

Scottish
charity
appeals panel

APP01/12

Family of St Philomena
Appellants

Office of the Scottish Charity Regulator ("OSCR")
Respondents

Decision

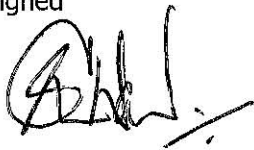
Edinburgh, 26 February 2013

The Panel, having considered the terms of a Joint Minute of the Parties submitted to the Panel on 26th February 2013 makes the following unanimous Decision in Terms of Rule 18 of The Scottish Charity Appeals Panel Rules 2006:-

Decision

1. The Panel makes no order in respect of expenses.
2. The Panel interpones its authority to the Joint Minute.
3. The Appellants having withdrawn their appeal and The Respondents having withdrawn their opposition to the appeal, the appeal, subject to the terms of the Joint Minute, is dismissed.

Signed



John Walker
Chair, Scottish Charity Appeals Panel

The Panel would make the following notes and observations:- (7 points)

1. The Panel was concerned that while a great deal of Mrs Burns' evidence, who spoke on behalf of the Appellant, related to The Archconfraternity of St Philomena, the representation of The

The Panel would make the following notes and observations:-

1. The Panel was concerned that while a great deal of Mrs Burns' evidence, who spoke on behalf of the Appellant, related to The Archconfraternity of St Philomena, the representation of The Archconfraternity of St Philomena in Scotland, the use of charity numbers on the Appellant's publications and correspondence and the lack of use of such numbers, whether the Appellants were actually carrying out the work of The Archconfraternity of St Philomena or of their own volition that it was only by means of the inquisitorial intervention of the Chair that the activities now agreed between the parties as the main activities of the Charity came to light. The concern is that this had not been revealed before the appeal proceedings commenced.
2. The proceedings before Scottish Charities Appeals Panel are adversarial in their nature. Where an Appellant is represented the Panel expects agents to examine, cross examine and re-examine each witness. This system is well known to the Law of Scotland and is designed to test the veracity of evidence.
3. In their letter of 23rd April 2010, the Respondent (OSCR) asks the Appellant various questions which relate to their financial activities. It seems to the Panel that this relates to, and, as explained by Mrs Burns that she saw this as "financial regulation". Indeed she did not understand the need, or significance, of the inquiry or even the legal requirement to produce such information to OSCR. She simply passed reminder letters on the Treasurer, her co-trustee, Rosemary Campbell. The letter of 23rd April 2010 in particular did not ask about Charitable Activities *per se* nor did it say that the Charity should seek advice, it simply suggested that the information was being sought in order to remove the Charity from the Register. This was mis-interpreted and the letter might have better said that the information was needed in order that the Charity might remain on the Register. The letter only addressed financial issues. It would seem to the Panel that the question regarding exactly what the Charity did was not asked, nor was it asked at the review either, because had it been the activities may have come to light then.
4. The Panel appreciates the difficulty with so many apparently inactive Charities currently on the Charity Register, however, OSCR's current Guidance Notes to Charities in general are encyclopaedic and are a challenge for lay people to navigate through and comprehend. This will particularly be the case for smaller Charities, and, Charities without regulatory departments. The Panel recommends that OSCR look again at how to engage both orally and in writing with such Charities and with a view to obtaining the necessary and correct information so that the Register is up to date. The accounts, annual return and report requirements can all be seen to merge into finance (which has been the case here). The Panel is of a view that there is more to a Charity's activity than simply financial activity. Charities on the whole need to take cognisance of the reporting requirements, but at the same time OSCR need to seek that they demonstrate their charitable activities which can be lost in the bureaucracy in the current system of form filling.
5. While the Panel understands the pressure on OSCR's resources it does consider that the period between the original internal decision to remove this Charity taken on 23rd September 2010 and the communication of their decision to the Appellants on 2nd August 2012 is an unreasonable lapse of time. The recommendation is that OSCR should seek in future to shorten that time lapse to avoid the Register from being at risk.

6. The Panel is of the view that the Joint Minute as presented before it, and, upon which authority is interponed is competent. In bringing the appeal the decision of the reviewer was put on hold as was the original decision to remove the Appellant from the Register. The effect of the decision as narrated here is to maintain the Appellant's position as a registered Scottish Charity and the decisions previously taken to remove them are effectively quashed, albeit by agreement.
7. The Panel was not addressed on the question of expenses.