

Inquiry Report

Friends of Horim Establishments Tel Aviv and Arad

Registered Charity Number 1001828



A statement of the results of the class inquiry into double defaulter charities in particular Friends of Horim Establishments Tel Aviv and Arad (registered charity number 1001828) ('the charity').

Published on 18 May 2015.

The class inquiry

On 20 September 2013, the Charity Commission ('the commission') opened a statutory class inquiry ('the inquiry') into charities that were in default of their statutory obligations to meet reporting requirements by failing to file their annual documents for two or more years in the last five years and met certain criteria, including that:

- the charities were recently (or in the case of charities that would become part of it in due course, would be) given final warnings to comply by a specified date
- on the day after the specified date they were still in default (partially or otherwise)

At the point a charity met the criteria they would become part of the inquiry. The commission started by looking at and sending final warnings to charities with a last known income over £500,000 and then moved on to those over £250,000 and other high income charities.

The charity

The charity was registered on 11 February 1991. It is governed by a Memorandum and Articles of Association incorporated 28 November 1985, as amended by Special Resolution 14 February 1986.

The charity's objects are:

1. The advancement of religion in accordance with the Orthodox Jewish faith.
2. The relief of poverty.
3. Such other purposes as are recognised by English law as charitable.

More details about the charity are available on the [register of charities](#) ('the register').

Issues under investigation

The charity failed to submit its annual accounts, reports and annual returns to the commission required for the financial years ending 31 March 2012 and 31 March 2013. During the whole period of default, the charity was sent various computer generated reminders from the commission requiring them to submit their annual accounting documents. Although, reminders were sent the charity remained in default of its obligations under the Charities Act 2011 ('the act').

The commission wrote to the charity with a final warning on 28 October 2014 requesting that the missing documents be provided by 4 November 2014, and warning the charity that if it remained in default on 5 November 2014 it would become part of the inquiry. The charity failed to submit its outstanding documents by the deadline and became part of the inquiry on 5 November 2014.

The inquiry is confined to dealing with the trustees' mismanagement and misconduct¹ and remedying the non-compliance in connection with the annual accounting documents.

The outstanding accounts, trustees' annual reports and annual returns for the years ending 31 March 2012 and 31 March 2013 were submitted on 4 December 2014. The accounts and trustees' annual reports were scrutinised by the commission's accountants and deemed sufficient on 4 February 2015.

The charity's correspondent informed the commission on 19 November 2014 that the passing away of one of the trustees had caused delays in the preparation and submission of the charity's accounts. He stated that this was compounded by "substantial non-co-operation of the charity's bankers, and also, and not exclusively, [by the bank] failing to co-operate in identifying charity funds for which the bank had chosen to make the bank account dormant and transferred the funds beyond the reach of the charity's trustees, all occasioned by the death of the active trustee which tied the hands of the other trustees, who the bank persistently failed to recognise". The correspondent also stated that as a result of the above, the bank had provided substantial financial compensation to the charity.

Conclusions

The charity's trustees were in default of their legal obligations to file accounting information with the commission. This was mismanagement and misconduct in the administration of the charity and a breach of their legal duties.

The reason the charity gave for non compliance was not a legitimate excuse, notwithstanding the difficulties they experienced with the charity's bank. All of a charity's trustees are legally responsible for ensuring accounting information is prepared and submitted to the commission as required.

As a result of the inquiry, the commission ensured the charity complied with its legal obligations to submit their annual accounting information. Two sets of accounts were filed and as a result over £315,000 of charitable income is now transparently and publicly accounted for on the register.

The charity ceased to be part of the inquiry when it was no longer in default of its accounting obligations. This happened on 4 December 2014 when the charity filed the last missing documents.

Regulatory action taken

The commission used its information gathering powers under section 52 of the act to order and obtain bank records and financial information of the charity relating to the missing years accounts. These have been used in connection with the commission's scrutiny of the accounts.

¹ The terms misconduct and mismanagement are taken from section 76 of the Charities Act 2011. Misconduct includes any act (or failure to act) in the administration of the charity which the person committing it knew (or ought to have known) was criminal, unlawful or improper. Mismanagement includes any act (or failure to act) in the administration of the charity that may result in significant charitable resources being misused or the people who benefit from the charity being put at risk. A charity's reputation may be regarded as property of the charity.

On 14 November 2014 the inquiry exercised powers under section 84 of the act to direct the trustees to prepare and complete the relevant missing annual accounts, reports and returns for the charity and provide copies of these to the commission.

The commission provided regulatory advice and guidance about the trustees' duty to file the charity's annual accounting information.

Issues for the wider sector

Trustees of charities with an income of over £25,000 are under a legal duty as charity trustees to submit annual returns, annual reports and accounting documents to the commission as the regulator of charities. Even if the charity's annual income is not greater than £25,000 trustees are under a legal duty to prepare annual accounts and reports and should be able to provide these on request. All charities with an income over £10,000 must submit an annual return.

Failure to submit accounts and accompanying documents to the commission is a criminal offence. The commission also regards it as mismanagement and misconduct in the administration of the charity.

For those individuals who were not trustees at the initial date of default, when they became a trustee, they became responsible for making good the default.

It is important that the financial activities of charities are properly recorded and their financial governance is transparent. Charities are accountable to their donors, beneficiaries and the public. Donors to charity are entitled to have confidence that their money is going to legitimate causes and reaches the places that it is intended to. This is key to ensuring public trust and confidence in charities.

The position and role of a trustee is an important one, a responsibility held jointly with the other trustees of a charity. The task of submitting accounts might be delegated to one person, but all trustees are responsible for making sure this happens.

Trustees need to be aware that although roles can be delegated to individual trustees, responsibility cannot be, and they remain collectively responsible for ensuring their charity fulfils its legal obligations, including preparing and filing accounts.

Therefore, even if there is a reason the individual to whom a role has been delegated is no longer able to undertake that role, the other trustees must make sure that collectively they continue to carry out their legal duties and the charity continues to effectively run including filing their accounts and returns.

Reminders about accounts compliance are sent out by email to the charity's named correspondent, several reminders are issued and default information also goes to at least one of the charity's trustees, which is why it is important that all trustees ensure they provide details of their email addresses to the commission either on the annual return form, or by updating their details on the register of charities online.