



**First-tier Tribunal
(General Regulatory Chamber)
Charity**

Tribunal Reference: CA/2019/0005 & CA/2019/0011
Appellant: Joshua Waldman
Respondent: The Charity Commission for England and Wales
Judge: Jonathan Holbrook

**CASE MANAGEMENT NOTE
AND DIRECTIONS**

A preliminary hearing was held in Manchester on 19 August 2019 at which the Appellant was represented by Mr Brian White and the Respondent by Mr Lewis Bretts of counsel.

At that hearing, I consented to the immediate withdrawal of the appeal in CA/2019/0005. That appeal was withdrawn upon the Respondent revoking the temporary freezing order dated 17 January 2019 following receipt of further clarifying financial information from the Appellant and as a consequence the Respondent confirming that this temporary measure is no longer necessary.

We discussed the form and content of appropriate case management directions for the continuing appeal (in CA/2019/0011) against the restricting order made by the Respondent on 8 May 2019. The resulting directions are set out overleaf.

Contrary to the indication I gave during the hearing (and I apologise for any confusion caused), I do not now consider that this appeal should be taken forward in the name of the charity itself (The Bersam Trust). That is because a charity only has standing to bring an appeal in its own name if it is a body corporate. As I understand it, The Bersam Trust is not a body corporate and so I think it appropriate that Mr Waldman should continue as the named appellant in the case. Nevertheless, if any (or indeed all) of the other trustees of the charity wish to apply to be joined as additional appellants, they are, of course, free to do so at any time.

IT IS DIRECTED as follows

Mode of hearing

1. This appeal shall be determined by a 1 day oral hearing in Manchester on the first available date in March or April 2020. By 2 September 2019, the parties are to send to the Tribunal a list of any dates during that period when they, their representatives or any witnesses will not be available to attend a hearing.

Agreed bundle of documents

2. The parties are to use their best endeavours to agree the contents of a bundle of documents for the Tribunal, in accordance with the arrangements set out below.

3. The first draft of the index to the hearing bundle is to be prepared by the Respondent and served on the Appellant by 5pm on 20 September 2019.

4. By 5pm on 4 October 2019, the Appellant is to notify the Respondent whether there are any additional documents in his possession that he wishes to add to the bundle and provide electronic copies of the documents.

5. A consolidated version of the bundle is to be prepared by the Respondent and sent to the Appellant by 5pm on 18 October 2019.

Witness statements

6. By 5pm on 1 November 2019, the Respondent is to serve by email any written witness statements and additional documents on which it wishes to rely. If the witness statements refer to any documents in the bundle, the relevant page number is to be used in the statement(s).

7. By 5pm on 22 November 2019, the Appellant is to serve by email any written witness statements and additional documents on which he wishes to rely. If the witness statements refer to any documents in the bundle, the relevant page number is to be used in the statement(s).

8. By 5pm on 6 December 2019, the Respondent is to serve by email any further witness statements or documents in response on which it wishes to rely. If the witness statements refer to any documents in the bundle, the relevant page number is to be used in the statement(s).

9. By 5pm on 13 December 2019, each party is to notify the other if they wish to cross-examine any witness in respect of whom a statement has been filed.

Skeleton arguments

10. By 5pm on 17 January 2020, the parties are to exchange skeleton arguments with each other and to send a copy to the Tribunal.

Bundle of authorities and statutory materials

11. The parties are to use their best endeavours to agree a bundle of authorities and statutory materials, in accordance with the directions below. The authorities should only be those specifically referred to in the written submissions.

12. The first draft of the index to the authorities bundle is to be prepared by the Respondent and be sent to the Appellant by 5pm on 10 January 2020.

13. The Appellant is to notify the Respondent whether there are additional materials that he wishes to be included in the authorities bundle by 5pm on 17 January 2020 and provide electronic copies by the same time.

14. The Respondent is to serve a consolidated version of the authorities bundle on the Appellant by 5pm on 31 January 2020.

Lodging of bundles with the Tribunal

15. A final version of the hearing bundle, and a consolidated witness statement bundle including any exhibits, is to be prepared by the Respondent and three hard copies are to be lodged with the Tribunal by 5pm on 31 January 2020.

16. A consolidated version of the authorities bundle is to be prepared by the Respondent and three hard copies of the authorities bundle are to be lodged with the Tribunal by 5pm on 31 January 2020.

Other

17. Each party has permission to apply to vary these directions or to apply for further directions. Any such application is to be in writing, to set out the full reasons for the application and (where applicable) to be filed before the time limit for complying with the direction has been reached.

18. Unless specified under The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended), all written correspondence sent to the Tribunal must be copied to all other parties or sent to the other parties as soon as reasonably practicable.

19. Party to party correspondence shall be limited to only matters that are necessary to be determined by the Tribunal. All communication from the Appellant's representative in respect of this litigation shall be directed to the Commission's Litigation Department at the email address litigationandreview@charitycommission.gov.uk and not to any other lawyer or officer of the Commission.

Signed: J W HOLBROOK
Date: 20 August 2019