



Appeal number: CA/2017/0004

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

Dr MO JOHNSON

Appellant

- and -

**THE CHARITY COMMISSION FOR
ENGLAND AND WALES**

Respondent

**Tribunal: Judge Alison McKenna
Sitting in Chambers on 25 August 2017**

DIRECTIONS

Upon the Tribunal convening a telephone directions hearing today at which John da Rocha, solicitor, appeared for the Appellant and Katy Reade, solicitor, appeared for the Respondent

IT IS DIRECTED THAT:

- 1. This Directions Hearing is adjourned *sine die*;**

- 2. The Appellant is to comply with rule 11 (2) of the Tribunal's Rules by formally notifying the Tribunal and the Respondent of its representative's details by 5pm today;**
- 3. The Appellant is Mr Mo Johnson;**
- 4. The Appellant's representative has permission to perfect the grounds of appeal and to provide these to the Tribunal and the Respondent by 5pm on Monday 4 September 2017, provided that they may raise only matters pertinent to the statutory basis for an appeal under s. 320 (2) (a) and (b) of the Charities Act 2011;**
- 5. By 5pm on Monday 4 September 2017, the Appellant is to confirm whether the ground of appeal related to s. 60 of the Charities Act 2011 is withdrawn or whether the Tribunal is requested to rule on that matter;**
- 6. The parties are to use their best endeavours to agree directions for a hearing, if possible to be held in Luton in October 2017, and to provide them to the Tribunal by 5pm on 4 September 2017;**
- 7. If the Directions are not agreed and filed by 5pm on 4 September 2017, the telephone Directions Hearing will resume at a time to be notified, with less than 14 days' notice provided pursuant to rule 34 (2) (b) of the Tribunal's Rules.**

REASONS

1. JUST is registered charity number 1121981. JUST stands for *Jeshua Unit Social Trust*. Mr Johnson is one of its charity trustees and he alone signed the Notice of Application to the Tribunal dated 10 May 2017.
2. The Charity Commission served an Order dated 16 March 2017 on the trustees of JUST, pursuant to s. 52 Charities Act 2011, requiring them to supply it with certain documents. These include banking details, accounts, a list of partnership organisations and the minutes of trustee meetings.

3. The charity's governing document is a deed of trust. Accordingly, the charity itself has no formal legal personality and can only act through the mechanism of its trustees. As Mr Johnson is the only trustee who has made himself known to the Tribunal so far, this appeal must proceed in his name. He has indicated in correspondence that is unhappy about this and wishes the appeal to proceed with JUST named as the Appellant. I note that, if other trustees wish to be joined as parties, they may apply to the Tribunal for a direction under rule 9 of the Tribunal's Rules to name them as co-Appellants. However, I am satisfied that the Tribunal cannot make JUST itself the Appellant, because it is a well-established legal principle that a trust cannot litigate in its own name. Furthermore, schedule 6 to the Charities Act 2011 provides in column 2 that that an appeal against an Order under s. 52 may only be brought by a person who is required to provide the information or documents. The Charity Commission's Order clearly requires the trustees, and not the charity, to provide the information. Accordingly, I must refuse Mr Johnson's application in this regard.

4. The Charities Act 2011 provides at s. 320 that an appeal against an Order under s.52 can only be made on two specified grounds. Mr Johnson has confirmed that he wishes to rely on both grounds in his appeal to the Tribunal. He also raised a ground of appeal under s. 60 of the Charities Act 2011 which the Tribunal has already indicated it considers to be out of jurisdiction. Mr da Rocha has helpfully agreed to reconsider the grounds of appeal and perfect them by 5pm on Monday 4 September. This includes confirming whether the s. 60 ground is withdrawn. If it is not, then the Tribunal will rule on it.

5. The Charity Commission has filed its grounds of opposition and so the matter must proceed to a hearing as soon as practicable. Mr Johnson has requested an oral hearing to be held in Luton. The Charity Commission has suggested that the hearing should be in October 2017. I agree that this is desirable, but acknowledge that the timetable may well slip into November.

6. The parties have been unable to agree Directions for the steps necessary to prepare this matter for a hearing. Accordingly, the Tribunal convened a telephone Directions Hearing today. The Appellant was legally represented at today's hearing for the first time. The Tribunal was notified of Mr da Rocha's appointment as the charity's in-house solicitor just before the telephone hearing today, but the requirements of rule 11 (2) of the Tribunal's Rules still need to be complied with. This can be done by e-mail today.
7. As Mr da Rocha has so recently been instructed, it is fair for him to have some time to consider the draft directions which have been prepared by the Charity Commission. These have become slightly out of date, so Ms Reade very helpfully agreed to furnish Mr da Rocha with a fresh draft by the end of today. Mr da Rocha also helpfully agreed to endeavour to agree a timetable which will allow the agreed Directions to be provided to the Tribunal by 4 September 2017. If they are not then the Directions Hearing will re-convene. I am satisfied that this matter has now become sufficiently urgent for short notice of a telephone hearing to be given.
8. The Tribunal will notify the parties whether a hearing room can be obtained in Luton as soon as it can, after receiving from the parties the agreed listing window and any dates to avoid.
9. I am satisfied that it is fair and just to make these Directions.

(Signed)

Alison McKenna
Principal Judge

Dated: 25 August 2017