



Appeal number: CA/2015/0007

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

MR KEVIN GREGORY

Appellant

- and -

**THE CHARITY COMMISSION FOR ENGLAND
AND WALES**

Respondent

TRIBUNAL: JUDGE JONATHAN HOLBROOK

Sitting in Chambers on 2 October 2015

Upon considering written representations made by the parties

IT IS DIRECTED as follows:

1. The Charity Commission must send to the Tribunal a response to the notice of appeal lodged by Mr Gregory in his personal capacity so that it is received within 28 days after the date of these Directions.
2. Mr Gregory is not entitled to lodge an appeal either in the name of Legal Action or on its behalf. To the extent that it is necessary to do so, therefore, the appeal is struck out in this regard.

REASONS

1. On 7 September 2015 the Tribunal received a notice of appeal relating to a decision of the Charity Commission (dated 27 July 2015) refusing to remove Legal Action (“the Charity”) from the Register of Charities. The appellants named in the notice of appeal were Mr Kevin Gregory (a director and member of the Charity) and the Charity itself.

2. It was apparent from the documents which accompanied the notice of appeal that it had been made at a time when an interim manager had been appointed in respect of the Charity under section 76(3) of the Charities Act 2011. The parties were therefore invited to make written representations on the question whether Mr Gregory is thus precluded from commencing proceedings in the Charity’s name. I am grateful for the representations which were subsequently provided.

3. I have now been provided with a copy of an order made by the Charity Commission on 9 April 2015. The order was made under section 76(3)(g) of the 2011 Act and appointed Paul Ridout and Con Alexander as interim managers in respect of the Charity for an indefinite period. I understand that the order is presently subject to the Charity Commission’s internal decision review process, but that it nevertheless remains in force.

4. The Charity Commission’s order states (at paragraph 2) that, as interim managers, Mr Ridout and Mr Alexander “shall have all the powers and duties of the trustees of the charity to the exclusion of the trustees of the charity with effect from the date of this Order”. This general provision is amplified by a list of particular functions which the interim managers are empowered to perform. These functions (listed in the schedule to the order) include: “To take over the management and control of the administration of the charity ... by ... discharging the functions of the charity trustees of the charity to the exclusion of the charity trustees ... [and] managing litigation brought by or against the charity”.

5. Notwithstanding Mr Gregory’s detailed arguments to the contrary, it is clear that the effect of the Charity Commission’s order of 9 April 2015 is to prohibit Mr Gregory from doing anything in his capacity as a director or trustee of the Charity. Section 78(4) of the 2011 Act plainly contemplates that an order under section 76(3) may have such effect. The prohibition includes (but is not limited to) making an appeal to the Tribunal in the name of the Charity or on its behalf. Whilst I agree with Mr Gregory’s assertion that the Charity itself remains entitled to make an appeal to the Tribunal, the authority to decide whether it should do so currently rests with the interim managers and not with Mr Gregory.

6. Mr Gregory himself would appear to be a person who falls within the category of “any other person who is or may be affected by” the decision which he seeks to appeal. As such, he would appear to have the necessary standing to appeal against the Charity Commission’s decision in his personal capacity. Although I had suspended the requirement for the Charity Commission to respond to the notice of appeal pending resolution of the issue discussed above, I now consider it appropriate for a response to be filed. The Charity Commission has suggested that this requirement should be deferred until the outcome of the decision review process referred to above is known. I do not agree: the internal review of the decision to appoint interim managers is a quite separate matter from that of Mr Gregory’s appeal against the

decision not to remove the Charity from the Register. Moreover, the outcome of the decision review process can have no effect on Mr Gregory's standing to appeal the latter decision.

SIGNED: J W HOLBROOK

DATED: 2 October 2015

© CROWN COPYRIGHT 2015