



CHARITY COMMISSION
FOR ENGLAND AND WALES

By Email Only
request-640895-
96f354ab@whatdotheyknow.com

Charity Commission
PO Box 211
Bootle
L20 7YX

T:

Your ref:
Our ref: C-518070

Date: 7th May 2020

Dear Ms Reid

Decision Review of your Freedom of Information request response

Thank you for your email received 2nd April 2020, I apologise for the slight delay in my response.

You request a decision review of the Commissions response of 30th March 2020 to your Freedom of Information (FOIA) request of 3rd March 2020.

My name is Jan Provost and I am an Information Rights and Complaints manager with the Records Information Governance and Assurance team (RIGA).

I can confirm I had no involvement with your original FOI case and further to your request have now carried out a review of our decision.

Initial request

You wrote to the Commission on 3rd March 2020 requesting the following information after receiving a response to a previous request :

““In your reply you state that the Charity Commission hold no information in relation to the authorisation of the sale to Leeds City Council, who are a connected person.

If permission hasn't been sought and the sale is to a connected person, Will the sale be allowed by the Charity Commission to complete? Will such a sale be illegal? If permission were sought, from the Charity Commission, will permission be given without further investigations?”

The Commission responded by confirming it held information relevant to your request but exempted this under s21 stating the information was available to you via a link to our general guidance regarding land transactions.

On track to meet your deadline?

Visit 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

The following link was provided.

<https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land-cc28/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land#disposals-that-need-the-commissions->

Decision Review

I have followed the link in the original response issued to you and find that it leads to the information stated. I note however in your decision review request, where you have copied the link, that there is an extra space between the "what-trustees" part of the link (hence why only a portion of the link is highlighted in blue). This therefore gives the truncated link below leading to the 404 error.

<https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what->

I note you state that the specific questions relating to your request are not responded to by the guidance which, you state, sets out the steps necessary but does not give any information on "what actions (or lack of) under Charity Law, the Charity Commission is obliged to take in these particular circumstances, as laid out here and in my in previous emails, of this particular sale of Charity land"

The link provided gave the guidance in relation to the general requirements for the sale of land which I consider an appropriate response.

In relation to your questions I would however explain further in that we do not hold this information in relation to the specifics of this particular case to enable a definitive answer.

Under the provisions of the Freedom of Information Act 2000 a Public Authority such as the Commission is not required to create new information if it is not held.

I am able however to explain in general terms the following possibilities where permission for a sale of land had not been sought from the Commission, a sale had gone ahead to a connected person without the required consent and an objection regarding such a sale was received.

The Commissions' interest would be confined to considering whether there had been any mismanagement or misconduct by the trustees in relation to the decision and this would be decided on a case by case basis.

However, the Commission does not have the power to set aside or reverse a sale. Appeals regarding the validity of the sale or the ownership of the land in such a circumstance would come under the jurisdiction of the Land Registration Tribunal.

Where permission is sought to sell property to a connected party, we consider each case on its merits and would only authorise the transaction where we are satisfied that it is in the best interests of the charity.

I should again stress that the above is a generalisation of the steps that could be taken depending on the specific circumstances.

Yours sincerely

Jan Provost (Information Rights and Complaints manager)

If you remain unhappy with the decision, you may apply directly to the Information Commissioner's Office (ICO) for a decision. The ICO can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (email: casework@ico.org.uk).