



**Appeal number: CA.2021.0017**

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

**Trevor Hines**

**Appellant**

**-and-**

**The Charity Commission for England and Wales**

**Respondent**

**BEFORE**

**DDJ Rebecca Worth (authorized to sit as a Tribunal Judge in the GRC),**

**DECISION and REASONS**

1. This decision deals with the Charity Commission's application to strike out Mr Hines' appeal made by Notice of Appeal dated 20 July 2021 and Mr Hines' application for permission (as an alternative to strike out) to consider his appeal to be an appeal against a Scheme made by the Charity Commission on 23 October 2015 and an extension of time to make such appeal.
2. I was provided with the documents in the appeal and those which were of relevance to my decision were:
  - 2.1. Mr Hines' Notice of Appeal and the accompanying letter dated 14 July 2021.
  - 2.2. The Charity Commission's application dated 08 September 2021.
  - 2.3. Annex A to the Charity Commission's Application.
  - 2.4. Mr Hines' response to the strike out application dated 23 and 28 September 2021 (parts 1 and 2).

3. I am aware that Mr Hines is not the only person seeking to litigate at this Tribunal about the Steep In Need Scheme. In his representations he asks that appeal number CA.2021.0017 is heard together with this appeal; that application is not understood as Mr Hines' appeal has, so far as I am aware, been given the Tribunal Reference CA.2021.0017.
4. In making this decision I have only considered the documents lodged and filed in connection with appeal number CA.2021.0017 (that is, Mr Hines' appeal).

#### Background

5. On 23 October 2015 the Charity Commission issued a Scheme which from that date governed the charity formerly known as "Allotments Held by Steep Parish Council" and, from then to be known as "The Steep in Need Charity". The charity is now an incorporated charitable company called "Steep in Need" and is registered with the Charity Commission as 1187284 and at Companies House under number 12231975.
6. On 15 June 2021 the Charity Commission wrote to various persons who had complained about Steep in Need and the Steep War Memorial Village Club.
7. Mr Hines lodged proceedings with this Tribunal stating that he appealed against the letter dated 15 June 2021. As he had not sent with his documents a copy of a decision stating there is a right of appeal to this Tribunal, the Tribunal required Mr Hines to identify the provision within Schedule 6 to the Charities Act 2011 that he said gave a right of appeal and to identify which of the permitted appellants (in column 2 of that Schedule) he considered himself to be.
8. On 27 July 2021 Mr Hines stated that he relied on the provision in Schedule 6 about section 69 of the Charities Act 2011 and that he was "any other person".
9. The Charity Commission were directed to respond to the appeal or apply for strike out if they considered that there was no jurisdiction.
10. By application dated 08 September 2021, the Charity Commission applied for the appeal to be struck out under rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 with rule 8(3)(c) as an alternative.
11. Mr Hines had the opportunity to respond and did so by document dated 28 September 2021 supported by other documents. As well as making representations against any strike out, he applied for an extension of time to appeal against the 23 October 2015 decision to make the Scheme.

#### Consideration – the strike out application

12. The initial Notice of Appeal clearly stated that Mr Hines sought to appeal the letter of 15 June 2021 to this Tribunal. It is clear from that letter that it is the Charity Commission's response to a complaint (or complaints) which had been

made. On a reasonable reading it is not in any way a decision which gives rise, pursuant to Schedule 6 of the Charities Act 2011, to a right of appeal.

13. Mr Hines, in his representations about strike out submits (paragraph 13) that “the decision of the Commission contained in the letter of 15 June 2021 was, in effect, its decision to approve the scheme relating to the Steep in Need charity pursuant to section 69(1) of the Charities Act 2011, having been made aware that its decision of 23 October 2015 was wrong, as a matter of law, and had been procured by misrepresentation”. I disagree. To make a new scheme on 15 June 2021, the Charity Commission would have needed to state that the scheme made on 23 October 2015 was set aside; that is not done in the letter of 15 June 2021 which merely sets out the regulatory position.
14. The letter of 15 June 2021 states that “Prior to its incorporation the charity was governed by a scheme dated 23 October 2015. The charity is now governed by a memorandum and articles, incorporated 27 September 2019.”. To me, that assertion makes it clear that the 23 October 2015 no longer exists – it has, in law, been replaced by the charitable company called Steep In Need (Charity Commission number 1187284, Companies House number 12231975).
15. If the original Notice of Appeal was about the 15 June 2021 then there is no right of appeal against it and the Tribunal would be required, under rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, to strike it out.

*Consideration – Mr Hines’ alternative application for an extension of time to appeal against the Commission’s decision dated 23 October 2015*

16. The delay from 23 October 2015 to the lodging of Mr Hines’ appeal is over 6 years. Even if one takes the time from which Mr Hines’ states he knew about the scheme (2019) there was still a delay of over a year and I do not accept Mr Hines’ reason of “asking Mr Geering [QC] to carry out extensive investigation”.
17. In any event, the Scheme which Mr Hines seeks to bring proceedings about does not exist – according to the Charity Commission, it only existed until the charitable company Steep In Need (Charity Commission number 1187284, Companies House number 12231975) came into existence. In those circumstances, it appears to me that any litigation about the Scheme would be entirely academic.

*Conclusion*

18. I conclude that Mr Hines’ appeal was, as a matter of fact, against the Charity Commission’s letter dated 15 June 2021. That is not a decision under section 69 of the Charities Act 2011 and, therefore, the Tribunal does not have jurisdiction in relation to the proceedings and must, pursuant to rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. Therefore, the appeal is struck out.

19. If I am wrong about the lack of jurisdiction, I would, in any event, not grant permission to appeal against the 23 October 2015 decision to make a Scheme because that Scheme no longer exists because the charitable company Steep In Need (Charity Commission number 1187284, Companies House number 12231975). It would be unfair and unjust to allow Mr Hines to appeal a matter which is entirely academic.

*DDJ Worth*

Deputy District Judge Worth, authorised to sit as a Tribunal Judge in the GRC

Dated: 25 November 2021