



Appeal number: CA/2014/0016

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

MOHAMMED ANIQUE

Appellant

- and -

**THE CHARITY COMMISSION
FOR ENGLAND AND WALES**

Respondents

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 24 November 2014

Upon the Tribunal receiving a Notice of Appeal which appeared to be out of time and issuing directions dated 29 October 2014

And upon reading the Respondent's letter of 12 November 2014 and the Appellant's further submissions of 17 November

IT IS DIRECTED as follows:

1. The Tribunal accepts jurisdiction in this appeal and permits it to proceed out of time.
2. The Respondent is to file a Response within 28 days of the date appearing below.
3. Further directions will be made after consideration of the Response and any Reply.

REASONS

4. This matter concerns an Order made by the Respondent under s. 69 (1) (c) of the Charities Act 2011, concerning the charity known as Blackheath Jamia Mosque Trust (1025081). The Order, made on 9 September 2014, vests the charity's property in new holding trustees.

5. The Appellant is one of the previous holding trustees. The Appellant had made representations to the Respondent on the contents of a published draft Order and had taken his objections through the Respondent's internal review process. Following the conclusion of that process, the Respondent proceeded to make the Order of 9 September. The Respondent accepts that a copy of the Order should have been sent to the Appellant, but that it was not, with the effect that the Appellant was not informed about rights of appeal to the Tribunal.
6. The Appellant's application to the Tribunal was made on 23 October, so it was made 2 days out of time. In view of the fact that the Respondent failed to inform the Appellant of his appeal rights and the fact that the delay is a short one, I am satisfied that it would be fair and just to allow the appeal to proceed out of time. The Respondent does not object to this course of action.
7. I am satisfied that an Order under s. 69 (1) (c) of the Charities Act 2011 is appealable to the Tribunal by "*any other person who is or may be affected by the Order*". The Respondent refers me to the test applied by Lord Carlile of Berriew QC in *R (oao International Peace Project 2000)* [2009] EWHC (Admin) 3446, that "*A person who is or may be affected, in my judgment, means someone who has an interest that is materially greater than, or different from, the interests of an ordinary member of the public*". I have some doubt as to whether this test creates a binding precedent, given that it was applied in a judicial review permission hearing and was arguably *obiter*, however, I hope that the correct legal test for standing in the Tribunal will shortly be the subject of an Upper Tribunal ruling. In the meantime, if this is the test, then it seems to me that the Appellant meets it. As the effect of the Order was to remove from the Appellant an interest in land vested in him as a holding trustee and vest that interest in land in others, I conclude that his legal rights were altered by the Order. I am satisfied that the alteration of his legal rights, together with his past association with the charity and his extensive engagement with the Respondent about it gives him an interest greater than that of an ordinary member of the public, so as to bring him within column 2 of Schedule 6 to the Charities Act 2011.
8. In the circumstances, the Respondent is now directed to file its Response to the Appeal and I will issue further directions for a hearing in due course.

PRINCIPAL JUDGE
24 November 2014

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