



CHARITY COMMISSION
FOR ENGLAND AND WALES

Mr I Fantom
By email: request-528489-d7c310ee@whatdotheyknow.com

Charity Commission
PO Box 211
Bootle
L20 7YX

Your ref:
Our ref: C-488933

Date: 14 December 2018

Dear Mr Fantom,

REVIEW OF FREEDOM OF INFORMATION REQUEST

Thank you for your email of 12 November 2018 where you have asked for a review of the response to your request under the Freedom of Information Act ('the Act') of 25 October 2018.

I have taken forward your request for a review.

Background

On 25 October 2018, you asked for the following information from the Commission:

"What were the specific grounds by which the Campaign Against Antisemitism was given dispensation by the Charity Commission from publishing the names of its trustees, as stated by the Charity Commission in response to Freedom of Information Request '1163790 - Campaign Against Antisemitism' (https://www.whatdotheyknow.com/request/1163790_campaign_against_antisem)."

In the Charity Commission's response, they state that they consider the information confidential, because it "refers to information obtained from other parties and if disclosed, there is likely to be an actionable breach of confidence". I am asking for information which would explain how a list of names of trustees would disclose information obtained from other parties."

The Commission responded on 8 November 2018. It confirmed that the exemptions used in its previous response which you referred to still applied – namely, sections 41 and 40(2). It also set out further details about the granting of a dispensation allowing trustees to withhold trustee details.

You requested a review of this decision on 12 November 2018. It is your contention that the response had ignored the point you were making about third parties and you have inferred from the response that the Commission considers the trustees to be in personal danger as a result of "information coming not from the trustees themselves, but from third parties."

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)
0300 066 9219 (Textphone)

w: www.gov.uk/charity-commission

You also go on to say that there is a public interest in disclosing the information and that “the present or past CAA trustees have not taken adequate steps to guard their own confidentiality”. Consequently, there is no need for the Commission to withhold their details.

Decision Review

I have considered again your request of 25 October 2018. You have asked:

1. Information which would explain how a list of names of trustees would disclose information obtained from other parties.
2. What were the specific grounds by which the charity was given a dispensation from publishing the names of its trustees?

I will consider each in turn.

1. The personal information of individual trustees is provided to the Commission by the charity. The name of the trustee is then published by the Commission unless an application for a dispensation is made by the charity or a charity trustee and that application is successful.

The Commission considers that where a dispensation has been granted, it can withhold the names of trustees (where requested under the Freedom of Information Act) by applying an exemption under section 40(2) of the Act. The information constitutes third party personal data for the purposes of the Data Protection Act 2018 (DPA). Section 40(2) provides that personal data about third parties is exempt information if one of the conditions set out in section (3) is satisfied, namely whether any of the data protection principles would be contravened by the disclosure. Under the Act, disclosure of this information would breach the fair processing principle contained in the DPA where it would be unfair to that person and/or is confidential.

2. The Commission considers that this information is exempt from disclosure under section 41 of the Act. The exemption under section 41 is engaged as we consider the information to be confidential. This is because it is information obtained from other parties (i.e. the charity) and if disclosed, there is likely to be an actionable breach of confidence. Whilst this exemption is absolute and I do not have to apply the public interest test, I have considered the question of public interest and decided that on this occasion, there is no overriding public interest in disclosing this information.

It is your view that the present and past charity trustees have not taken adequate steps to guard their own confidentiality. Whilst you have referred to individuals who may be involved with the charity in some capacity, they have not (as far as I can see) been identified as charity trustees. The charity's own website, for example, does not identify the charity trustees. Therefore, I cannot see any grounds to remove the dispensation.

Next Steps

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

Yours sincerely,

Lucy Breakspere
Complaints and Freedom of Information Manager