



**CHARITY COMMISSION**  
FOR ENGLAND AND WALES

By email only  
request-690383-  
30007cdd@whatdotheyknow.com

Charity Commission  
PO Box 211  
Bootle  
L20 7YX

**T:**

**Your ref:**  
**Our ref: C-526626**

**Date: 02/10/2020**

Dear Mr Ali Ahmad

**Your Freedom of Information request response**

Thank you for your email received 8<sup>th</sup> September 2020 in which you requested the following information.

“1) can you please advise why no action has been taken by the Charity Commission into what  
a) appears to be  
And  
b) the lack of any accounts

2) us be

“

The above request has been processed under the provisions of the Freedom of Information Act 2000 (FOIA).

Please note that a response to an FOIA request is considered to be open to the world, and therefore the *public* interest has to be considered not the specific interests of the person requesting the information. A request for information under the FOIA must be for information held in recorded form.

**In relation to Q1a and Q2**

I can confirm that the Commission holds information relevant to your request, however we are unable to disclose this information as the exemptions at section 32 (2): Inquiries apply to your request.

**Section 32 (Inquiries)**

**On track to meet your deadline?**

Visit [www.gov.uk/charity-commission](http://www.gov.uk/charity-commission) for help on filing your annual return and accounts

**t:** 0300 066 9197 (General enquiries)

**w:** [www.gov.uk/charity-commission](http://www.gov.uk/charity-commission)

Section 32(2) states that information held by a public authority is exempt information if it is held only by virtue of being contained in a) any document placed in the custody of a person conducting any inquiry or arbitration for the purposes of the inquiry or arbitration, or (b) any document created by a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration. In this context “inquiry” means any inquiry held under any statutory provision. The Commission conducts statutory inquiries under the power set out in Section 46 of the Charities Act 2011.

### Charities Act 2011 powers

Information relating to statutory inquiry cases is subject to an absolute exemption from disclosure under FOIA by virtue of Section 32. However, the Commission has also considered whether to disclose this information by reference to its powers and duties under the Charities Act, which are informed by common-law principles.

The Commission’s objectives include increasing public trust and confidence in charities and enhancing the accountability of charities to the general public (section 14). Its general functions include disseminating information in connection with the performance of its functions (section 15). In performing its functions under the Charities Act the Commission has a duty to have regard to the principles of best regulatory practice which include the principles that regulatory activities should be proportionate and transparent (section 16). The Commission has therefore considered the extent to which it is in the public interest for the information to be disclosed. Please see the Public Interest Test conducted below.

### Arguments for disclosure

- The information you have requested relates to an inquiry. The Commission recognises that there is public interest and concern in seeing that the regulator of charities is doing its job properly. As such, there are arguments that to disclose this information is in the public interest.
- In addition, the conduct of a quasi-judicial inquiry may engage the principle of open justice – that justice should be seen to be done. The open justice principle also favours disclosure.

There are, however, strong arguments in favour of withholding the information in the public interest.

### Argument for non-disclosure

- The Commission’s power to conduct inquiries is set out in statute. The clear purpose of this power is for the Commission to prevent and take action against misconduct and mismanagement in charities, thereby protecting the reputation and rights of the charity and others and ensuring that charities are not abused for criminal or other illegal purposes. The disclosure of the information requested would be likely to prejudice these functions as if the details of information gathered during the course of an inquiry were routinely disclosed, charities, and other parties, would be reluctant to co-operate or enter into open and frank discussions with the Commission in the course of its work. This would affect the

Commissions ability to carry out our statutory functions as outlined at s14 and s15 of the Charities Act 2011.

### Outcome

For the reasons relating to the argument for non-disclosure the Commission considers that the greater public interest balance lies in favour of withholding this information.

### In relation to Q1 (b)

I can confirm the Commission holds information relevant to your request, however it is exempt from disclosure under Section 22(1) of the Act.

Section 22 provides that a Public Authority can exempt information from release if it is held with the intention of future publication. In this instance The Charity Commission can confirm that the information you have requested meets these criteria.

However, Section 22 is a qualified exemption and, as such, requires the Commission to carry out a test of public interest regarding the disclosure of the information requested.

There are two qualifications to section 22; a request for information may only be refused if:

- a) it is reasonable in all the circumstances that the information should be withheld from disclosure until the future date of publication (whether determined or not) or,
- b) the public interest in maintaining the exemption outweighs the public interest in disclosure

The public interest in permitting Public Authorities to publish information at a time of their own choosing is important. It is a part of the effective conduct of public affairs that the publication of information is a managed activity within the reasonable control of the relevant Public Authority.

Where the decision has been taken (in principle or otherwise) to publish Public Authorities do have a reasonable entitlement to make their own arrangements to do so.

As a result of the above the Commission is satisfied that, in this instance, the argument in favour of withholding the information outweighs the argument in favour of disclosure.

Under Section 16 of the Act (the duty to advise and assist) when the Inquiry Report is concluded and published you will be able to view and download it from the Commissions website. The information you seek will be available in the report.

I would advise that the Commissions Inquiry is ongoing and the purpose of the inquiry is to :

- why the trustees failed to fully comply with the action plan issued by the commission in February 2014
- whether there has been any private benefit to trustees with regard to the operation of the charity's properties and whether any conflicts of interest have been properly managed

- whether the trustees have properly administered the charity in accordance with its governing document
- the financial management of the charity
- whether or not the trustees have complied with their duties and responsibilities as trustees under charity law, in particular in relation to whether the trustees have made decisions in the best interests of the charity
- whether there has been any misconduct and/or mismanagement by the trustees

The purpose of an inquiry is to examine issues in detail and investigate and establish the facts so that the regulator can ascertain whether or not there has been misconduct or mismanagement; establish the extent of the risk to the charity's property, beneficiaries or work; decide what action needs to be taken to resolve the serious concerns, if necessary using its investigative, protective and remedial powers to do so.

It is the commission's policy, after it has concluded an inquiry, to publish a report detailing what issues the inquiry looked at, what actions were undertaken as part of the inquiry and what the outcomes were.

This concludes our consideration of your information request.

Yours sincerely

Ms Jan Provost (Data Protection and Information Rights Manager)

If you think our decision is wrong, you can ask for it to be reviewed. Such requests should be submitted within two months of the date of our response and should be addressed to the Charity Commission at PO Box 211, Bootle, L20 7YX (email: [RIGA@charitycommission.gov.uk](mailto:RIGA@charitycommission.gov.uk)). More information about our Freedom of Information Act review service can be found on the following link to our website: <https://www.gov.uk/government/organisations/charity-commission/about/complaints-procedure>.

If you are not satisfied with the internal review, you can appeal to the Information Commissioner. Generally, the ICO cannot make a decision unless you have exhausted our review procedure. The ICO can be contacted at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (email: [casework@ico.org.uk](mailto:casework@ico.org.uk)).