

## Charity Commission and the Freedom of Information Act 2000

18 MAY 2010

**CATEGORY:**  
ARTICLE

In the recent High Court case of *Kennedy v Information Commissioner* [2010] EWHC 475, a Times journalist, Dominic Kennedy, applied for a review of the Charity Commission's decision not to release documents it had gathered in relation to a charity - 'Mariam's Appeal' - set up by George Galloway in 1998.

The Charity Commission instituted three separate inquiries into the charity, starting in 2004, sparked initially by articles written by Dominic Kennedy appearing in the Times newspaper. The Commission reported its conclusions on the third inquiry in June 2007. Dominic Kennedy applied to the Charity Commission for information relating to the inquiry under the Freedom of Information Act 2000 ('FOIA 2000') but was refused. One of the reasons the Commission gave was the exemption at s.32(2) FOIA 2000 which provides an exemption from disclosure in relation to documents either placed in the custody of, or created by, a person conducting an inquiry for the purposes of an inquiry.

Dominic Kennedy complained to the Information Commissioner, who rejected the complaint on the basis of the above exemptions. He appealed to the Information Tribunal, which ruled that the bulk of material requested by him did fall within the exemption at s.32(2), and then appealed to the High Court.

It was held by the High Court that:

- the exemption included documents gathered by the Commission prior to an inquiry if the documents were then held for the purpose of the inquiry;
- the exemption also applied to electronic documents, not only hard copy documents;
- if, however, an inquiry involved matters of key public concern then the exemption could be waived and the Charity Commission might decide to disclose documents otherwise covered by the exemption