



**Appeal number: CA/2015/0008**

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

**THE CHARITY COMMISSION FOR ENGLAND  
AND WALES**

**Applicant**

**- and -**

**MR STEPHEN HUNT**

**Respondent**

**TRIBUNAL: JUDGE JONATHAN HOLBROOK**

**RULING ON APPLICATIONS FOR PERMISSION TO APPEAL  
AND REVIEW**

**Sitting in Chambers on 17 November 2015**

Upon considering the Charity Commission's written application:

1. The Tribunal's decision dated 14 October 2015 will not be reviewed.
2. Permission to appeal to the Upper Tribunal (Tax and Chancery Chamber) is granted.
3. The proceedings before the First-tier Tribunal are stayed pending the outcome of the appeal.

**REASONS**

1. In a decision dated 14 October 2015 ("the Decision") I ruled that Mr Hunt's appeal to the Tribunal had been made within the time permitted by rule 26(1)(b) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 ("the Tribunal Rules"). I decided that this rule governed the time limit for

appealing (rather than rule 26(1)(a)) because Mr Hunt was not the subject of the decision to which the proceedings relate.

2. The Decision was sent to the parties on 15 October 2015 and, on 10 November 2015, the Charity Commission applied to the Tribunal for permission to appeal the Decision to the Upper Tribunal (Tax and Chancery Chamber). Section 11 of the Tribunals, Courts and Enforcement Act 2007 provides that such an appeal may be made on a point of law, but may only be made with permission given either by the First-tier Tribunal or by the Upper Tribunal.

3. The Charity Commission's permission application was supplemented by an application for review of the Decision (which was also received by the Tribunal on 10 November 2015). In this application the Charity Commission argued that, in holding that Mr Hunt was not the subject of the Commission's decision, the Decision was wrong in law. It asserted that this follows from the fact that Annuity Helpline was (and is) not a body corporate and therefore had (and has) no corporate identity or independent right of appeal to the Tribunal. The Charity Commission also argued that its decision was "published" in relation to Mr Hunt at the time when a copy of it was sent to him: his appeal was therefore made out of time regardless of whether the time limit is governed by rule 26(1)(a) or rule 26(1)(b).

4. I should record that, having considered the permission application, it is now clear to me that the decision of the Charity Commission which Mr Hunt seeks to appeal is a decision made under section 208 of the Charities Act 2011 (ie., a refusal of an application for a charitable incorporated organisation to be constituted and for its registration as a charity). When making the Decision – as may be apparent from paragraph 10 thereof – I had incorrectly understood that the Commission's decision was one made under section 30 of the 2011 Act (ie., a refusal to enter an institution in the register of charities). Nevertheless, the reasoning on which the Decision was based is unaffected by this distinction and there is no need for me to review the Decision merely on account of my previous misapprehension in this regard: Schedule 6 to the Charities Act still confers a right of appeal on Mr Hunt (because he is the person who made the application to the Charity Commission), and the question remains whether Mr Hunt was thus the subject of the Commission's subsequent decision.

5. I have considered, taking into account the overriding objective, the wider question of whether to review the Decision in accordance with rule 44 of the Tribunal Rules. Whilst the Charity Commission has presented an arguable case that the Decision contained errors of law, its grounds for appeal raise issues in relation to which it would be helpful to have a ruling from the Upper Tribunal. I have therefore decided not to review the Decision, but instead to grant permission to appeal and to stay the proceedings before the First-tier Tribunal pending the outcome of that appeal.

SIGNED: J W HOLBROOK

DATED: 17 November 2015

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