

FAO: Ms. Meg Hillier MP
House of Commons,
London, SW1A 0AA

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London, NW10 7LQ

27 January 2016

By post and email: meghilliermp@parliament.uk

Dear Ms. Hillier,

Re: Request for a Parliamentary investigation into the impartiality of the Chair of the Charity Commission

We should be grateful if you could look into the conduct of Mr. William Shawcross in exercising his powers as Chair of the Charity Commission, particularly in relation to Muslim charities. As you are well aware holders of public office are required to conduct themselves in accordance with the Nolan Principles and we contend that judged by that standard, there is sufficient evidence to justify an urgent investigation. Failing that we would ask that you refer this matter to the Public Accounts Committee.

Cage and the Charity Commission

On 21 October 2015, CAGE brought a judicial review¹ against the Charity Commission for what we believed was an unlawful exercise of its powers by exerting pressure on charities never to fund or associate with CAGE in the future, despite CAGE not being a charity itself. As part of the judicial review, the Joseph Rowntree Charitable Trust submitted evidence as an interested party.

CAGE did not seek a judicial review because of the financial benefit from winning the case. We were motivated by the need to uphold the rule of law and due process, which is in keeping with our organisations remit. This was recognised by those in the charity sector.²

The case was heard by The Lord Chief Justice of England and Wales, The Lord Thomas of Cwmgiedd. The Lord Chief Justice accepted the withdrawal of the application for the Commission's actions concerning the Joseph Rowntree Charitable Trust after the Commission had accepted in the High Court that they did not have the power to prohibit charities to fund CAGE in the future.

¹ CAGE and Joseph Rowntree Charitable Trust v Charity Commission [2015] (unreported)

² 'Advocacy group CAGE has done the charity sector a service' *Third Sector* (31 July 2015) <<http://www.thirdsector.co.uk/advocacy-group-cage-done-charity-sector-service/article/1358396>> accessed 8 January 2016

Charity Commission Emails

This is a significant outcome particularly when the Commission is seeking to extend its powers to include the ability to take action without exercising its existing capability to investigate, for example, issue warnings. This case vividly illustrates why such an extension of powers represents a real danger to the sector, and charities deemed to be engaging in lawful but controversial activity. For now we seek an urgent inquiry by your committee into the internal procedures adopted by the Commission which we can show has been influenced by the political opinions of Mr. Shawcross.

We were provided with limited disclosure of emails as part of the litigation and your committee could seek full and frank disclosure to get a deeper insight into the issue we contend requires investigation. There can be no doubt that the emails reveal that Mr. Shawcross in particular, and some Board members, allowed their personal political opinions to influence how the Commission fulfils its role as regulator. It follows that the trenchant views expressed must have and continues to effect how the Charity Commission board and staff operate. We believe that these views concerning CAGE and Muslim charities are so strong that Mr. Shawcross and others are unable to fulfil their roles in an impartial and unbiased manner.

Orlando Fraser, a board member of the Charity Commission writes “any connection with them [referring to CAGE] by charity, both past and present, must be seen as potentially toxic for that charity.”³ Mr. Fraser wrongly asserts that “Cage’s director has been an avowed jihadist.”⁴ Mr. Shawcross emails his colleagues in which he describes CAGE as “a terrorist supporting group”⁵ and called CAGE “a jihadist front”, an assertion which he does not substantiate with any evidence.

Michelle Russell, the Director of Investigations, Monitoring and Enforcement, in a draft letter intended to be sent to the Joseph Rowntree Charitable Trust argued that they should not fund CAGE because “CAGE itself is an organisation which has, and will continue to, attract controversy.”⁶

However, a charity has the right to act within its remit as long as it meets the public benefit requirement⁷, per the Charity Commission guidelines, which the Joseph Rowntree Charitable Trust did.

Progress in society cannot be made if unpopular causes are marginalised. CAGE’s advocacy concerning Guantanamo detainees is an example of this. When CAGE started in 2003, we were seen as a controversial organisation merely because of our contention that the detention of suspects at Guantanamo offended basic rule of law principles. However, there is now almost unanimous condemnation of the

³ Fraser, Orlando (2015), Board member, Charity Commission. Email to Michelle Russell, Paula Sussex, William Shawcross, Kenneth Dibble, Peter Clarke, 27 February. Professional communication.

⁴ Ibid

⁵ Shawcross, William (2015) Chair, Charity Commission. Email to Paula Sussex, Kenneth Dibble, Michelle Russell, Peter Clarke, Orlando Fraser, 27 February. Professional communication.

⁶ Russell, Michelle (2015), Director of Investigations, Monitoring and Enforcement, Charity Commission. Email to Peter Clarke, 01 March. Professional communication.

⁷ ‘Public benefit: the public benefit requirement’ *Charity Commission* (September 2013) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383871/PB1_The_public_benefit_requirement.pdf> accessed 8 January 2016

detention of individuals in this manner from leading jurists and governments. The funding received from the Joseph Rowntree Charitable Trust played a crucial role in our work.

Additionally, Peter Clarke, a former board member wrote in an email circulated to others that CAGE is a “largely odious organisation.” Mr. Clarke’s assertion is entirely unsubstantiated. The use of such deliberate inflammatory language clearly indicates an animus which would prejudice any formal investigation. Moreover, the pre judgment was exacerbated by the circulation of an opinion piece penned by journalist Andrew Gilligan which was alleged to show the “true nature of CAGE”⁸.

Other evidence of bias

Furthermore, Mr. Shawcross has made a number of statements concerning organisations which advocate for the rights of individual within the context of the War on Terror. These statements illustrate his mindset and attitude to those who seek to campaign on behalf of suspects accused of terrorism offences.

In his book *Justice and the Enemy: Nuremberg, 9/11, and the Trial of Khalid Sheikh Mohammed*,⁹ Mr. Shawcross presents a defence of Guantanamo Bay. He also presents extensive and controversial opinions on Islam and many Muslim groups. CAGE has been one of the leading campaigners against Guantanamo Bay. Moazzam Begg, an ex- Guantanamo detainee is its outreach Director. We assert that the actions taken by the Commission concerning CAGE are clearly influenced and driven by the strong opinions of Mr. Shawcross and other board members.

In the same book, he writes about the impact that human rights organisations such as Amnesty International and Human Rights Watch have had on national security policy, in particular that of the United States of America. He writes:

“But in recent years, as they have grown in influence and in political power (and grown more critical of the United States), they have attracted more controversy. Since Vietnam, civil liberties and human rights activists have moved more and more into the domain of national security affairs, all over the world. The new concept of “lawfare”—meaning the use (and sometimes misuse) of law as an asymmetrical weapon of war—has become an increasingly important weapon against governments, above all the United States.”¹⁰

It is clear to us that Mr. Shawcross holds CAGE and the work which we do in disdain and those who associate with us. Given his views on Guantanamo Bay, he would never appreciate our work. It appears from these extracts that he would like organisations to disassociate from CAGE. He is perfectly entitled to hold those views. However, he is not entitled to use those views to influence the staff at the

⁸ Shawcross, William (2015) Chair, Charity Commission. Email to Tony Leifer, Orlando Fraser, Peter Clarke, Paula Sussex, Kenneth Dibble, Michelle Russell, 01 March. Professional communication.

⁹ Shawcross, W. (2011) *Justice and the Enemy: Nuremberg, 9/11, and the Trial of Khalid Sheikh Mohammed*. United States of America, Public Affairs

¹⁰ Ibid page 3

Charity Commission to implement a policy which he appears to personally believe in.

The email released by the Charity Commission and the actions taken against the Joseph Rowntree Charitable Trust indicates to us that Mr. Shawcross is allowing his personal beliefs and opinions to influence the work of the Charity Commission.

Impact on the Sector

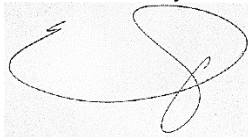
We would ask you to resist the temptation to dismiss our call for an investigation as a response to the position taken by the Commission against us. However, if you were to research the reaction of the sector to the judicial review proceedings and the disclosure of evidence, you may conclude as have others that the Commission has conducted itself in a biased and oppressive manner. This was never envisaged by Parliament.

There is further evidence that the number of investigations against Muslim charities is disproportionate and this issue has been raised with your Committee by others. You may be concerned to note that Mr. Shawcross in public statements following the case remains unrepentant despite the revelation of the evidence establishing a clear desire to target a non-charitable organisation because of its lawful but contentious activities. We would suggest that an investigation consider the following points:

1. Are Mr. Shawcross' views having an undue and a partisan influence on the staff of the Charity Commission in exercising their powers?
2. Are the views and external associations of Mr. Shawcross leading to discrimination against Muslim charities on the grounds of religious and political opinion and views?
3. To what extent has the controversial comments concerning the area of work which CAGE engages in affected his role as the regulator of the Charity Commission?
4. What safeguards are there to ensure that the Charity Commission does not exercise its powers in a politicised manner?

We look forward to your response.

Yours sincerely,



Dr Adnan Siddiqui
Director, CAGE