



Inquiry Report

The Muslim Cultural Society of Birmingham

Registered Charity Number 1099763



A statement of the results of the class inquiry into double defaulter charities in particular The Muslim Cultural Society of Birmingham (registered charity number 1099763).

Published on 14 March 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.

The Charity

The Muslim Cultural Society of Birmingham (“the Charity”) was registered on 30 September 2003. It is an unincorporated association governed by a constitution dated 8 August 2003.

The Charity’s objects are:

“The promotion of any charitable purpose for the benefit of the Muslim community in the Midlands area. In furtherance of the above purpose the Association may:

- Make provisions for the religious education and training of Muslim adults and children.
- Arrange and hold religious gatherings and invite learned and acknowledged scholars from around the world.
- To establish mosques and religious educations schools.
- Maintain a library for reference books for solving religious issues and the necessary text books for religious school for the children.
- To attempt to create understanding of the Muslim religious issues among the government institutions.”

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, reports and annual returns required for the financial years ending 31 March 2010, 31 March 2011 and 31 March 2012. 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 18 October 2013. Further to this the Commission wrote to the Charity with a final warning on 18 October 2013 requesting that the missing documents be provided by 8 November 2013. The Commission warned what would happen if the Charity remained in default on 8 November 2013. 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 11 November 2013.

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 for the financial years ending 31 March 2010, 31 March 2011 and 31 March 2012 on 3 January 2014. The Charity subsequently filed the missing annual returns for the financial years ending 31 March 2010, 31 March 2011 and 31 March 2012 on 7 January 2014.

The Charity informed the Commission on 31 October 2013 that although the trustees acknowledged that they shared equal responsibility for the preparation and filing of the accounting documents, the serious ill health of the trustee primarily responsible for preparing the accounts had led to the failure to comply. In addition, the other trustees each had either personal issues, including ill health or family issues, or were currently out of the country.

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. It was of concern to the Commission that all of the trustees were either ill, had difficult family situations or had been out of the country and so had been unable to fulfil their trustee duties including completing and submitting the Charity's annual accounts, reports and returns.

As a result of the Inquiry, the Commission ensured the Charity complied with its legal obligations to submit their annual accounting information.

The Charity ceased to be part of the Inquiry when it was no longer in default of its accounting obligations. This happened on 7 January 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 13 November 2013 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.

If charity trustees are unable to prepare and submit annual accounts, reports and returns due to personal circumstances then, subject to the conditions of the charity's governing document, the trustees should consider appointing additional trustees to ensure that the charity is able to fulfil its legal duties.

The position and role of a trustee is an important one, a responsibility held jointly with the other trustees of a charity. It is inevitable that on occasion a trustee may experience ill health, may need to take a period to absence or there will be other reasons why they cannot carry out their role for a short period. Their absence or difficulty will not relieve them of their trustee duties. The other trustees may be able to manage short or temporary periods of absence but they 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. If the issues continue then the trustee affected by their absence or inability should consider whether they are able to continue as a trustee or should consider resigning. If all or most of the trustees are affected, then this raises governance issues and the charity should consider taking action, which may include appointing new trustees who are able to carry out their duties and exercise proper control over the administration of the charity.

