



Neutral Citation: [2024] UKFTT 310 (GRC)

Case Reference: CA/2023/0010

**First-tier Tribunal
(General Regulatory Chamber)
CA Charities**

Heard by: Paper Consideration

Heard on: 5 September 2023 and 5 January 2024

Decision given on: 17 April 2024

Before

**TRIBUNAL JUDGE DAMIEN J. MCMAHON
TRIBUNAL MEMBER HELEN CARTER-SHAW
TRIBUNAL MEMBER SUSAN ELIZABETH**

Between

**ALEXANDRU GUZUN
GAYLE OSOULLEE
IRINA TRANCALAN**

Appellants

and

CHARITY COMMISSION FOR ENGLAND AND WALES

Respondent

Representation:

For the Appellant: None – listed for determination on the papers

For the Respondent: None – listed for determination on the papers

Decision: The appeal is Dismissed.

REASONS

1. This appeal, dated 5 March 2023 (pages 1-239) was against a decision of the Respondent dated 3 March 2023 to refuse to register the institution ('the institution'), an unincorporated association, known as [Embassy of Human Rights & Against Abuses](#) as a charity, in the form of a Community Interest Organisation ('CIO'), on the grounds that the purposes or Objects of the institution were not exclusively charitable. The Response of the Respondent was filed on 28 April 2023 (pages 240-255). A Reply was furnished by the Appellants on 28 April 2023 (page 256).
2. The Respondent wrote to the Appellants on 10 March 2023 to suggest that the proper course was that they ask for a Review of the decision under appeal. However, on the same date, this was rejected by the Appellants who stated that they wished the appeal to continue.
3. This appeal was determined on the papers alone, without a hearing, with the agreement of both parties.
4. An application by the Appellants that its application for 'priority' in registering the institution as a charity was withdrawn by them in a Directions hearing held on 6 June 2023. Following that hearing, steps to be taken, with time limits, to bring this appeal to determination, were agreed by the parties and made the subject of a formal Directions Notice dated 6 June 2023.
5. The Respondent filed its skeleton argument on 4 August 2023. The Appellants filed their skeleton argument on 5 August 2023. The Appellants also filed an undated counterargument to the Respondent's Skeleton. On 8 August 2023 the Appellants filed another Skeleton Argument although this might more correctly be described as a written submission that, largely, repeated the undated document that was a counterargument to the Respondent's Skeleton. In addition, the Appellants, on two separate occasions lodged detailed written submissions (pages 816-818 and 819-847). The Appellants also submitted a 'Compromise Letter', dated 5 May 2023, setting out revised Objects for the institution.
6. The appeal was part-heard by the Tribunal on 5 September 2023 but adjourned pending implementation of the following directions:
 - a) the Respondent was directed, within 28 days of 5 September 2023, to furnish in writing, a Supplemental Submission to the Tribunal, copied to the Appellants, addressing whether it was satisfied, or not, that the document entitled 'Compromise Letter', received from the Appellants on 5 May 2023 (HB 848-857), and re-iterated again in subsequent communications from the Appellants, had any impact on whether or not the suggested new Constitution proposed by the Appellants their 'Compromise Letter') in respect of its proposed Community Interest Organisation ('CIO') was capable of meeting the requirements of charity law that the purposes of a charity are exclusively charitable and are for the public benefit;
 - b) the Appellants were advised that they could, if they wished, provide their own comments within 14 days following receipt of the said Supplemental Submission from the Respondent.

7. The adjourned appeal came before a Tribunal comprising a Tribunal Judge and two Tribunal Members, again, for determination on the papers only, on 5 January 2024.
8. The Tribunal had before it the Respondent's Response (dated 6 September 2023) to the directions that were issued on 5 September 2023. In essence, the Respondent submitted that the appeal to the Tribunal was against the decision made by the Respondent on 3 March 2023 to refuse to register the Appellants' organisation, to be in the form of a Community Interest Organisation ('CIO'), of which the three Appellants would be the proposed trustees, as a charity in law.
9. The Respondent submitted that the 'Compromise Letter' (in effect, a new Constitution or Governing Document for the Appellants' organisation), submitted by the Appellants was an attempt by them to re-state or change the institution's objects. The Respondent submitted that, in those circumstances, the proper course was that the Appellants should, if they wished, submit a fresh application for registration as a charity, whereupon the Respondent would make a new decision that would, in turn provide the Appellants with fresh appeal rights if they were dissatisfied with that new decision. The Respondent further submitted that the Tribunal only had jurisdiction to consider, *de novo*, the decision under appeal, namely, the decision made by the Respondent on 3 March 2023, that is, the decision made pursuant to the original Objects of the institution. and could not determine an appeal on the basis of a possible future application by the Appellants.
10. The Respondent relied on the authority contained in the non-binding decision of the Tribunal in *Harrowgate Fairtrade Shop* (CA-2013-0009) that refused to determine that appeal by reference to new objects. Nevertheless, the Tribunal, in that appeal, stated, *obiter*, that the Tribunal could express a view on whether proposed new objects were exclusively charitable and, if so, for the public benefit, thereby making the organisation capable of registration as a charity.
11. The Respondent pointed out that the Appellants had declined an offer from the Respondent that the appeal be stayed, that is, held in abeyance, pending the standard internal review of its decision by the Respondent that would allow the Respondent to clarify with the Appellants aspects of its application and to offer advice to the Appellants.
12. Nevertheless, the Respondent submitted that the proposed new objects did not satisfy the statutory imperative contained in section 3 of the Charities Act 2011 ('the Act') to make them exclusively charitable. The Respondent submitted that the new objects were not drafted with sufficient clarity to satisfy them in that regard and there was insufficient evidence to show that the new objects, if they could be regarded as being for exclusively charitable purposes, were exclusively for the public benefit.
13. The Tribunal accepted and endorsed the Respondent's Supplementary Submission dated 6 September 2023 on the admissibility of the Appellants' 'Compromise Letter', for the reasons stated therein. Accordingly, the appeal is dismissed.
14. The Appellants wrongly considered that they did take the advice of the Respondent: the Appellants do need to take advice on the re-drafting of its Objects to ensure that

those Objects, as correctly drafted, satisfy the statutory imperatives contained in section 3 of the Act.

15. The Tribunal, in determining this appeal, was obliged to have regard to the Objects as stated at 3 March 2023 ('the old Constitution'). The reality is that the statutory imperatives required by section 3 of the Act, under the old Constitution require *all* of the Objects, contained in a lengthy list, to be 'exclusively charitable'. For example, the reference to 'prosperity' in the Objects is not a charitable Object. This is but one example of many.
16. There is also a lack of clarity in the name of the prospective charity: the corporate name of the prospective charity was changed, but the Appellants remain individuals, one of whom was purportedly substituted by the institution to another individual. This is not an issue in any event, since the Tribunal is confined to determining this appeal at the date of the decision under appeal.
17. The Appellants may, if they wish, submit a new Application for Charitable status with new objectives rather than relying on any of the documents that have formed part of this appeal. As well as the various guidance available on the Charity Commission website they may find it helpful to seek advice, at an early stage from the Commission or another experienced and suitable source.

Signed: *Damien McMahon*
Tribunal Judge

Date: 16 April 2024