



Appeal number: CA/2019/0005

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

JOSHUA WALDMAN

Appellant

- and -

**THE CHARITY COMMISSION FOR ENGLAND Respondent
AND WALES**

RULING ON APPLICATION FOR DISCLOSURE

Before:

Judge Alison McKenna

Sitting in Chambers on 15 March 2019

1. No Order is made on the Appellant's application dated 13 March 2019.
2. The Appellant is at liberty to renew his application following receipt of the Respondent's Response and rule 27(5) disclosure, due on 28 March 2019.

REASONS

1. The Appellant appeals against the Respondent's "freezing order" made under s. 76(3)(d) of the Charities Act 2011. The Appellant has made an application for disclosure dated 13 March 2019.
2. The Respondent's Response to the appeal is due on 28 March 2019, in the usual way. The Respondent must also on that date comply with the disclosure obligations imposed by rule 27 (5) of the Tribunal's Rules. If the Appellant makes a Reply to the Response, the Respondent will also be obliged to comply with the secondary disclosure obligations imposed by rule 29(1) of those Rules. If it does not so comply, it could risk being disbarred from participating in the appeal¹ and, ultimately, find itself in contempt of court.
3. It follows that the Respondent has not yet, in the usual course of pleadings, been required to state its case and what documents it will rely upon in so doing. Until that process has been completed, I am unable to determine the application for additional disclosure. Once pleadings have closed, it may be that the application is no longer relevant, or that it will be renewed, and I will then be in a position to determine it fairly. As things stand, I regard the application of 13 March as premature because in the absence of the Respondent's pleaded case I am unable to determine the relevant issues.
4. The Appellant's representative appears to have misunderstood the level of involvement of the Tribunal so far, in that he refers in one of his three e mails dated 14 March to the Charity Commission having "obtained an order" against his client. I should make clear that the Tribunal has had no prior involvement in this matter as the Respondent made the freezing order of its own motion (as Parliament has empowered it to do). The role of the Tribunal is to make a Decision on the appeal, in the light of the parties' pleaded cases and all the evidence. It can only do so after each party has had a fair opportunity to state its case in accordance with the

¹ See *BPP Holdings Ltd and others (Respondents) v Commissioners for Her Majesty's Revenue and Customs (Appellant)* [2017] UKSC 55 <https://www.bailii.org/uk/cases/UKSC/2017/55.html>

procedural rules and once it has considered all the evidence on which each party relies. We have not yet reached that point in the proceedings.

5. The Appellant may apply for an expedited hearing of this matter, but he may not drive a coach and horses through the Tribunal's usual process for ensuring that each party has a fair opportunity to state its case.
6. The parties have been sent the usual draft directions and it is open to them to agree short deadlines for the preparation of a hearing bundle so as to facilitate an expedited hearing. If this is their request, the Tribunal will do all it can to facilitate an early hearing of this appeal.
7. Accordingly, I make no order on the disclosure application now, but it remains on file in case the issue needs to be re-visited at a later stage in these proceedings.

Signed

Alison McKenna
Chamber President

Dated: 15 March 2019

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