



Appeal number: CA.2021.0018

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(CHARITY)**

Ian Geering

Appellant

-and-

The Charity Commission for England and Wales

Respondent

Before:

DDJ Rebecca Worth (authorized to sit as a Tribunal Judge in the GRC),

DECISION and REASONS

1. This decision deals with the Charity Commission's application to strike out Mr Geering's appeal and Mr Geering's application for permission to amend his Notice of Appeal to be an appeal against a Scheme made on 23 October 2015 and extension of time to lodge such an appeal.
2. I was provided with the documents in the appeal and have had regard to all of them. Those which were of assistance to me are listed here:
 - 2.1. Notice of Appeal dated 24 July 2021 and annotated copy of the Charity Commission's letter dated 15 June 2021.
 - 2.2. Statement of Case (undated).
 - 2.3. Case Management Directions dated 02 and 19 August 2021.
 - 2.4. Strike out application dated 16 September 2021 and its accompanying annex (including "part 2").
 - 2.5. Mr Geering's response to the strike out application and application for an extension of time (undated).

3. I am aware that Mr Geering is not the only person litigating about the Steep In Need Scheme (and the Charity Commission's letter dated 15 June 2021. I did not consider the applications together as I did not see Mr Geering's application to do so until after I had sent my decision in CA.2021.0019 to the Tribunal office; I am, in this decision, being consistent in this decision with my decision in CA.2021.0017 and some phrases are common to both decisions.

Background

4. On 23 October 2015 the Charity Commission issued a Scheme which from that date governed the charity formerly known as "Allotments Held by Steep Parish Council" and, from then to be known as "The Steep in Need Charity". The charity is now an incorporated charitable company called "Steep in Need" and is registered with the Charity Commission as 1187284 and at Companies House under number 12231975.
5. On 15 June 2021 the Charity Commission wrote to various persons who had complained about Steep in Need and the Steep War Memorial Village Club.
6. Mr Geering lodged proceedings with this Tribunal by Notice of Appeal dated 24 July 2021. As he did not include with his documents a decision of the Charity Commission stating that there was a right of appeal to this Tribunal, Mr Geering was required to identify the provision in Schedule 6 to the Charities' Act 2011 which he believes gave him the right to lodge proceedings and to identify how he says he falls within column 2 as having a personal right to litigate.
7. Mr Geering, in a letter dated 21 August 2021, stated that he considered he had the right to appeal pursuant to the right to appeal against a decision made under section 69 of the Charities Act 2011 had been made and he was "any other person who is or may be affected by the Order".
8. The Charity Commission were then required to respond to the appeal or (if they considered there was no jurisdiction) to apply for a strike out under rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.
9. By document dated 16 September 2021, the Charity Commission applied for strike out of the appeal.
10. Mr Geering has made representations about the strike out, which I have read; he has also applied for permission to amend his appeal so that it is an appeal against the making of the Scheme on 23 October 2015 and for an extension of time to do so.

Consideration – the strike out application

11. The initial notice of appeal, and Mr Geering's response to the Case Management Directions, requiring him to state the Schedule 6 provision on which he relied, clearly stated that he sought to appeal the Charity Commission's letter of 15 June 2021.

12. It is clear to me that, on a reasonable reading of the letter, it is a response to a complaint (or a number of complaints) which had been made to the Charity Commission. Such responses are not, under Schedule 6 of the Charities Act 2011, “decisions” appealable to this Tribunal.
13. Mr Geering, in paragraph 15 of his representations against the strike out submits that “the decision of the Commission contained in the letter of 15 June 2021 was, in effect, its decision to approve the scheme relating to the Steep in Need charity pursuant to section 69(1) of the Charities Act 2011, having been made aware that its decision of 23 October 2015 was wrong, as a matter of law, and had been procured by misrepresentation”. I disagree. To make a new scheme on 15 June 2021, the Charity Commission would have needed to state that the scheme made on 23 October 2015 was set aside; that is not done in the letter of 15 June 2021 which merely sets out the regulatory position.
14. The letter of 15 June 2021 states that “Prior to its incorporation the charity was governed by a scheme dated 23 October 2015. The charity is now governed by a memorandum and articles, incorporated 27 September 2019.”. To me, that assertion makes it clear that the 23 October 2015 no longer exists – it has, in law, been replaced by the charitable company called Steep In Need (Charity Commission number 1187284, Companies House number 12231975).
15. If the original Notice of Appeal was about the Charity Commission’s letter dated 15 June 2021, there is no right of appeal against it and the Tribunal would be required, under rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, to strike it out.

Consideration – Mr Geering’s application to amend his Notice of Appeal so that it is an appeal against the 23 October 2015 scheme with an application for extension of time to lodge those proceedings

16. I do not accept Mr Geering’s argument that the Tribunal’s approach to the extension of time should be different because of the allegations he made of fraud. The Charity Commission (who would be the respondent at this Tribunal and therefore bearing the cost and burden of litigation) are not alleged to have carried out any such fraud. Mr Geering has already identified that he is still able to litigate against the Parish Council in the High Court (paragraph 26 of his initial representations against strike out); he still, therefore, has a remedy and there is no good reason to allow an amendment to the Notice of Appeal and/or grant an extension of time so that he can litigate in this Tribunal against the Charity Commission.
17. Mr Geering states that he was not aware of the Scheme until November 2019. He does not explain why he did not lodge proceedings to appeal against it at that time or in the whole of 2020 (12 months) earlier than July 2021 (over 6 months) or whatever additional months were available to him in November 2019 – I do note his medical issued in March 2019. He also does not explain why he did not in July 2021 lodge these proceedings as an appeal against the 23 October 2015 scheme or, when faced with the question about the validity of

his appeal against the 15 June 2021 letter, apply at that time for amendment and extension. All these are reasons to refuse to extend the time limit as it is unfair on the Charity Commission to extend the time limit when Mr Geering was clearly aware of the Scheme at least 18 months before he lodged the proceedings.

Conclusion

18. I conclude that, as a matter of fact, Mr Geering's appeal was against the Charity Commission's letter dated 15 June 2021 (communicated by email). That email is not a decision under section 69 of the Charities Act 2011 and is not otherwise a decision listed in Schedule 6 to the Charities Act 2011. I conclude, therefore, that there is no right of appeal to this Tribunal against that letter. Therefore, and pursuant to rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 I strike out the appeal.
19. I also do not grant an extension of time to appeal against the Scheme Order made on 23 October 2015. That scheme no longer exists due to the incorporation of the charitable company Steep In Need (Charity Commission number 1187284, Companies House number 12231975). Mr Geering clearly has issues as to how the Parish Council obtained the Scheme and even, it appears, how they made the charitable company. However, it is not fair or just to the Charity Commission to permit Mr Geering to litigate against them (causing them to bear costs) when there has been such a lengthy delay in appealing against the Scheme, even if one takes the date of delay from the date of Mr Geering's knowledge of the Scheme.

DDJ Worth

Deputy District Judge Worth, authorised to sit as a Tribunal Judge in the GRC

Dated: 15 November 2021