Confraternity of the Blessed Sacrament to the Ordinariate of Our Lady of Walsingham, Decision on a grant (Charity Commission of England and Wales, 15 May 2012)

The Ordinariate of Our Lady of Walsingham (the Ordinariate) was established to ordain former Anglican priests to the Catholic Church. This enterprise has enjoyed some success in the UK. The Ordinariate, a registered charity, launched an appeal for funds in 2011 to help defray the annual running costs of around £1 million, which arose from the fact that the former Anglican priests had families to support. The Confraternity of the Blessed Sacrament (the Confraternity), an Anglo-Catholic charity which has as its aim the ‘advancement of the Catholic faith in the Anglican tradition’, gave £1 million to the Ordinariate in May 2011.

The Confraternity has existed for 150 years, but this gift represented almost half the charity’s total assets. Moreover, five of its six trustees had been ordained in the Ordinariate, and were now Catholic priests. The Confraternity had changed its rules in 2011 to allow Catholics to become members, but this is now subject to review, as is the nature of the charity itself and whether it can remain as an Anglican charity.

The gift to the Ordinariate gave rise to considerable controversy within the Anglican Church and complaints were made to the Charity Commission about this gift. The Charity Commission ruled on 15 May 2012 that the gift of £1 million was invalid. The money was subsequently returned, with interest, to the Confraternity.

The Charity Commission investigated the gift (referred to as a ‘grant’) to ascertain:

- whether the trustees’ decision to make the grant was made validly; in particular, whether the trustee body was inquorate (lacking a proper quorum) because the trustees were subject to a ‘personal interest’ which meant they were not entitled to act;
- whether the grant was wholly within the objects of the Confraternity.

The Charity Commission's review concluded that:

- The decision to make a grant to the Ordinariate was taken at an inquorate meeting, the majority of the trustees having a (financial) personal interest in the decision.
- The decision was also in breach of the charity’s governing document.
- The meeting being inquorate, the decision was invalid. There was no valid exercise of the power to make a gift to the Ordinariate and the payment was unauthorised.
- The gift was therefore held upon constructive trust by the Ordinariate for the Confraternity.
- The objects of the Ordinariate are wider than those of the Confraternity. A gift given to the Ordinariate without restriction could be used for purposes which have no connection with the Anglican tradition at all.
- The precise meaning of Anglican Tradition is unclear but there is substantial doubt whether the Confraternity could make a grant to the Ordinariate (even with restrictions) which could be applied by the Ordinariate consistently with the objects of the Confraternity.
- The Commission therefore considered the trustees of both charities were under a duty to take action to ensure the repayment of the money.

Implications of this decision

The Charity Commission saw this case as the proper exercise of its regulatory powers over charities in England. Both charities had legal advice that the gift was valid, but have decided not to appeal.