

Complainant treated ‘unfairly’ over publication of Charity Commission report

An Ombudsman investigation has found that a complainant should have been given the chance to comment on the factual accuracy of a report by the Charity Commission prior to its publication. However, the complaint that the report was biased and written in ‘bad faith’ was not upheld.

The complainant was a member of a charity which was investigated in 2013 by the Charity Commission for Northern Ireland (CCNI) over the mismanagement of the governance arrangements in the charity. During the course of the inquiry CCNI removed a trustee from his position in the charity, as well as the complainant and a number of other individuals. They appealed to the Charity Tribunal, which made a number of factual findings about the removal of the trustee. The appeals in relation to the complainant and other ‘officers’ were not heard as they were withdrawn.

The CCNI then published its report of the statutory inquiry. It named the complainant and made a number of critical references to him. The complainant said that these references were factually incorrect and that as a matter of fairness he should have been given an opportunity to say so prior to publication.

An investigator from the Ombudsman’s office obtained all relevant documents and information from the CCNI, including its policies and procedures on publishing its decisions.

The CCNI explained that persons named in its reports are normally asked for their comments prior to publication, but in this case it was not necessary as the factual accuracy of the content had already been verified at the Charity Tribunal. However, the Ombudsman found that although the Tribunal did consider all of the evidence, as the appeal in relation to the complainant was not heard, no finding or ruling relating to the complainant was made.

The Ombudsman considered that where specific facts relating to an individual named in a report are disputed, and the evidence in relation to those facts has not been ruled upon, fairness and the CCNI procedures required that the individual should be given the opportunity to comment and have this considered before the report can be finalized.

Although the investigation found no evidence of bias in the report or that it was written in ‘bad faith’, the Ombudsman concluded that the complainant had been treated unfairly.

To remedy the injustice, the Ombudsman recommended that CCNI remove the report from its website, apologise to the complainant, and provide him with an opportunity to comment on the report.