

Inquiry Report

First Asian Support Trust (FAST) Limited

Registered Charity Number 1095379



A statement of the results of the class inquiry into double defaulter charities in particular First Asian Support Trust (FAST) Limited (registered charity number 1095379).

Published on 27 June 2014.

The Class Inquiry

On 20 September 2013, 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; and
- 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

First Asian Support Trust (FAST) Limited (“the Charity”) was registered on 13 January 2003. It is a charitable company governed by memorandum and articles of association dated 14 August 2001, as amended on 4 December 2002.

The Charity’s objects are:

“To provide benefit for persons (in particular, but not exclusively, Asians) in Manchester and the surrounding areas, who suffer from learning and/or physical difficulties, in the following manner –

- A. To provide facilities in the interests of social welfare for recreation and leisure time occupation with the objective of improving the conditions of life of such persons*
- B. To advance education by the provision of such training facilities as will enable such persons to acquire and develop vocational skills which will enhance their employment prospects*
- C. To advance education for the public benefit by providing advice and guidance upon the question of health, social welfare benefits and related topics*
- D. To preserve and protect the good health of the carers of persons who suffer from learning and/or physical disabilities”*

More details about the Charity are available on the Register of Charities which can be accessed through the Charity Commission’s website¹.

¹ <http://www.charitycommission.gov.uk/find-charities/>

Issues under Investigation

The Charity failed to submit to the Commission annual accounts and reports and annual returns required for the financial years ending 31 March 2012 and 31 March 2013. The Charity was sent various computer generated reminders from the Commission regarding the submission of their annual accounting documents.

In addition, the Charity was contacted by telephone on 10 April 2014 and asked to supply accounts by 17 April 2014. Further to this the Commission wrote to the Charity with a final warning on 10 April 2014 requesting that the missing documents be provided by 17 April 2014. On both occasions, the Commission warned what would happen if the Charity remained in default on 22 April 2014 (which was the next working day after the deadline, accounting for bank holidays). The Charity submitted its annual accounts and reports and annual return for 31 March 2012 on 15 April 2014. However, the Charity has been in default of its obligations under the Act for a lengthy period of time, in respect of the 31 March 2013 documents and in spite of receiving numerous reminders.

The Charity met the criteria and became part of the Inquiry on 22 April 2014.

The Inquiry is confined to dealing with the trustees' mismanagement and misconduct² and remedying the non-compliance in connection with the annual accounting documents.

During the Inquiry the Charity filed the missing annual accounts and reports and annual returns for the financial year ending 31 March 2013 on 8 May 2014.

The Charity did not inform the Commission of any reason for not submitting the outstanding financial documents prior to entering the inquiry but informed the Inquiry on 23 April 2014 the reason for the delay in submitting the required documents was a combination of the Easter holidays and waiting for information from their accountants. On 25 April 2014 the trustees added that further delays were the result of the need to gather information for the Charity's bank.

The trustees of the Charity wanted it put on record that *"progress of compliance was fully communicated to the Charity Commission during the course of investigation by the trustees and that full cooperation was demonstrated by the trustees"*

When the Charity's missing documents were submitted, the accounts were referred for scrutiny by the Commission's accountants and any issues have been or are being followed up separately.

2 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.

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 reasons the charity gave for non compliance was not a legitimate excuse.

As a result of the Inquiry, the Commission ensured the Charity complied with its legal obligations to submit their annual accounting information. One set of accounts was filed and as a result over £247,000 of charitable assets are now transparently and publicly accounted for on the Register of Charities. Prior to the Charity entering the Inquiry, the Commission ensured that the set of accounts for the financial year ending 31 March 2012 was filed resulting in over £387,000 of charitable income being transparently and publicly accounted for.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 8 May 2014 when the Charity filed the last missing documents.

Regulatory Action Taken

The Commission used its information gathering powers under section 52 of the Charities Act 2011 (the "Act") to order and obtain bank records and financial information of the Charity relating to the missing years accounts. These will be used in connection with the Commission's scrutiny of the accounts.

On 22 April 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 £25,000 or over 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 under £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.

