



**Appeal number:** CA/2015/0001

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

**THE HON.RICHARD CAVENDISH LYTTELTON**      **Appellant**

**- and -**

**THE CHARITY COMMISSION**      **Respondents**  
**FOR ENGLAND AND WALES**

**TRIBUNAL: JUDGE ALISON MCKENNA**

**Sitting in Chambers on 3 February 2015**

**NOTE**

1. The Appellant has filed with the Tribunal a Notice of Application in relation to The Corporation of the Hall of Arts and Sciences (254543). The background to his appeal is that he is a member of the charity and requested the Respondent to remove it from the Register of Charities. The Respondent decided on 1 December 2014 to refuse that request. The Respondent's decision, made pursuant to s. 34 of the Charities Act 2011, gives rise to a right of appeal to the Tribunal.
2. The Tribunal accepted the appeal and noted that the Appellant asks the Tribunal to stay the appeal until 4 June 2015, in order to allow time for certain pertinent matters to be decided at the charity's AGM in late May. (I have not yet heard from the Charity Commission with regard to the Appellant's request for a stay of proceedings).
3. The Charity Commission indicated to the Tribunal that it did not accept that the Appellant is a person falling within column 2 of Schedule 6 to the 2011

Act. In the circumstances, the Tribunal asked the Appellant to make representations on the question of his standing to bring an appeal to the Tribunal.

4. The Appellant has now provided very helpful written submissions, settled by Amanda Tipples QC. The submissions refer to a number of decisions made by myself and other Judges in the First-tier Tribunal which do not, of course, establish legal precedent. Counsel has also referred to decisions of the High Court in relation to “charity proceedings” (which is a different test from that in Schedule 6) and finally to the comments of Lord Carlile in *R (on the application of International Peace Project 2000) v Charity Commission* [2009] EWHC (Admin) 3446. As the Charity Commission is aware from other cases, I am somewhat sceptical about the precedent value of a decision given in the course of deciding a permission application in judicial review proceedings and I consider that the Judge’s remarks may be *obiter* on the question of the proper interpretation of the test for standing in the Tribunal.
5. The position in relation to the appropriate legal test for standing under column 2 of Schedule 6 is rather unsatisfactory at present, but the purpose of this Note is to inform the Appellant that the Tribunal has recently given permission to appeal in the case of *Nicholson v Charity Commission*<sup>1</sup>, which also concerned an application to remove a charity from the Register and the matter of the Appellant’s standing to appeal a refusal of that request. That matter is due for a hearing in the Upper Tribunal this summer and, in view of the Appellant’s application for a stay of these proceedings until June, I would like to suggest to the parties that it may be appropriate also to postpone a preliminary ruling on the question of standing in this case until we have the benefit of the decision of the Upper Tribunal (Tax and Chancery Chamber) in the case of *Nicholson*.
6. I would be grateful if the parties could discuss my suggestion between themselves and, if appropriate, revert to me with agreed draft directions. These might direct a stay of the appeal pending the Upper Tribunal’s decision, provide for a preliminary ruling on the question of standing and suspend the Charity Commission’s obligation to file a Response to the appeal until after that ruling. If the parties do not agree to that course then I will proceed to rule on the question of standing now, but it seems to me only fair to give the Appellant the opportunity to await the decision of the Upper Tribunal on the point.
7. I would be grateful if the parties could revert to the Tribunal with their views within seven days. In the meantime the Charity Commission need not take any steps to prepare its Response.

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<sup>1</sup> <http://www.charity.tribunals.gov.uk/documents/decisions/John-Nicholson-PTA-decision-2Sept14.pdf>

**ALISON MCKENNA  
PRINCIPAL JUDGE  
3 February 2015**

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