

15 October 2015

Our ref: IM/QRV/15-5467

By email: [tomminogue01491@gmail.com](mailto:tomminogue01491@gmail.com)

Dear Mr Minogue

### **Freedom of Information request**

Thank you for your email to my colleague Angela Miller dated 17 September 2015 requesting information under the Freedom of Information (Scotland) Act 2002 (FOISA) in respect of the Alfred Stewart Trust (SC041929).

In your email you ask for:

*Will you please identify the five trustees of the Alfred Stewart Trust referred to in your report?*

The report you are referring to in this request is our Interim Report on the inquiry conducted by us into the charity; which can be accessed online here:

<http://www.oscr.org.uk/search-oscr/charity-details?number=SC041929>

I can confirm that the information you have requested is exempt from disclosure under **Section 35 of FOISA: Law enforcement**. The disclosure of this information would prejudice substantially the exercise by OSCR of its functions noted in (35(1)(g)) for the purpose of:

- protecting a charity against misconduct or mismanagement (whether by trustees or other persons) in its administration(35(2)(f)); and
- protecting the property of a charity from loss or mismanagement (35(2)(g)).

This exemption applies because OSCR is a public authority in terms of FOISA, whose statutory functions include acting on information received from any source about allegations of misconduct and mismanagement in any body which is a charity, and acting to protect the property of a charity. Disclosure of this information would, we believe, inhibit substantially the free and frank disclosure of information to OSCR by charity trustees and others; thereby substantially prejudicing OSCR's ability to carry out its statutory functions.

The exemption applies to the exercise of OSCR's regulatory functions (as stated above), and whether they would be substantially prejudiced. It is my belief that the release of the information to the public would substantially prejudice OSCR's ability to carry out those functions.

**Public interest test**

I applied the public interest test by weighing up the public interest in maintaining the exemption against public interest in disclosing the information. My consideration of the public interest test is as follows:

**Public interest in disclosure of the information:**

- There is an inherent benefit in information being accessible to enable the public to understand OSCR's regulatory processes.
- Disclosure contributes to the public's understanding of the charitable sector and the regulatory regime.

**Public interest in not disclosing the information:**

The release of information under FOISA, and therefore to the public, would be damaging to the charity, its trustees and reputation without the protection afforded by OSCR's inquiry process.

- There is an ongoing live inquiry into this charity. Releasing information might prejudice this inquiry.
- By releasing the information it will be in the public domain, which could be harmful to the charity's reputation and that of the wider charity sector.
- OSCR must have the confidence of individuals and organisations when carrying out our statutory functions. Should organisations or individuals believe that information will routinely be made public, without the protection afforded by relevant criminal or civil proceedings, confidence in OSCR will be undermined.
- Releasing this information may damage the willingness of the public to provide OSCR with information in confidence. This unwillingness to provide information may seriously undermine the robustness of our inquiry process.

Given the negative and damaging impact on OSCR's regulatory role of any disclosure, it would not be in the public interest to compromise OSCR's investigatory procedures in the future.

**Right of Appeal**

You have the right to ask us to review our decision in respect of release of information under FOISA. Your request for review should be made within 40 working days of receipt of this letter and we will reply within 20 working days of receipt of that request. If you still remain dissatisfied you have the right to appeal to the Office of the Scottish Information Commissioner.

If you require a review of our decision or wish to make a complaint about the way in which your request was handled, please contact us:

Post: Judith Hayhow  
Head of Support Services  
OSCR  
2nd Floor, Quadrant House  
9 Riverside Drive  
Dundee, DD1 4NY

Email: [info@oscr.org.uk](mailto:info@oscr.org.uk)  
Subject: FOI review request

The review will be carried out by a staff member not involved in the original decision making process.

Yours sincerely

Morag Stewart  
Business Planning & Learning Co-ordinator