



**Appeal number: CA/2014/0023
CRR/2015/0001**

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

**WATCHTOWER BIBLE AND TRACT
SOCIETY OF BRITAIN**

Applicant

And

**THE CHARITY COMMISSION FOR
ENGLAND AND WALES**

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

RULING ON APPLICATION FOR PERMISSION TO APPEAL

Background

1. The Applicant (the “Charity”) is a company limited by guarantee and a registered charity, number 1077961. The Respondent opened an inquiry into the Charity, pursuant to s. 46 Charities Act 2011, on 27 May 2014 and notified the Charity of that decision by letter dated 5 June 2014. The Respondent also served on the Charity an Order made pursuant to s.52 (1) of the 2011 Act (a “Production Order”) on 20 June 2014, directing it to provide the Respondent with certain documents in connection with the inquiry. The Charity was notified by the Respondent that it had 42 days to appeal to the First-tier Tribunal (Charity) in respect of each decision.

2. The Respondent’s concerns relate to recent criminal trials, the Charity’s safeguarding policy and public interest in how the Charity and congregations of

Jehovah's Witnesses deal with safeguarding matters. The inquiry remains open. The Production Order has not yet been complied with.

3. The Charity sent its Notice of Appeal to the Tribunal on 22 December 2014. This was beyond the 42 day time limit for applications to the Tribunal but the Charity made an application for an extension of time, as required by rule 26 (5) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The Charity had delayed making its application to the Tribunal pending the determination of its application for judicial review of the Respondent's decisions to open the inquiry and serve the Production Order. In the event, the Administrative Court had refused the Charity permission to apply for judicial review. Mr Justice Dove's judgment is reported at [2014] EWHC 4136 (Admin). The Charity applied to the Tribunal only after receiving the Administrative Court's decision. The Charity has also applied for permission to appeal Dove J's decision to the Court of Appeal.

4. The Charity asked for permission to make oral submissions in support of its application for an extension of time. I heard Mr Clayton QC on behalf of the Charity and Mr Steele of counsel on behalf of the Respondent at a short oral hearing on 17 February 2015. I issued my ruling on 3 March 2015, refusing in the circumstances of this case to extend time to allow the Charity's applications to the Tribunal to proceed. The Charity now applies for permission to appeal that ruling in an application dated 19 March 2015.

Grounds

5. The Applicants allege the following errors of law in the 3 March ruling:
- (a) wrongly holding that the Appellants were asking the Tribunal to '*second guess*' the effect of the certificate granted by Dove J that his decision '*purports to establish a new principle or to extend the present law*';
 - (b) failing to consider and/or to hold that the Appellants had a good reason to make a judicial review claim by advancing in submissions to Dove J the same argument as to the Tribunal's jurisdiction under s 322 as the Commission, itself, had contended in *Atherton v Charity Commission* CA/2014/001; and
 - (c) wrongly holding in relation to the Charity's application for a stay that the Tribunal had the benefit of Dove J's judgment and so was aware that the application was unsuccessful.

Decision

6. 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 of 3 March 2015, but have decided not to undertake a review as I am not satisfied that there was an error of law in my ruling.

7. I have considered each of the Appellants' grounds of appeal carefully and find that they all relate to the issue (in the *Data Select* criteria) of whether there was a good reason for the Charity's delay in applying to the Tribunal. I am not satisfied that the grounds now before me raise arguable errors of law as alleged, for the following reasons:

(a) In relation to the first ground, there was a dispute between the parties as to the basis on which Dove J had certified his judgment for publication. It does not seem to me to be arguable that I erred in law in failing to resolve this dispute in favour of the Applicants in circumstances where (as the ruling states) I had no means of resolving that dispute;

(b) In respect of the second ground, it does not seem to me arguable that an error of law arises in failing to consider and/or to hold that there was a good reason for the Charity's application for permission to bring judicial review proceedings, when the application had already been rejected by the Administrative Court;

(c) The third ground relates to the hypothetical discussion of whether a stay would have been granted if the Charity had applied to the Tribunal in time. My ruling states clearly that I was in difficulty evaluating the strength of the Applicants' case but that I had assumed for the purposes of the ruling that the Applicants' grounds were arguable. This ground does not, therefore, raise a material error of law.

8. For these reasons I now refuse permission to appeal.

ALISON MCKENNA

PRINCIPAL JUDGE

DATE: 2 April 2015

© CROWN COPYRIGHT 2015