



Appeal number: CA/2021/0019

IN THE FIRST-TIER TRIBUNAL GENERAL REGULATORY CHAMBER (CHARITY)

BETWEEN:

PAOLA PIRRELLO

Appellant

- AND -

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Respondent

DIRECTIONS

1. Directions issued on 11 August 2021 and 16 September 2021 directed the Appellant to stipulate what provisions under Schedule 6 of the Charities Act 2011 permitted this appeal to the Tribunal.
2. In response the Appellant provides extracts from the Charities Act 2011 ('CA') which the Appellant states permits them to appeal to this Tribunal. In particular, the Appellant provides sections 319(2)(b), 320(2)(b), 76 and 84 and Schedule 6 as it relates to those sections. It seems to me that section 46 must also be considered as it relates to the provisions relied on by the Appellant.

The law- Charities Act 2011

Section 46 General power to institute inquiries

(1)The Commission may from time to time institute inquiries with regard to charities or a particular charity or class of charities, either generally or for particular purposes.

...

(3)The Commission may—

(a)conduct such an inquiry itself, or

(b)appoint a person to conduct it and make a report to the Commission.

.....

Section 76A Exercise of powers where section 76(1)(a) applies:

(1) This section applies to any power under this Part which is exercisable in cases where the Commission is satisfied as mentioned in section 76(1)(a) in relation to a charity (misconduct or mismanagement), with or without any other condition.

(2) If in such a case the Commission is also satisfied—

(a) that a particular person has been responsible for the misconduct or mismanagement,

(b) that a particular person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or

(c) that a particular person's conduct contributed to it or facilitated it,...

Section 84 Power to direct specified action to be taken:

(1) This section applies where, at any time after the Commission has instituted an inquiry under section 46 with respect to any charity, it is satisfied either as mentioned in section 76(1)(a) (misconduct or mismanagement etc.) or as mentioned in section 76(1)(b) (need to protect property etc.).

(2) The Commission may by order direct—

(a) the charity trustees,

(b) any trustee for the charity,
(c) any officer or employee of the charity, or
(d) (if a body corporate) the charity itself,
to take any action specified in the order which the Commission considers to be expedient in the interests of the charity.

...

Section 319 Appeals: general

(1) Except in the case of a reviewable matter (see section 322) an appeal may be brought to the Tribunal against any decision, direction or order mentioned in column 1 of Schedule 6.

(2) Such an appeal may be brought by—

(a) the Attorney General, or

(b) any person specified in the corresponding entry in column 2 of Schedule 6.

Section 321 Reviews

(1) An application may be made to the Tribunal for the review of a reviewable matter.

(2) Such an application may be made by—

(a) the Attorney General, or

(b) any person mentioned in the entry in column 2 of Schedule 6 which corresponds to the entry in column 1 which relates to the reviewable matter.

...

Section 322 Reviewable matters

(1) In this Chapter references to reviewable matters are to—

(a) decisions to which subsection (2) applies, and

(b) orders to which subsection (3) applies.

(2) This subsection applies to decisions of the Commission—

(a) to institute an inquiry under section 46 with regard to a particular institution;

(b) to institute an inquiry under section 46 with regard to a class of institutions;

...

Consideration

3. I note the email from the Charity Commission dated 22 June 2021, although it is provided to the Tribunal with a cover sheet which has Paola Pirrello as Claimant and Whitechapel Centre as Defendant I suspect this coversheet did not form part of the Charity Commissions correspondence. However, the salient part the Charity Commissions correspondence for consideration is this:
'having carefully considered the issues you have raised against the Charity Commission Regulatory and Risk Framework, we will not be contacting the charity'.
4. It seems to me that the Charity Commission in effect took no action in relation to the charity. No inquiry under section 46 of the CA was instituted in relation to misconduct or mismanagement under section 76 and so section 76A and the powers there under is not engaged.
5. Further, as there was no inquiry under section 46 and no finding under section 76, I fail to see how the Charity Commission could make a direction under section 84 of the CA.
6. The Appellant relies on sections 319 and 321 of the CA to appeal to this Tribunal. I deal with section 321 of the CA first; suffice to say the Charity Commission did not institute an inquiry under section 46 and according there is nothing to be reviewed (see section 322 of the CA above). I submit that the other subsections of section 321 do not apply in this instance.
7. Dealing with section 319 CA, appeals against any decision, direction or order of the Charity Commission. It seems to me that no formal decision could have been made as the charity was not contacted and no evidence or representations were considered as part of a hearing or decision-making process; for the same reason no direction or order was made.
8. I turn to Column 2 of Schedule 6 of the CA. As none of the provisions in Column 1 apply to the Appellant I do not see how the Appellant can seek to rely on the corresponding entry in Column 2 and a right to appeal to this Tribunal.
9. I have considered the Notice of Appeal, the Grounds of Appeal and outcome sought by the Appellant it states:

I. Order for Disclosure

II. Interim Enforcement Order to enforce contractual claims against the housing charity Whitechapel Centre.

III. A cause of action for remedies and damages

VI. It entitles for a review of the housing provider.

V. It entitles the beneficiary to rescind the housing contract.

IV. A right to set aside any change in the beneficiary legal position'.

10. It seems to me that matters mentioned may form the basis of a civil claim before a court. However, such a claim and the outcome sought by the Appellant is not within the remit of this Tribunal.

11. For the reasons I have stated, I consider the Appellant has no reasonable prospect of succeeding in this appeal. Rule 8(3)(c), The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.

IT IS NOW DIRECTED AS FOLLOWS:

12. In accordance with Rule 8(4), The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, the Appellant is permitted to make representations as to why this appeal should not be struck out under Rule 8(3)(c), by no later than **08 October 2021**.

13. In the event that the Appellant makes representations (or if there are no representations) the matter will be listed before a Judge of the Tribunal after 08 October 2021 for consideration of the striking out of the appeal.

Mr S Bamawo

Registrar

DATED: 24 September 2021