

Inquiry Report

Bais Yakov Institutions (Gur) Bnei Brak

Registered Charity Number 1025262



A statement of the results of the class inquiry into double defaulter charities in particular Bais Yakov Institutions (Gur) Bnei Brak (registered charity number 1025262).

Published on 13 October 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

Bais Yakov Institutions (Gur) Bnei Brak (“the Charity”) was registered on 25 August 1993. It is a trust governed by a Trust Deed executed 2 March 1993.

The Charity’s objects are:

For the benefit of such one or more charities charitable institutions or charitable purposes in any part of the world and in particular for the relief of poverty the advancement of education and the promotion of the Orthodox Jewish religion

More details about the Charity are available on the [register of 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 Commission attempted to contact the charity by telephone on 8 April 2014. Further to this the Commission wrote to the Charity with a final warning on 8 April 2014 requesting that the missing documents be provided by 1 May 2014. On both occasions, the Commission warned what would happen if the Charity remained in default on 2 May 2014. The Charity has been in default of its obligations under the Act for a lengthy period of time, in respect of more than one set of documents and in spite of receiving numerous reminders.

The Charity met the criteria and became part of the Inquiry on 2 May 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.

During the Inquiry the Charity filed the missing annual return for the year ending 31 March 2013 and the missing annual accounts and reports and annual returns for the financial year ending 31 March 2012 on 14 July 2014. The missing annual accounts for the year ending 31 March 2013 were filed on 21 July 2014.

The charity's correspondent informed the Commission on 2 June 2014 that the reason for not complying was "The active trustee ... died in March 2012, and post was simply piled up and not forwarded from his address. Since approx. 3 months ago action has commenced to rectify the arrears, in which action I have been involved."

When the Charity's missing documents were submitted, the accounts were referred for scrutiny by the Commission's accountants and if any issues arise from that they will be followed up separately.

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.

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 £560,000 of charitable income is now transparently and publicly accounted for on the register of charities.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 21 July 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 7 May 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 deadline for compliance was twice extended; firstly to 30 June 2014 and then to 21 July 2014.

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

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.

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 who 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.

