Statutory inquiry report: Emergency Medical Services

23 March 2015

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Section 1: Introduction

The inquiry report

1.1 The Charity Commission for Northern Ireland categorises its investigations as self-regulatory, regulatory and statutory depending on the risk posed to the charity beneficiaries, the charity and the sector. These terms are indicative of potential outcomes whereby a charity may be encouraged to self-regulate, may be issued regulatory guidance or, where due to the severity of risk assessed, it is envisaged there may be a requirement for the use of statutory powers assigned to the Commission by virtue of the Charities Act (Northern Ireland) 2008 “the Act”. More information can be found on our website: www.charitycommissionni.org.uk/our-regulatory-work

1.2 The Commission has given consideration to section 22(6) of the Act, and has determined that it is necessary to publish this report in keeping with our commitment to openness and transparency.

1.3 The Commission had cause to undertake protective action in connection with misconduct or mismanagement within the charity Emergency Medical Services. Through publishing this inquiry report, the Commission considers that we may encourage and facilitate the better administration of charities.

1.4 Following extensive engagement with charity representatives, the Commission opened a statutory inquiry into Emergency Medical Services under section 22 of the Act on 18 February 2014. The Commission’s inquiry was focused on addressing concerns with the governance and management of the charity.

1.5 This report does not detail every issue identified or action undertaken in relation to the investigation into Emergency Medical Services, rather it presents an overview of the investigation, findings and actions pursuant to that inquiry in accordance with section 22(6) of the Act.

1.6 In providing an overview of the inquiry, the report aims to address concerns submitted to the Commission in relation to Emergency Medical Services on 22 May 2013 and the resulting Commission investigation, which revealed other matters of concern.
The Charity

1.7 Emergency Medical Services (the charity) was granted charitable tax status by Her Majesty’s Revenue and Customs (HMRC) with effect from 9 February 1994 and operated under a constitution with the charity objectives detailed as:

- to relieve sickness and promote the preservation of health in the Magherafelt and Cookstown areas of Co. Derry
- to advance the education of the public in first aid and resuscitation techniques.

1.8 The charity’s constitution stated that it may also provide or assist in providing classes, workshops, training, seminars, lectures, discussions, exhibitions, outings and events.

1.9 In practice, the charity’s principal activities consisted of the provision of training in first aid techniques to volunteers, who then provided event cover across the area of benefit. Emergency Medical Services covered all kinds of large scale public gatherings, including parades and festivals.

1.10 The constitution mandated that the charity be managed by a committee consisting of a Medical Advisor, President, Officer in Charge, Secretary, Treasurer and not fewer than three members of the charity elected by, and from, the members present and voting at an Annual General Meeting. The constitution further provided that the committee meet not fewer than four times a year.

1.11 The charity operated from premises at 41 Rainey Street, Magherafelt, since its inception in the early 1990s until October 2011 when it moved to 37 Rainey Street, Magherafelt. The inquiry established that the premises at 37 Rainey Street were occupied by:

- EMS Group - Managing Director, Mr Robert Thomas Gourley (Mr Tom Gourley)
- Emergency Medical Services - Officer in Charge, Mr Tom Gourley
- Emergency Medical Supplies - Sole Trader, Mr Tom Gourley
- Mid Ulster Open Award Centre - Trainer/Assessor, Mr Tom Gourley
- TAISB (Training As It Should Be) – Director, Mr Tom Gourley
The full premises at 37 Rainey Street, Magherafelt consisted of:

- a shop
- two training rooms
- one kitchen
- one toilet
- one storeroom
- one office.

1.12 The property at 37 Rainey Street, Magherafelt was leased to the charity by Genmark Developments Ltd, Bellaghy. Genmark Developments Ltd was also the owner of 41 Rainey Street, Magherafelt from April 2008.

1.13 The charity was principally funded through street collections and other fund raising activities. The charity also received monies following the provision of event cover and some funding for particular projects following grant applications.

1.14 The main expenditure of the charity related to the fuelling, insurance and maintenance of two ambulances, however, significant costs were also incurred in the provision of volunteer insurance, volunteer training, expenses, rent and administration costs which specifically related to the salary of one part-time staff member.

1.15 The assets held by the charity, in addition to the two fully stocked ambulances, included five major incident bags, two defibrillators, handheld and fixed radios as well as charity uniforms.

**Background to the inquiry**

1.16 On 22 May 2013 the Commission received a concern asserting that there was no clear delineation between Emergency Medical Services and a business sharing the charity premises named Emergency Medical Supplies, both operating under the umbrella of the EMS Group.

1.17 The concerned party presented that the principal cause of the confusion over the remit of the charity was the actions of a Mr Tom Gourley, the Officer in Charge, sole trader of Emergency Medical Supplies and Managing Director of the EMS Group. The concerned party asserted that Mr Tom Gourley treated the charity as being as much under his control and direction as his own business and that, as a result, he was accruing an inappropriate private benefit.
The EMS Group

1.18 The Commission ascertained that the term “EMS Group” held no specified legal standing. The EMS Group was never incorporated or formally constituted and appears for all intents and purposes to have been a way in which to refer to both Emergency Medical Supplies and Emergency Medical Services. Given that the nature of the concern raised with the Commission was principally in respect of the confusion between company and charity, where references are made in this report to Emergency Medical Services or Emergency Medical Supplies, they will be named in full.

1.19 During the course of the inquiry the Commission raised serious matters of concern with the charity’s trustees. On receipt of responses to these concerns, particularly the charity’s denial of any conflict of interest existing between it and the private businesses under the umbrella of the EMS Group, the Commission considered that significant risk existed in terms of volunteers and donors to the charity being misled, and charity resources being used for private benefit. Consequently, the Commission instituted a statutory inquiry on 18 February 2014.
Section 2: Executive summary

2.1 Concerns were raised with the Commission in May 2013. The Commission carried out initial enquiries into the charity Emergency Medical Services in respect of:

(i) whether there was clear delineation between Emergency Medical Services and a business sharing the charity premises named Emergency Medical Supplies
(ii) whether Mr Tom Gourley, who was trading as Emergency Medical Supplies, was effectively running the charity Emergency Medical Services and had significant private benefit through the charity and related transactions
(iii) whether there were significant conflicts of interests between the charity and the private businesses
(iv) whether the charity was being governed in adherence to the charity’s constitution.

2.2 As the inquiry progressed, the Commission considered that there were serious governance failures within the charity and a risk that the charity’s assets were being used to supplement and support a private business.

2.3 The Commission brought these issues of concern to the charity, which initially did not adequately respond to them, and failed to take sufficient remedial action to address the risks identified. Consequently, the Commission wrote to trustees on 18 February 2014 advising them that a statutory inquiry had been opened.

2.4 Mr Tom Gourley, sole trader of Emergency Medical Supplies, resigned from his position as Officer in Charge of Emergency Medical Services on 1 April 2014. Mr Gourley additionally resigned from the charity committee on 2 June 2014. On 30 July 2014 the members of Emergency Medical Services took the decision to close the charity at an Extraordinary General Meeting (EGM).

2.5 Given the Commission’s concerns, and to ensure the proper application of its property in the disposal of its assets, the Commission restricted individuals from entering into transactions and from parting with charity property without the Commission’s prior authorisation. Charitable assets were then dispersed under supervision of the Commission and the charity dissolved in November 2014.

2.6 The Commission concludes that whilst the charity, Emergency Medical Services, afforded the opportunity for individuals to explore volunteering and provided valuable experience to those who may have
aspired to a career in the health care sector; those charitable outcomes were incidental to the significant private benefit that operating the charity provided to Mr Tom Gourley including the following.

- Mr Tom Gourley’s businesses received rates relief of £8,725 per annum.
- Mr Tom Gourley’s employee’s wages were supplemented by payments of £200 every four weeks from the charity.
- Mr Tom Gourley’s businesses obtained £300 rent payment every four weeks from the charity.
- Mr Tom Gourley sold training and equipment to the charity, whilst officer in charge, and without scrutiny or management of this conflict of interest.
- Mr Tom Gourley furthered his business interests through fostering the impression that the charity and his businesses were one and the same.
- Mr Tom Gourley encouraged charity volunteers to sell his business merchandise whilst engaged with the charity’s activities.

2.7 The Commission is content that Emergency Medical Services has ceased to operate as a charity and has complied with its constitution in its dissolution, as a result of the trustees’ actions.

2.8 Following the dissolution of the charity, the Commission has learned that, on 1 August 2014, a Private Limited Company was registered with Companies House named Emergency Medical Services (NI) Limited (NI625961) with Mr Tom Gourley as the sole director listed.

2.9 The name of this Private Limited Company is synonymous in the Magherafelt area with Mr Tom Gourley and with the now dissolved charity of that name. Therefore the Commission, for the avoidance of any doubt, can confirm that Emergency Medical Services (NI) Limited (NI625961) is not a charity under the law of Northern Ireland and should not be considered as such.

2.10 The Commission has shared its findings with HMRC and Land and Property Services. The Commission’s inquiry is now closed. In publication of this report the Commission aims to inform and encourage members of the public, in their contribution to charities, to seek appropriate assurance about the charitable objectives, governance of charities and to discriminate accordingly in circumstances where such assurances are not provided to their satisfaction.
Section 3: Statutory inquiry and findings

Outline

3.1 The Commission’s inquiry has focused predominantly on the period covering Mr Tom Gourley’s appointment as Officer in Charge of the charity, from October 2011 to the dissolution of the charity in November 2014. This period coincides with the charity’s relocation from 41 to 37 Rainey Street, Magherafelt.

3.2 The Commission’s inquiry confirmed that evidence existed showing that Mr Gourley dominated the affairs of this charity, including the authorisation and purchase of goods from his own businesses by the charity without the consent of the Board.

3.3 Mr Gourley also frustrated the attempts of a number of trustees to bring the charity into good governance, through his dominance.

3.4 The issues identified by the Commission as pertinent to the inquiry may be briefly summarised as follows.

- Mr Tom Gourley’s businesses received rates relief of £8725 P/A.
- Mr Tom Gourley’s employee’s wages were supplemented by payments of £200 every four weeks from the charity.
- Mr Tom Gourley’s businesses obtained £300 rent payment every four weeks from the charity.
- Mr Tom Gourley sold training and equipment to the charity, whilst officer in charge and without scrutiny or management of this conflict of interest.
- Mr Tom Gourley furthered his business interests through fostering the impression that the charity and his businesses were one and the same.
- Mr Tom Gourley encouraged charity volunteers to sell his business wares whilst engaged with the charity’s activities.
- The governance of Emergency Medical Services during Mr Gourley’s tenure as Officer in Charge did not fulfil the requirements articulated by its constitution.

Key events

3.5 For ease of reference, a table of what are considered to be the key events and chronology relevant to the Commission’s statutory inquiry and its engagement with Emergency Medical Services is detailed below.
<table>
<thead>
<tr>
<th>Date</th>
<th>Key event</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 October 2011</td>
<td>Mr Tom Gourley signed a five year lease of premises at 37 Rainey Street, Magherafelt.</td>
</tr>
<tr>
<td>28 May 2013</td>
<td>Commission wrote to the trustees of Emergency Medical Services to obtain information and documents to assess the governance of the charity and to confirm or negate the concerns raised.</td>
</tr>
<tr>
<td>27 June 2013</td>
<td>Charity convenes an AGM, subsequently identified as the first documented meeting of the charity of any description since 2011. Charity President appointed (first since 2008).</td>
</tr>
<tr>
<td>18 February 2014</td>
<td>Following a protracted period of obtaining documentation and evidence from the charity, the Commission institutes a statutory inquiry and issues directions pursuant to section 22(3) of the Charities Act (Northern Ireland) 2008 to current and former trustees.</td>
</tr>
<tr>
<td>4 March 2014</td>
<td>Charity President resigns.</td>
</tr>
<tr>
<td>1 April 2014</td>
<td>Mr Tom Gourley resigns as Officer in Charge of the charity but remains as a committee member.</td>
</tr>
<tr>
<td>30 May 2014</td>
<td>Commission corresponds with Mr Tom Gourley seeking clarification of perceived inconsistencies in his earlier responses.</td>
</tr>
<tr>
<td>2 June 2014</td>
<td>Mr Tom Gourley resigns as a committee member and effectively as a trustee.</td>
</tr>
<tr>
<td>24 June 2014</td>
<td>Commission staff met with remaining trustees and are advised by them that they are considering the dissolution of the charity, but have not made a final decision and require an EGM to approve such action.</td>
</tr>
<tr>
<td>1 July 2014</td>
<td>Commission issues orders to trustees under sections 33(1)(iv) and 33(1)(vi) of the Act to restrict transactions and orders individuals not to part with property without the prior authorisation of the Commission.</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>2 July 2014</td>
<td>Charity members call for an Extraordinary General Meeting (EGM) in accordance with its Articles of Association with the intention of discussing the dissolution of the charity and the disposal of remaining charity assets.</td>
</tr>
<tr>
<td>30 July 2014</td>
<td>Charity EGM held and determines dissolution and disposal of assets (observed by Commission staff).</td>
</tr>
<tr>
<td>1 August 2014</td>
<td>Private Company Registered with Companies House named Emergency Medical Services (NI625961).</td>
</tr>
<tr>
<td>13 November 2014</td>
<td>Bank confirms the closure of charity accounts and the charity evidence the disposal of remaining assets. Charity is formally closed.</td>
</tr>
</tbody>
</table>

### Key findings

#### Charitable rates exemptions

3.6 Mr Tom Gourley benefited from a charitable exemption worth £8,725 per annum from Land and Property Services by claiming that the charity premises at 37 Rainey Street, Magherafelt, which were also occupied by his private businesses, were mainly used for charitable purposes. This exemption had carried forward from previous properties occupied by the charity. The result of this claim was that Mr Tom Gourley’s business did not incur any rates costs at all.

3.7 Land and Property Services has reviewed the information provided to it by the Commission through this investigation, has re-assessed the property and is seeking payment of rates in respect of the business use of the premises backdated to October 2011.

#### Charity supplementing the wages of Emergency Medical Supplies employee

3.8 Mr Tom Gourley received a private benefit worth £2,600 per annum through the charity supplementing the wages of his employee by claiming that they worked for the charity for one day every week.

3.9 This arrangement, although not documented by the charity, appears to be the result of a decision made unilaterally by Mr Tom Gourley without consultation with trustees. Payments were made regardless of the amount of work undertaken.
3.10 Following the Commission’s order restricting charity transactions, these payments for administration ceased.

**Rental of charity property**

3.11 Mr Tom Gourley received a private benefit worth £3,600 per annum through the charity supplementing the rent for his businesses by claiming that the split in use of those premises was 50:50 between his commercial interests and that of the charity.

3.12 This arrangement, although again not documented by the charity, appears to be the result of a decision made unilaterally by Mr Tom Gourley without consultation with fellow trustees. The only perceived benefit to the charity for this arrangement was having a place to store its property and to train volunteers for two hours every week from December 2013 onwards. Mr Tom Gourley is on record as stating to the Commission that prior to December 2013 his business, Emergency Medical Services, offered “on average two hours training per week free of charge to update and enhance skills taught to its volunteers.”

3.13 Mr Tom Gourley’s signature appears on the lease of the premises on behalf of the charity, but his businesses were not detailed as a sub-letting tenant at the premises. This was not permitted in the lease agreement without separate written consent.

3.14 It is noted that the charity transferred funds to Mr Tom Gourley to pay rent rather than receiving rents from its sub-letting tenants.

3.15 Mr Tom Gourley explained there were times when the charity “do not have adequate funds in place to pay the rent in full, therefore the rent is subsidised by Emergency Medical Supplies until funds are available to Emergency Medical Services.” Information held by the Commission contradicts the latter assertion by Mr Gourley.

3.16 The letting agreement between the charity and Genmark Developments Ltd. stipulated that should the tenant seek to sub-let the premises, this would require consent in writing from the landlord. The Commission’s information indicates that Genmark Developments Ltd were aware of the sub-letting arrangement, despite the absence of such a written agreement.

3.17 Despite the presence of the second tenant and their intention to remain on the premises, Genmark Developments Ltd declined to forgo the requirement for three months’ rent (£900) and notice from the charity Emergency Medical Services.
3.18 The Commission observes that Mr Tom Gourley continues to lease premises at 37 Rainey Street, Magherafelt.

**Related party transactions - training**

3.19 Mr Tom Gourley received a private benefit through the sale and provision of training to the charity. The Commission has been unable to quantify the amount of private benefit for the purposes of this report as the attendance of some individuals identified in charity records for this training is disputed by others who attended that same training.

3.20 The training was provided to volunteers by TAISB (Training as it should be), a private business of Mr Tom Gourley. Documents supporting the charity decision making in relation to the provision of that training have not been produced to the Commission and their absence appears to support reports received by the Commission that the decisions were made unilaterally by Mr Tom Gourley without consultation with fellow trustees and without consideration of any alternative training provider.

3.21 Invoices were issued from the private business of Mr Tom Gourley to the charity. Payments these were then authorised by Mr Tom Gourley on behalf of the charity back to his business.

**Related party transactions- equipment**

3.22 Mr Tom Gourley received private benefit through the sale of equipment to the charity.

3.23 Documents supporting the charity decision making in relation to the provision of that equipment from Emergency Medical Supplies, a private business of Mr Tom Gourley, have not been produced to the Commission and their absence appears to support reports received, that the decisions were made unilaterally by Mr Tom Gourley without consultation with fellow trustees and without consideration of any alternative provider. Additionally, it is not clear what assurance was provided, with only one storeroom on the premises for both the charity and the businesses, that charity equipment purchased from Mr Gourley was used exclusively for charitable purposes.

3.24 Invoices were issued from the private business of Mr Tom Gourley to the charity. Payments of these were then authorised by Mr Tom Gourley on behalf of the charity.

**The business interests of Mr Tom Gourley were indistinguishable from those of the charity.**

3.25 No differentiation was identifiable in the livery and signage of the property at 37 Rainey Street, Magherafelt to distinguish between the
charity, Emergency Medical Services, and the business interests of Mr Tom Gourley, Emergency Medical Supplies, under the umbrella of the EMS Group.

3.26 The Commission identified that Emergency Medical Services and commercial organisations under the umbrella of the EMS Group shared:

- a common address
- a common e-mail address
- a common telephone number
- a common objective
- a misleading online presence.

3.27 Mr Tom Gourley is evidenced to have used his status within the charity to get charity volunteers to sell equipment on behalf of his business. The Commission considers this to be evidence of a deliberate attempt to exploit the goodwill of charity volunteers to sustain and promote Mr Gourley’s business interests.

3.28 Further to this, the subsequent incorporation of a private company of the same name and at the same address as the now dissolved charity, without changes to signage or livery, and the purchase of the former charity’s assets (the ambulances) from a third party amount to either a deliberate attempt on the part of Mr Tom Gourley to continue to confuse the public or an omission on his part which may result in that outcome.

**Adherence to the charity constitution**

3.29 The Commission has identified a significant number of omissions in governance and adherence to the charity’s constitution during the tenure of Mr Tom Gourley as Officer in Charge of Emergency Medical Services. Additionally, there remains doubt as to the veracity of documents, information and statements provided by him.

3.30 These failings, evidenced over the course of a number of years, include the following.

- The charity’s failure to appoint a Charity President between 2008 and 2013.
- The charity’s failure to appoint an Assistant Officer in Charge.
- The charity’s failure to appoint trustees in accordance with the charity constitution.
- The charity’s failure to compile audited accounts in accordance with the charity constitution.
- The charity’s failure to convene and conduct committee and general meetings in accordance with the charity constitution.
3.31 Additionally, it is noted that the charity did not fulfil all of its charitable objects as detailed within their constitution through their activities, and those not addressed overlap with the business interests of Mr Tom Gourley.

3.32 The Commission observes that throughout its inquiry, evidence would suggest that it and other statutory bodies may have been provided with documents and information which are either inaccurate or misleading by or on behalf of Mr Tom Gourley, including the following.

- Minutes relating to a charity AGM in 2011 which the Commission’s evidence suggests did not occur.
- The retrospective description of a charity meeting in November 2013 as an Emergency General Meeting, without the knowledge of those attending.
- Details of charity decisions regarding the appointment of a Charity President contradicted in evidence held by the Commission.
- Details of the use and split in occupancy of the charity’s premises.
- Alternative charity constitution detailing a different ‘area of benefit’ clause.
- Denial of conflicts of interest and assertion that post holders managed these, despite evidence to the contrary.
Section 4: Conclusion

Powers and actions of the Commission

4.1 Decisions to exercise statutory powers to call for documents and information under section 22 of the Act and to take action for the protection of charities under sections 33 to 36 of the Act are not taken lightly by the Commission. These powers may only be used when the risk to the charity and the sector is considered sufficiently serious as to merit the institution of a statutory inquiry.

4.2 Since the initial receipt of concerns about the charity the Commission has exercised the following powers defined by the Charities Act (Northern Ireland) 2008.

- Section 22 – General power to institute inquiries.
- Section 22(3) – Power to direct persons for information and copies of documents.
- Section 33(1)(iv) – Order not to part with charity property without the approval of the Commission.
- Section 33(1)(vi) – Order to restrict the transactions which may be entered into, without the approval of the Commission.

This inquiry was the first time during which the Commission exercised its powers under section 33(1)(iv) and (vi) of the Act.

4.3 As previously detailed, the Commission identified persons who were purported to be either current or former trustees of the charity and issued directions for information and documents pursuant to section 22(3)(a) and (b) of the Act. The responses received indicated that the majority of those who had left had done so having been unable to address the governance concerns of the charity and those that remained were either ignorant of the full facts and/or their obligations as trustees.

4.4 Following his resignation as a trustee of the charity, Mr Tom Gourley continued to accrue a private benefit through sharing premises with the charity. Specifically, the charity continued to pay for half the rent on the premises at 37 Rainey Street, Magherafelt and the charity continued to contribute to the wage for his member of staff and afforded his business a full rates exemption through the sharing of premises.
4.5 The Commission’s orders of 1 July 2014 addressed the conflict of interest identified in the co-location of the charity and the businesses of Mr Tom Gourley. The charity chose to dissolve following receipt of these orders.

4.6 With reference to the conflict of interest that these orders sought to address, Mr Tom Gourley was later to document his recognition that “in hindsight however, the conflict is clear.” The Commission considers that this was always a clear and unambiguous conflict of interest.

4.7 As a proportionate regulator we consider that all trustees are responsible for the decision making of a charity. However, there is evidence that the totality of Mr Gourley’s actions may have been unknown to the collective management of the charity. The Commission recognises that there were also, at times, charitable activities delivered by the charity and its volunteers.

**Actions required by trustees**

4.8 Following a meeting with the Commission on 23 June 2014, those acting as charity trustees wrote to confirm their intention formally to dissolve Emergency Medical Services as a charity.

4.9 Trustees called for an Extraordinary General Meeting in accordance with the charity constitution, which was held on 29 July 2014.

4.10 Commission staff observed the Extraordinary General Meeting, where members of the charity supported the motion to dissolve Emergency Medical Services. The members then reached a unanimous agreement about how and where disposal of assets should be undertaken.

4.11 The Commission scrutinised and authorised requests for transactions and disposals in accordance with the charity constitution.

4.12 The Commission oversaw the trustees’ dissolution of the charity and is content that the subsequent application of the charity’s assets has been conducted in accordance with their statutory duties as trustees. For example, the balance of the charity’s bank account was donated to a local cancer charity.

**Issues for other charities**

4.13 It is compulsory for all charities operating in Northern Ireland to apply for registration. This is irrespective of their size, annual income or whether they are registered with HMRC for charitable tax purposes. An
organisation must apply for registration as a charity in Northern Ireland if:

- it has exclusively charitable purposes;
- it is governed by the law of Northern Ireland; and
- it has control and direction over its governance and resources.

4.14 By control and direction over its governance and resources, the Commission means an organisation that is separately constituted, controls how money is raised and spent, and directs how resources are used.

4.15 Part of the charity registration process involves assessing the charity’s governing document to ascertain whether the rules and regulations adopted by the trustees serve to manage the charity in delivering its charitable purposes.

4.16 The Commission has published guidance for trustees on registering a charity in Northern Ireland to aid them in this process: http://www.charitycommissionni.org.uk/manage-your-charity/register-your-charity/the-public-benefit-requirement

4.17 The charity constitution provides the structure to enable good governance. However, the issues detailed in this report represent an illustration of what may happen when a charity has a single, dominant trustee. This is an issue for other charities to be mindful of as all trustees have legal responsibility for a charity.

4.18 The Commission has published guidance entitled Running your charity, which provides support for trustees on key aspects of running a charity effectively. It is available online at: http://www.charitycommissionni.org.uk/charity-essentials/running-your-charity-guidance/

4.19 Emergency Medical Services failed to manage situations where conflicts of interest presented themselves and Mr Tom Gourley accrued a private benefit.

4.20 The Commission acknowledges that there are instances where trustees may accrue a private benefit and private benefits may be acceptable where they are incidental.
4.21 Section 88 of the Act details the conditions under which a trustee or person connected to a trustee may be remunerated for services provided to or on behalf of a charity. Section 4.9 of the guidance entitled *Running your charity*, as detailed above, explains how the trustees may deal with incidental benefit.

4.22 The Commission has shared its findings with HMRC and Land and Property Services and also sought representations from Mr Tom Gourley prior to the publication of this report. Mr Tom Gourley was keen to stress the positive impact of the charity over many years. Mr Tom Gourley also noted that “many people benefitted from the charity’s hard work, especially those in the local community.”

4.23 Mr Gourley also believes that this report’s findings are attributable to all trustees collectively rather than to him specifically. The Commission reiterates that all trustees are responsible for the decision making in a charity, however, there is evidence that the totality of Mr Gourley’s actions may have been unknown to the collective management of the charity.

4.24 This report closes the Commission’s statutory inquiry into Emergency Medical Services.