



IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
CHARITY

Appeal ref: CA/2021/0011

BETWEEN:

DAVE GREGSON

Appellant

- AND -

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Respondent

RULING ON APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO
MAKE AN APPEAL

DECISION

1. The Appellant's application for an extension of time in which to bring this appeal is refused. The appeal is not admitted.

REASONS

2. On 11 December 2020¹ the Appellant sent an email to the Respondent in which he asked, "*For the commission to give details of previous engagement and meetings with United Response and agreed actions.*"
3. The Respondent treated his request as one made under the Freedom of Information Act 2000 and responded by letter dated 29 January 2021. The Respondent neither confirmed nor denied whether it holds any information within the description specified in the Appellant's request.
4. The Appellant has sent a notice of appeal to the tribunal dated 18 May 2021. The outcome he seeks is that "*The Charity Commission make public its regulatory*

¹ This date is given as 11 December 2021 in the letter of 29 January 2021 but this must be a typographical error.

action taken against United Response including recommendations (sic), actions and if required the case be referred back for review."

5. Rule 26(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (the rules) requires that a notice of appeal must be sent to the tribunal so that it is received within 42 days of the date on which the decision was sent to the appellant or of its publication. That time limit expired on 12 March 2021. The notice of appeal was received over 9 weeks later.

6. The Appellant asks for an extension of time in which to bring his appeal. The reasons he gives are

"Previous legal proceedings with the First Tier Tribunal have inevitable (sic) delayed the process and also there is a current complaint against a sitting Judge, who dealt with the previous case and that investigation is ongoing presently. I ask that this time period be taken into consideration in mitigation of length of time in bringing this case."

7. The Tribunal has a discretion under Rule 5 to regulate its own procedure which includes the extension of time for compliance with any rule under rule 5(3)(a) of the rules.

8. I have considered the relevant case law in deciding whether to exercise that discretion. That is the Upper Tribunal's decisions in Data Select Limited v HMRC [2012] UKUT 187 (TCC) and Leeds City Council v HMRC [2014] UKUT 0350 (TCC) and BPP University College of Professional Studies v HMRC [2014] UKUT 496 (TCC) in which the Data Select principles were applied.

9. The proper course for a tribunal in considering this type of application is to follow the principles, as described by Morgan J in the Data Select case at paragraph 34

[34] ... Applications for extensions of time limits of various kinds are commonplace and the approach to be adopted is well established. As a general rule, when a court or tribunal is asked to extend a relevant time limit, the court or tribunal asks itself the following questions: (1) what is the purpose of the time limit? (2) how long was the delay? (3) is there a good explanation for the delay? (4) what will be the consequences for the parties of an extension of time? and (5) what will be the consequences for the parties of a refusal to extend time. The court or tribunal then makes its decision in the light of the answers to those questions.

10. Applying those five principles, I have concluded that

a. The purpose of the time limit for making an appeal against a decision is to preserve the important principle of finality and promote effective

expeditious case management. The Respondents were entitled, in view of the absence of an application within the time limits, to regard the case as concluded.

- b. The delay in lodging the appeal and applying for an extension of time is substantial and significant. No application was made within time for an extension.
- c. There is no good explanation for the delay; the reason given is that of waiting for the outcome of another case and/or complaint. However, there is no reference to, or reliance upon, that other case within the grounds of appeal submitted with this application. The existence of a complaint against a judicial office holder as regards another matter is not a reason to delay the submission of an appeal as it is irrelevant to the consideration of the decision of the Charity Commission.
- d. Granting an extension of time would allow the Appellant to make the appeal but that must be weighed against the impact of re-opening a matter that would be reasonably regarded as concluded by the Respondent. I also take into account that the appeal is made against a response of the Charity Commission to a request under FOIA, however the usual course to dispute such a response is first by way of a request for an internal review and then if necessary to the Information Commissioner. This was notified to the appellant in the letter of 29 January 2021. The Tribunal's jurisdiction under FOIA, within its information rights jurisdiction as opposed to its charity jurisdiction, is to consider the decisions of the Information Commissioner and not the public authority to whom the request was made. Thus, even if I was to allow the extension of time it is likely that the appeal would be struck out because the Tribunal does not have jurisdiction to consider it.
- e. A refusal to grant an extension of time will mean that the Appellant will lose the opportunity to appeal, but this must be seen in the context of all the circumstances including the likelihood that the tribunal lacks jurisdiction to consider his appeal in any event.

11. Consideration of the Data Select criteria lead me to the conclusion that this application should be refused. The application for an extension of time is refused and the appeal is not admitted.

Tribunal Judge Lynn Griffin

Date : 17 June 2021