.
7. The Commission carried out an independent assessment of the issues raised and the evidential basis for the allegations made to determine whether the matter was of regulatory concern and required its intervention. The Commission identified that, of the organisations named in the articles as being funded or otherwise supported by the Charity, one – the Al-Ihsan Charitable Society<sup>6</sup> - is designated in the UK<sup>7</sup>. The Commission therefore focussed its consideration on the Charity's relationship, if any, with this organisation. The Commission was not provided with sufficient evidence to support the allegation that other named organisations funded by the Charity had the alleged links, and consequently did not carry out further investigations into payments to them. Given the seriousness of the allegations made, the Commission required material evidence in support of those claims in order for it to consider taking regulatory action<sup>8</sup>.
8. The Commission's own scrutiny of the Charity's accounts for the year ending 31 December 2005 showed that the Charity had set aside (but not yet paid) £13,998 for the Al-Ihsan Charitable Society in that financial year. The Charity's audited accounts for the following year did not state explicitly whether the funds had subsequently been paid, although they did contain a substantial prior year adjustment.

---

3 The UK Government's view is that there are two wings to Hamas: the political wing and the military wing. Since 2001 the military wing, Hamas Izz al-Din-al-Qassem Brigades has been proscribed under the Terrorism Act 2000 as a terrorist organisation. Since 2003 Hamas in its entirety has been designated in the UK following a European Union regulation. Further guidance about proscribed and designated organisations and terrorism legislation is available in the Commission's toolkit Protecting Charities from Harm at: [http://www.charitycommission.gov.uk/Our\\_regulatory\\_activity/Counter\\_terrorism\\_work/Compliance\\_toolkit\\_index.aspx](http://www.charitycommission.gov.uk/Our_regulatory_activity/Counter_terrorism_work/Compliance_toolkit_index.aspx).

4 The *Daily Telegraph*. This article was not posted online by the newspaper.

5 The *Sunday Telegraph*. This article was subsequently posted online. The Commission understands it is no longer available on the *Sunday Telegraph's* publicly available online archives.

6 Also known as Elehssan

7 A 'designated individual or entity' is an individual or group which faces financial restrictions in the UK. HM Treasury maintains the consolidated list of these individuals and entities which can be designated following certain United Nations resolutions, European Union regulations, or by HM Treasury. Trustees may commit a criminal offence if they make funds or economic resources available to designated entities without a licence from HM Treasury. In the case of the Al-Ihsan Charitable Society, financial restrictions were imposed by the UK but not the UN or EU. The Al-Ihsan Charitable Society was designated in the UK on 27 June 2005.

8 See paragraph 21.

9. If the trustees of a charity make funds available to a designated entity without a licence from HM Treasury they risk committing a criminal offence. Additionally, funding any such organisation would raise concerns for the Commission about whether the trustees had properly discharged their duties and responsibilities under charity law and were ensuring the charity is properly safeguarded. The Commission therefore had a regulatory interest in verifying whether or not the funds set aside by the Charity had subsequently been paid or were going to be paid to the Al-Ihsan Charitable Society.

## Issues Examined

10. The Commission opened a regulatory compliance case on 3 March 2010 to investigate the regulatory concerns it had identified from the allegations made.
11. The scope of the investigation had two aims:
  - a) to establish whether the Charity had made payments to the Al-Ihsan Charitable Society in breach of financial sanctions; and
  - b) to ensure that the trustees are managing and mitigating risks to the Charity by ensuring appropriate policies are in place and implemented to safeguard the Charity and its beneficiaries from harm, including links to terrorist abuse.
12. During the course of its investigation the Commission carried out a books and records inspection to review how the Charity's due diligence and monitoring procedures were applied in 2005 and more recently. It also carried out checks on a random sample of the Charity's partners against the list of proscribed organisations and consolidated list of financial sanctions targets in the UK.

## Timescale of the Regulatory Compliance Case

13. The Regulatory Compliance Case opened on 3 March 2010 and the Commission's substantive investigations concluded on 2 September 2010. The Regulatory Compliance Case was closed with the publication of this report on 17 December 2010.

## Findings

14. The Charity provided funding to the Al-Ihsan Charitable Society of £2,500 in 2002 and £3,000 in 2003 as part of its Qurbani<sup>9</sup> programme. These payments were made before financial sanctions were imposed on the Al-Ihsan Charitable Society in the UK.
15. In February 2005 the Charity approved in principle a payment of £13,998 to the Al-Ihsan Charitable Society for the provision of a dentist chair and related equipment. A funding agreement was entered into in March 2005.

---

<sup>9</sup> 'Qurbani' is an animal sacrifice carried out by Muslims during Eid ul-Adha as an act of worship to Allah and to provide for the poor.

16. The Al-Ihsan Charitable Society was designated by the US Office of Foreign Asset Control as a 'Specially Designated Global Terrorist' on 4 May 2005. It was subsequently designated in the UK on 27 June 2005 under the Terrorism (United Nations Measures) Order 2001<sup>10</sup> and entered on the consolidated list of financial sanctions targets in the UK. From that date it became a criminal offence in the UK to make funds available to the Al-Ihsan Charitable Society without a licence from HM Treasury (in addition to other financial restrictions imposed).
17. The investigation found that, although the Charity had set aside funds of £13,998 for the Al-Ihsan Charitable Society, these were not subsequently paid. This was as a result of the financial sanctions imposed on the Al-Ihsan Charitable Society after the decision to provide funding had been made.
18. The investigation also found that the Charity has in place due diligence and monitoring procedures which cover application, selection and monitoring of partners, and risk assessment. These procedures were updated in 2007. The Commission's books and records inspection sampled a number of project files and identified inconsistencies in the extent of information held about different funding applications and projects. It was not clear whether the variations identified were the result of short falls in the application of the Charity's due diligence and monitoring procedures or inconsistencies in record-keeping.

## Conclusions

19. On the evidence examined by the investigation, the Commission concluded that the Charity had not illegally funded the Al-Ihsan Charitable Society.
20. The Charity was unable to demonstrate conclusively through its record keeping that it had followed its own due diligence and monitoring procedures consistently. When the Charity's due diligence and monitoring procedures are applied robustly, these should be recorded to enable the trustees to evidence that they are fulfilling their legal duties when selecting and monitoring partners.
21. Within the scope of this investigation the Commission found no evidence of irregular or improper use of the Charity's funds or any evidence that the Charity had illegally funded any proscribed or designated entities.

---

<sup>10</sup> The Al-Ihsan Charitable Society's entry on the consolidated list of financial sanctions targets in the UK was last updated on 1 September 2010 and the designation remains in place.

## Impact of Commission Intervention

22. By publishing this report the Commission has given a public assurance that public allegations of links between the Charity and terrorism are unsubstantiated.
23. The Commission has provided regulatory advice and guidance to assist the Charity's trustees to further strengthen the way the Charity's due diligence and monitoring procedures are applied and recorded.

## Actions Required of the Trustees

24. The trustees intend to review how the Charity's due diligence and monitoring procedures are applied and recorded and will inform the Commission of any changes they intend to make as a result of this.

## Issues for the wider sector

### Charities and Terrorism

25. Trustees must ensure they and their charity comply with the law, including counter-terrorism laws. Trustees risk committing a criminal offence if they have financial dealings with someone who is a designated financial sanction target in the UK.
26. Different countries are likely to have their own legislation dealing with terrorism. They are also likely to hold their own lists of terrorists and banned terrorist organisations (although they may refer to these by different names). These country lists have no direct legal effect in the UK, unless the people or organisations are also designated or proscribed in the UK. Nevertheless, charity trustees must take their existence into account and assess the risks which arise to their charity and its activities. This is particularly important where the charity has a physical presence, or works in, or supports projects in the particular country.
27. Further guidance about the effect of UK terrorism legislation on charities and trustees' duties in this area is available in the Commission's Compliance toolkit *Protecting Charities from Harm* at: [http://www.charitycommission.gov.uk/Our\\_regulatory\\_activity/Counter\\_terrorism\\_work/Compliance\\_toolkit\\_index.aspx](http://www.charitycommission.gov.uk/Our_regulatory_activity/Counter_terrorism_work/Compliance_toolkit_index.aspx).

### Working internationally and due diligence

28. When working internationally, charities often operate through local partners rather than establishing their own delivery infrastructure in their country or region of operation. Working through or with a local partner can be an effective way of delivering significant benefits direct to a local community. It does not, however, shift or alleviate responsibility for ensuring the proper application of the charity's funds by the local partner. That responsibility always remains with the charity trustees, forming part of their duties and responsibilities under charity law. The need to implement risk strategies therefore remains critical.

29. When choosing local partners to work with, trustees must conduct adequate due diligence checks to ensure that:
  - a) the activities they intend to carry out through their local partners are in furtherance of their charity's purposes;
  - b) their partners are and continue to be appropriate for the charity to work with; and
  - c) the trustees have taken reasonable steps to monitor the use of funds to make sure that:
    - i. their partners can and will apply their funds for proper charitable purposes; and
    - ii. the funds reach their partners and end beneficiaries.
30. In order for trustees to fulfill their duties, the charity's due diligence processes should include:
  - a) realistic and reasonable risk management strategies and procedures to identify and mitigate risks to the proper use of funds;
  - b) a comprehensive and consistently applied selection process. This includes checks to be conducted on prospective and existing partners to enable the trustees to satisfy themselves that their relationship with an organisation would not expose the charity's assets or reputation to undue risks;
  - c) a written agreement, to be put in place before any funding is sent. This is to set out how the partnership will work and how results will be demonstrated and monitored; and
  - d) properly implemented methods to monitor how partners operate and demonstrate that money or resources given have reached their partners and beneficiaries as intended.
31. If these points are not featured in a charity's due diligence processes it may be difficult for its trustees to demonstrate that they have fulfilled their legal duties. It is also essential that a written record is kept of how the trustees have applied these points in relation to individual partners, and their decision making process.
32. Charities should establish their own benchmarks for the extent and quality of the information they require about their local partners to be satisfied that their trustees are acting in accordance with their duty to safeguard the charity's funds. The degree of detail required by trustees as part of their due diligence checks should be proportionate to the risks present in the area the partner is operating. It may be that different partners require differing levels of oversight and monitoring depending on: particular risks arising from the region in which it operates; the amount of funds committed; the length of the charity's relationship with them; the strength of their governance; and the partner's track record for delivering projects. Trustees working in regions where a terrorist organisation is known to operate must take adequate steps to assess the risks resulting from these factors.

**You can obtain large-print versions  
of this publication from the Charity  
Commission on 0845 300 0218**

**Charity Commission**

Telephone: **0845 300 0218**

Typetalk: **0845 300 0219**

Website: **[www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)**