



**Appeal number: CA/2014/0004  
CA/2014/0006  
CA/2014/0007**

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

**JOHN NICHOLSON AND FIVE OTHERS  
TONY GREENSTEIN  
AYED ABU EQUAISH**

**Appellants**

**- and -**

**THE CHARITY COMMISSION FOR  
ENGLAND AND WALES**

**Respondent**

**DECISION  
ON AN APPLICATION FOR PERMISSION TO APPEAL**

1. On 4 August 2014 I issued a ruling on the preliminary issue of whether the Appellants are persons entitled to appeal to the Tribunal in respect of the Charity Commission’s decision of 31 January 2014, which was a decision under s. 34 of the Charities Act 2011 (“the Act”) not to remove certain charities from the Register of Charities. The parties agreed to the determination of the preliminary issue on the papers and made written submissions.

2. An appeal against a decision under s. 34 of the Act can be brought by “*any other person who is or may be affected by the order*” (column 2 of schedule 6 to the Act) so the question was whether the Appellants were so affected. My ruling was that the Appellants did not have standing to make an application to the First-tier Tribunal (Charity) so that their appeals must be struck out.

3. Mr Nicholson has applied for permission to appeal to the Upper Tribunal (Tax and Chancery Chamber) by application dated 22 August 2014. He argues that my ruling contained errors of law in deciding that the Appellants were not persons affected by the Charity Commission’s decision. He gives three numbered grounds for

seeking permission to appeal, supported by what I understand to be additional submissions in relation to the numbered grounds. His first ground is that my ruling did not adequately address all the arguments in support of standing, in particular his argument that he was “affected” by virtue of being the addressee of the Charity Commission’s decision. His second ground is that I unfairly relied upon an absence of evidence about historical events to rule against Mr Equataish when I should have directed the Charity Commission to obtain the relevant evidence to decide the point. His third ground is that I failed to take into account the Charity Commission’s failure to exercise its regulatory powers in respect of the charities which the Appellants wish to see removed from the Register of Charities.

4. I have considered in accordance with rule 44 of the Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009 whether to review my ruling on the preliminary issue, but have decided not to undertake a review, as I am not satisfied that there was an error of law in my decision.

5. I give permission to appeal in relation to the first ground. It is arguable that my ruling did not adequately address all the arguments made in support of the Appellants’ case, and in particular that paragraph [27] of the ruling did not consider all of the arguments that Mr Nicholson had made in support of his submission that an addressee of a decision thereby becomes affected by it. There is no binding authority directly on the point of when persons are or may be affected by a decision of the Charity Commission, and it would be helpful to the Charity Commission and to the First-tier Tribunal to obtain a decision of the Upper Tribunal on the correct approach to the statutory test for standing to bring an appeal.

6. I refuse permission to appeal in relation to the second and third grounds. It is clear from my ruling at paragraph [29] that the making of findings of fact about historical events was not necessary in order to reach my decision, and so I consider the second ground unarguable. I also consider that the third ground is unarguable because the statutory test for standing to bring an appeal (see paragraph 2 above) does not include consideration of wider factors such as the Charity Commission’s exercise of its regulatory functions or whether it is in the public interest for an appeal to be brought.

7. In giving limited permission to appeal, I consider this matter suitable for determination on the papers, but the parties will be asked by the Upper Tribunal in due course whether they wish there to be an oral hearing of the appeal.

**PRINCIPAL JUDGE**  
**2 September 2014**

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