Neutral Citation Number: [2026] EWHC 2196 (Ch)

Case No: PT-2026-NCL-000021

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN NEWCASTLE
PROPERTY TRUSTS AND PROBATE LIST (ChD)

Newcastle Civil and Family Courts & Tribunals Centre
Barras Bridge, Newcastle upon Tyne NE1 8QF

Date: 19/08/2026

Before :

HH JUDGE DAVIS-WHITE KC
(SITTING AS A JUDGE OF THE CHANCERY DIVISION)

- -

Between :

(1) MIRJA SHAHRIAR AHMED
(2) SABBIR MIAH **Claimants**

- and -

(1) MIRJA MOHAMMED ZAFAR UDDIN
(2) MOJIBUL HOQUE
(3) MIRJA MOHAMMED ZAFAR UDDIN
(4) MOHAMMED ATIK ALI
(5) JOHIR UDDIN
(6) MOHAMMED MERAZ BHUIYAN
(As Trustees of The Tees Valley Islamic And Cultural Association)
(7) MOHAMMED ANOWARUL ISLAM
(8) MIRJA MOHAMMED ZAFAR UDDIN
(As Registered Proprietors of 44 Middlesborough Road, South Bank, Middlesborough)
(9) MOHAMMED ATIK ALI
(10) MOHAMMED MOJIBUL HOQUE
(As Registered Proprietors of 46 Middlesborough Road, South Bank, Middlesborough)
(11) THE CHARITY COMMISSION
(12) THE ATTORNEY GENERAL **Defendants**

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- -

Mr Adam Swirsky (instructed by **Lawmatic Solicitors**) for the **Claimants**
Mr Jamie Morgan (instructed by **Newbys**) for the **1st to 10th Defendants**
The 11th and 12th Defendants were not represented and did not attend

Hearing dates: 07 August 2026

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Approved Judgment

This judgment was handed down remotely at 10.30am on 19 August 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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HH JUDGE DAVIS-WHITE KC (SITTING AS A JUDGE OF THE CHANCERY DIVISION)

HHJ Davis-White KC

Introduction

1. The Tees Valley Islamic and Cultural Association ("TVICA" or the "Charity") is an unincorporated charity, registered with the Charity Commissioners under number 1171360. It was founded in 1985. Its current constitution was adopted on 09 June 2016. The constitution was later amended on 15 January 2017. At 44-46 Middlesborough Road, Southbank, Middlesborough, TVICA is responsible for the running of a Mosque and associated buildings which are used for prayers and services, educational classes for children and adults, pastoral support and a range of community activities (the Masjid-E-Nomira).

2. After prayers on Friday 28 April 2023, there was an altercation at the Masjid. It involved the Claimants and certain of the 1st to 10th Defendants or persons connected with them. In particular, the Claimants assert that two sons of Mr Mohammed Atik Ali (curiously joined both as Fourth and Ninth Defendant, "Mr Ali"), namely a Mr Murad and a Mr Mostak, were really responsible for setting off the chain of violence which took place by making threats before prayers and that after prayers there was a premeditated attack on the Claimants and/or their associates/friends by Mr Ali and his sons and/or by Mr Zafor Uddin, son of the First Defendant. Who started the incident, the reasons for it and the course of the altercation are all hotly contested. The police were involved at the time and apparently carried out an investigation afterwards but ultimately decided to take no further action.

3. The two Claimants, with some seven others, were suspended as an emergency measure as set out in letters dated 02 May 2023. The nature of the suspension was that they could not enter the Masjid and were therefore prevented from attending prayers, events and activities at the mosque until further notice. At that time (but not now) the First Claimant was joint secretary of the TVICA and the Second Claimant was a member of the executive committee of the TVICA, and as such a charity trustee of the unincorporated charity. The letters made clear that officers of the charity would continue to receive notice of relevant meetings.

4. Further internal procedures followed at the TVICA. The ultimate result was that the suspension of seven of the nine persons was lifted but the two Claimants were expelled from membership of the charity purportedly pursuant to its constitution.

5. The Claimants wish to bring proceedings seeking, among other things, injunctive and declaratory relief on the grounds that their expulsion was not and is not lawful and that they should be permitted to attend the Mosque and all relevant activities taking place there.

6. It is common ground that such proceedings are "charity proceedings" which require authorisation by order of the Charity Commission or, if such order is refused, by order of a Judge of the High Court sitting in the Chancery Division (see section 115 of the Charities Act 2011). In broad terms "charity proceedings" generally comprise proceedings which relate to the internal administration or domestic affairs of a charity. As I go on to explain, in this case the Claimants say that their expulsion was not lawful under the constitution of the TVICA.

7. The Charity Commission refused to make an order in this case. Hence the application before me for leave (or, as it is now usually called, permission) to bring the proceedings in question.

8. There is, however, a further complication. Applications to the High Court for permission under section 115 of the Charities Act 2011, must be brought within 21 days of a decision of the Commission to refuse to make an order authorising the proceedings (see CPR PD 64.6). In this case, the decision of the Commission was contained in a letter dated 15 September 2025. The current proceedings were filed and issued on 19 February 2026. An extension of time is, therefore, also sought. That involves the court having to seek to untangle the complicated procedural history of these matters.

The Parties and the evidence

9. Before me, the Claimants were represented by Mr Swirsky of Counsel instructed by Lawmatic Solicitors. The First to Tenth Defendants were represented by Mr Morgan of Counsel instructed by Newbys. I am grateful to both counsel for their written and oral submissions and for the economical and focussed manner in which they addressed the issues that arise. I should also make clear that I consider that Mr Swirsky raised every matter that could properly be raised on behalf of his clients.

10. The Eleventh and Twelfth Defendants, HM Attorney General and the Charity Commission are necessary parties to the application but did not appear and were not represented.

11. The Claimants' respective memberships of the Mosque have been terminated.

12. The other seven members of the Charity who were suspended as notified by letters dated 2 May 2023, but whose suspension was subsequently lifted, are as set out below. Lawmatic previously acted for the first five named of these individuals, in seeking consent of the Charity Commissioners to bring proceedings and in 2024 proceedings. In each box the first name set out is the name given to the Charity Commissioners by Lawmatic and as set out as their name in 2024 proceedings conducted for the Claimants by Lawmatic. The name in square brackets is the name as used in the minutes of the Executive Committee of the Charity carrying out the suspension and in the letters of 02 May 2023 notifying persons of their suspension. Those who have filed evidence in support of the Claimants in these proceedings are also identified below.

Members suspended in April 2023 in addition to the Claimants	**Witness statement for Claimants**
Mollik Kadria Ahmed [Kadria Molik]	
Thahria Ahmed [Tahriar Molik]	09.07.26

Mollik Nasim Ahmed [Nasim Molik]	
Mallik Nahid Ahmed [Nahid Molik]	25.05.26
Mollik Jakir Ahmed [Ahmed Sadaf Molik]	25.05.26
[Mustaq Ali]	
[Murad Ali]	

13. In addition to the three witness statements referred to in the preceding paragraph, there were also the following witness statements for the Claimants:
    (1) MD Fakhrul Islam (the Claimants' solicitor) dated 06 October 2025;
    (2) Molik Sharriar Ahmed (the First Claimant) dated 01 October 2025 (1st witness statement) and 9 July 2026 (2nd witness statement);
    (3) Sabbir Miah (the Second Claimant) dated 01 October 2025 (1st witness statement) and 9 July 2026 (2nd witness statement);
    (4) Abu Yusuf Mohammad Amjad Hossain Bhuiyan dated 27 May 2026;
    (5) MD Ripon Miah dated 27 May 2026;
    (6) Mohamed Abdus Sattar dated 26 May 2026;
    (7) Syed Kibria dated 27 May 2026.

14. There was also a signed statement, but with no statement of truth, from a Mr Robul Hoque dated 27 June 2026.

15. As regards the first ten named Defendants, there are in fact six individuals. Of the six named Defendant trustees of TVICA, one is joined three times, twice in his capacity as trustee of TVICA and once as one of the registered proprietors of 44 Middlesborough Road. Another two are joined twice, once as trustee of TVICA and once as one of the registered proprietors of 46 Middlesborough Road.

16. I am unclear what legal distinction there is between the executive committee members of the TVICA and its trustees. Nothing turns on that for now, other than on the procedural issue of joinder. I am also unclear if all the registered proprietors of the two properties

have been joined. These procedural uncertainties could, no doubt, be dealt with by, for example, the making of appropriate representation orders, if necessary.

17. The witness statements for the Defendants are three: one dated 29 April 2026 of Mr Mirja Mohammed Zafar Uddin (named as first, third and eighth Defendant); one dated 26 April 2026 of Mr Johir Uddin; and one dated 26 April 2026 of Mr Mohammed Atik Ali (named as fourth and ninth Defendant).

THE LAW

18. I did not detect any differences between Counsel as to the applicable law.

19. I have already referred to section 115 of the Charities Act 2011 and CPR 64 (and its associated practice direction).

(a) The approach under s115 Charities Act 2011

20. The leading case on s115(4) is probably *Rai -v Charity Commissioner of England and Wales* [2012] EWHC 1111 (Ch), a decision of Norris J. The key principles were summarised by HH Judge Jarman KC (sitting as a Judge of the Chancery Division) in *Hussain v Chowdhury* [2020] EWHC 790 as follows:

> "[16] CPR Rule 64.6 and Practice Direction 64A paragraph 9 deals with applications under s.115(5). Norris J gave further guidance in *Rai v Charity Commissioners of England and Wales* [2012] EWHC 1111 (Ch). This may be summarised for present purposes as follows:
>
> i) The purpose of the statutory provision has been said to be to prevent charities "frittering away money subject to charitable trusts in pursuing litigation relating to internal disputes" (paragraph 21).
>
> ii) When acting under section 115(5), the Court is not acting as an appellate court, but is exercising its own jurisdiction (paragraph 22).
>
> iii) The Court's jurisdiction is conferred in unfettered terms (paragraph 23).
>
> iv) In all (save exceptional) circumstances, a leave application should not (even where a with notice hearing is required) be treated as an opportunity for a dress rehearsal of the final hearing of the claim, the hearing is an opportunity for a proposed Defendant to advance any "knockout" points (paragraph 24).
>
> v) The Court should have at least as much evidence before it as was made available to the Commission (paragraph 25).
>
> vi) The fact that the Commission has refused permission is relevant evidence, and the Commission's decision is entitled to an appropriate degree of respect given the weight of expertise behind it (paragraph 26).

vii) Applicants must have a legally sustainable claim to advance in the prospective proceedings, but that is not a sufficient condition for the grant of leave (paragraph 27).

[17] In paragraph 28, Norris J said this:

"Last, the approach which I intend to adopt is to ask: if the Applicants have a legally sustainable dispute, is the commencement of litigation the best (or the least worst) course in the interests of the charity as a whole to deal with that dispute? Litigation may be the best course for the Applicants to pursue to achieve their objective. But it is the charity's interest (not that of the Applicants or proposed Respondents) that is the focus of the inquiry." ”

21. Norris J also set out a structured approach to considering whether or not to grant permission under what is now section 115(5) Charities Act 2011. That can be summarised as follows:

(1) Identify the relevant dispute (paragraph [29]);

(2) Do the Claimants have a legally sustainable case in relation to the identified dispute (paragraph [30])?

(3) Is the legally sustainable case properly presented in terms of (i) it being properly pleaded; (ii) there being proper parties; (iii) it raising issues of substance which should be addressed through the court? (iv) has the matter in dispute been brought in good faith? (paragraph [31]);

(4) Identify what impact upon the charity’s funds the resolution of the dispute by litigation will have (paragraph [32]);

(5) Is it in the interests of the charity as a whole, that litigation is the best (or least worst) option?

(b) Extension of time to bring proceedings

22. As regards extensions of time to the 21 day period from the date of the Commission’s decision within which proceedings may be commenced, the Court has jurisdiction to extend such time (see CPR r3.1(2)(a)). That power includes a power to extend time after time has expired.

23. I do not have to consider whether there is an implied sanction if the time period is not complied with, with the result that relief from sanctions would be required and I should then apply the approach in *Denton v TH White Ltd* [2014] EWCA Civ 906; [2014] 1 WLR 3926. (The classic case of such an implied sanction is the time limit for service of an appellant’s notice: see *R (Hysaj) v Secretary of State for the Home Department* [2014] EWCA Civ 1633, [2015] 1 WLR 2472). Mr Morgan proceeded on the basis that that there was no sanction, express or implied, arising from non-compliance with the 21 day period requirement. I pass no comment on that concession.

24. One result is that, if I am now to impose a sanction, I have to consider the proportionality of the same whereas, in cases where a sanction has been imposed by rule or court order,

the court does not have to consider the proportionality of the sanction when considering relief from sanctions. Subject to that point, however, Mr Morgan submits that the same sort of factors that need to be considered on an application for relief from sanctions apply equally where an extension of time is sought, as in this case after expiry of the time period and that the approach of the court is similar to that under the *Denton* line of authorities. In this respect he relied upon the recent decision in *Health and Home Ltd (In liquidation) v Elite Property Holdings Ltd* [2026] EWCA Civ 933 and the reference to the "ethos" of Denton in paragraph [35] of the judgment of Arnold LJ:

> "[35] If no sanction is expressly or impliedly imposed by a rule, practice direction or order in the event of non-compliance, then relief from sanction under rule 3.9 is not required. In considering a retrospective application for an extension of a time limit which has been missed where there is no express or implied sanction, it can nevertheless be said that the "ethos" of *Denton* (meaning a greater emphasis on compliance and the need for efficient conduct of litigation at proportionate cost) applies: see *Yesss (A) Electrical Ltd v Warren [2024] EWCA Civ 14 at [25], [31] and [32] (Birss LJ)* . The key difference is that, unlike an application for relief from sanction, such an application should not be approached on the basis that the starting point is that the sanction has been properly imposed and complies with the overriding objective: see *Viegas v Cutrale [2024] EWCA Civ 1122, [2025] 1 WLR 1467 at [58] (Newey LJ)* ."

25. In the *Yesss* case, Birss LJ (as he then was) explained that further extensions to the "implied" sanction category were likely to be few precisely because the "*Denton* ethos" applied even when CPR rule 3.9 (relief from sanctions) was not engaged:

> "[31] Bearing in mind the importance of clarity in the procedural framework to be followed by court users, the hurdle for identifying something as an unexpressed but implicit sanction must be a high one. It has been identified in the two circumstances mentioned in the cases above. I prefer to say that the scope for identifying any further implied sanctions over and above these two must be very narrow. Bearing in mind that the Denton "ethos" may apply even when r3.9 is not engaged, the need for further extensions of this concept is likely to be very limited."

26. It is in any event important to identify the importance and underlying rationale of the 21 day period rule in this case. Although an application to the High Court under section 115(5) of the Charities Act 2011 is not strictly an appeal or review of the decision of the Charity Commission to refuse to make an order granting permission for the proceedings in question to proceed, it shares some of the characteristics of such an appeal or review. As I have explained, the preceding decision of the Charity Commission is an important factor for the court to consider and take into account when deciding whether itself to grant permission. Further, that Commission decision potentially becomes less relevant with the passage of time since it was made.

    (1) First, the Charity Commission is an expert in the area. As Norris J put it in the *Rai* case:

> "The prior decision of the Charity Commission is entitled to be accorded in an appropriate degree of respect because of the weight of expertise brought to bear on evaluating what is obviously a multi-factorial decision." (see paragraph [26]).

(2) Secondly, the Commission has other powers to regulate charities which may be more appropriately engaged than permitting proposed litigation and the Commission have expertise in that area too. Such powers and experience may be a factor in the Commission deciding to refuse to make an order under Section 115(2).

(3) Thirdly, if the Commission does not provide written reasons for its decision the Court may direct the Commissioners to file a written statement of their reasons for their decision (see CPR r64.6(4)). This emphasises the importance of the reasons to the exercise by the court of its discretion.

(4) Fourthly, the longer the time period after a decision of the Commissioners under section 115(1), the greater the danger of a change of circumstances such that the Charity Commissioners' decision no longer addresses the same precise circumstances as those before the court. In the *Rai* case, Norris J made the relevant point in terms of the court not being given less evidence than the Commission had considered in refusing to make an order but the same logically applies to the court being provided with more evidence than was before the Commission and evidence that the Commission did not consider:

> "The Court should not be invited to consider the question whether or not to grant leave on the basis of less evidence than was available to, and considered by, the Charity Commissioners. That is not because the hearing is in any sense an appeal from the decision of the Charity Commission: but because there is no point in the Court being asked to make a less informed decision than that has already been made." (paragraph [25]).

(5) Fifthly, the charity in question may have spent time and money in dealing with the Commission's investigation of the position and determination as to whether proceedings are to be permitted or not. Looked at from the charity's position, there is a need for the charity to know where it is (as in the case of any respondent to an appeal) and good governance/administration issues (both in terms of the Charity Commission not having to re-address matters or explain its view on matters that have arisen since its decision and in terms of the charity having some finality on the issue of prospective litigation being permitted or not).

THE FACTS

(a) The constitution of TVICA

27. Clause 3 of the constitution of TVICA (the "Constitution"), under the heading "2. Aims and Objectives", provides for the objects of TVICA as follows:

> "3. The objects of the Association shall be:
> - To further or benefit the local residents of the South Bank, Redcar and Cleveland surrounding areas including Tees Valley as a whole, without any distinction of sex, sexual orientation, race or of political religious or other opinion by

associating the local authority, voluntary organisations and inhabitants in a common effort

- To advance education and to promote facilities in the interest of social welfare for recreation and leisure-time occupation with the object of improving the condition of the life of the same inhabitants and
- To work towards the elimination of the treatment of the members of the community on the grounds of colour, race nationality or ethnicity, or national origin.
- To promote equality of opportunity and to foster good community relations and work for the good of society as a whole.
- To provides facilities in the interest of social welfare for Islamic cultural education and activities; promote good race relations with the wider community with the objective of improving the conditions of life of the local residents of South Bank, and Tees Valley inhabitants."

28. Membership is dealt with under Part 3:

"(a) full membership shall be open to Bangladeshi Nationals and the wider local community, their spouse and Children irrespective of political party, race or gender

(b) Individuals of 18 years and over living in the area of benefit Individuals under the age of 18 may be admitted into junior membership. Junior members shall not be entitled to vote.

(c) Individuals over 18 years and Jiving outside the area of benefit could be admitted as co-opted members with the simple majority decision of the Executive Committee

(d) These co-opted members have no voting rights."

29. Part 5 deals with termination of membership. After dealing with termination as a result of death or resignation, sub-clause (c) deals with removal as follows:

"Membership is terminated if:

…

(c) The member is removed from membership by a resolution of the trustees that it is in the best interests of the organisation, that his or her membership is terminated. A resolution to remove a member from membership may only be passed if,

► The member has been given at least twenty one days, notice in writing of the meeting of the trustees at which the resolution will be proposed and the reasons why it is to be proposed.

► The member or, at the option of the member, the members representative (who need not be a member of the charity) has been allowed to make representations to the meeting.

The general executive committee shall have the rights for good and sufficient reason to suspend and to terminate the membership of an individual or an affiliated group."

30. Part 6 provides that the organisation and its property is to be administered by an executive committee comprising its officers (of which there are seven) and (up to) 22 general members with 4 co-opted members. These are all elected.

31. The Executive Committee is to be elected for periods of 3 years:

"An elected Committee will stay in office for three years, which in turn will be replaced by a new elected Committee. And can only be elected in two consecutive term as an executive committee member (maximum 6 years)".

32. The Executive Committee can set up a standing committee but the acts of such sub-committee must be reported back to the Executive Committee as soon as possible and approved by the Executive Committee.

33. Part 6 then moves on to refer to committee members as "trustees" and Part 7 of the Constitution, deals with powers of "Trustees". In my judgment it is fairly clear that the committee members are trustees of the charity but correspondence from Newbys suggest that they take a different view. Nothing turns on this point for present purposes.

(b) The financial position of the Charity

34. There are in evidence accounts for the Charity, signed off in October or November of the year in question, with the respective years ending 05 April, as set out below, and which show the following:

Y/E 05/04	Income	Outgoing s	Surplus	Fixed assets (Property)	Total funds
2023	£23,369	£18,131	£5,238	£67.000	£72,238
2024	£19,723	£11,879	£7,844	£67,000	£80,082
2025	£20,770	£19.705	£1,065	£67,000	£81,147

35. The income for the year ending 05 April 2026 is estimated to be in the region of £35,000 but the accounts are not yet available.

36. The property value is shown under the historic cost convention so is likely to be worth more, possibly considerably more, than shown in the accounts. However, the general position is clear, the Charity makes a small surplus each year and has limited cash or liquid resources. As at 2025, the net cash resources, allowing for payment of then current creditors, was just over £14,000.

37. In its letter refusing to make an order under s115 of the Charities Act 2011, the Commission referred to the Charity's financial position as being that for the period to 05 April 2024, the income was £32,500 with expenditure of £19,180 and that it had appeared to have no other assets:

"There is therefore a real risk that the assets of the Charity, which are held upon charitable trusts, would be severely depleted."

38. It is unclear where the Charity Commission obtained the figures that it sets out and why they are different to the final figures in the Charity's accounts for the year ended 05 April 2024. The general conclusion that the Commission reaches based on finances is not falsified by the actual figures taken from the accounts. Indeed, if anything the accounts fortify the conclusions the Commission reached.

39. It is also true that the Charity Commission letter does not in terms refer to the real properties owned by the Charity. They are likely to have a real value greater than the

historic cost contained in the Charity's accounts. Nevertheless, the real property is not a liquid asset. It might be capable of being mortgaged. I was not addressed on that as a source of overcoming the financial problems of litigation identified by the Charity Commission. However, in reality it seems unlikely that the annual surplus would be enough to service a substantial loan to the Charity by way of mortgage. This is particularly so as regards the potential costs of proceedings which I address later in this judgment.

(c) The operation of the charity: general

40. According to Mr Ali, for the Defendants, in a description that does not seem to be challenged:

"6. The Mosque has been, and continues to be, a vital institution serving both the South Bank community and the wider Teesside area. It provides the five daily congregational prayers, Tarawih prayers throughout the month of Ramadan, Eid ul Fitr and Eid ul Adha prayers, together with numerous other religious ceremonies and community activities. These religious services and obligations have been provided continuously since 1985. In addition to its religious functions, the Mosque makes available its multi-purpose hall, located on the ground floor of the premises, for community events and private functions. One notable example is the annual Bangladeshi High Commission Consular Service. This service has proven extremely popular and attracts attendees not only from Teesside but also from Newcastle, Darlington, Hartlepool and Sunderland.

7. The provision of this service demonstrates the Mosque's significance as a regional community hub."

41. Neither does the description of Mr Johir Uddin seem to be significantly challenged:

"7. Since its establishment in 1985, the Mosque has sought to serve the wider Muslim community of South Bank, Middlesbrough and the surrounding Teesside area.

8.Whilst a significant proportion of worshippers have Bangladeshi heritage, the Mosque has never been intended to operate exclusively for any particular ethnic or cultural group.

9.The Mosque has always sought to provide facilities for men, women and children and to encourage participation from all sections of the community.

10. In addition to daily prayers and religious activities, the Mosque has hosted educational events, community gatherings, fundraising events and activities aimed at encouraging community cohesion.

11. During my involvement with the Mosque, successive Executive Committees have generally sought to increase participation from women and younger members of the community."

42. The Claimants assert that although there are other mosques in the Teesside area, they have a particular affinity with the Masjid-E-Nomira. This flows from two things, first their long association with connections with the Masjid (including the link concerning other family members using the Masjid) and secondly the Bangladeshi connections that the mosque has.

43. Mr Ahmed, the First Claimant, speaks to being "part of the community for 18 years" and that he and his family "now attend" (at least as at October 2025) South Bank Masjid (South Bank, Middlesborough) which is a Pakistani community mosque. That mosque appears to be about a third of a mile away from the Masjid E-Nomira and about a 7 minute walk away. He says that the community is "culturally different and the sermons are delivered in Urdu not Bengali". He also says he misses out on Bengali spiritual sessions and other cultural and religious events that the Masjid-E-Nomira organises.

44. Mr Miah, the second claimant, speaks to his 15 years of attending the Masjid-E-Nomira and what he feels he loses by having to attend the mosque in South Bank:

> "We have had to attend a different mosque in South Bank for our prayers. The practices and language at this mosque are different, which we do not fully understand. Furthermore, their Eid prayers are held on a different day than ours, forcing us to travel approximately 40 to 50 miles to Darlington or Sunderland."

45. As regards this, the Defendants' witnesses make a number of points, including the following:
    (a) There are a number of other mosques serving the area at no great distance.
    (b) The Mosque is not established exclusively for any particular ethnic, national or linguistic group. It serves the wider Muslim community.
    (c) Worshippers from different backgrounds attend the Mosque. The core religious services of the Mosque are conducted according to Islamic practice.
    (d) Congregational prayers are performed in Arabic, which is the language used throughout the Muslim world. The Quran itself is in Arabic.
    (e) Friday congregational prayers are typically attended by between 100 to 150 worshippers, of whom around 60% are Bangladeshi and 40% are from other ethnic backgrounds.
    (f) Attendance during Eid prayers is significantly higher, with the Mosque reaching full capacity. One witness estimated that approximately 500 individuals will attend Eid prayers, including around 150 worshippers who are not of Bangladeshi origin.

46. Mr Morgan submits that it is telling that the First Claimant in his evidence in reply says:

> "I do not dispute that there are other mosques. That is not the point. The issue in these proceedings is whether I, as a member and long-standing worshipper, may lawfully be excluded from this charity's Mosque otherwise than in accordance with its Constitution."

47. On this application I cannot resolve the factual disputes about the effects of the termination of their memberships on the Claimants. The evidence does however suggest that whilst they could be more severe than they actually are, they are still serious for the Claimants.

(d) the Altercation And Afterwords

48. As I have said the relevant altercation took place after prayers at the mosque on 28 April 2023.

49. Letters dated 02 May 2023 suspended the Claimants and five others from entering the mosque. The letters were in the same form with one caveat, which is that where the recipient was an existing officeholder or committee member, further detail was provided. First the letters set out the following:

> "Due to recent incidents involving yourself on Friday 28th with Masjid-E-Nomira's disciplinary procedure. I am writing to confirm that with immediate effect on Tuesday 2nd May 2023 you have been suspended from entering Masjid-E-Nomira pending investigation from Cleveland police.
>
> Your suspension will be ongoing for the duration of Cleveland Police's investigation Masjid-E-Nomira will conduct its own internal investigation for gross misconduct and relevant information will be passed onto Cleveland police to assist in their investigations.
>
> During your suspension you must not attend any of the 5 daily prayers, Friday Jummah prayers, events or activities held at the mosque until further notice. You must not interfere (directly/indirectly) with Masjid-E-Nomira's internal investigation. Failure to comply will result in breach of this suspension and further disciplinary action will be taken against you."

50. At least two of the letters, being addressed to then officers of the TVCIA, also stated the following:

> "You will be required to attend committee meetings and will be notified in advance via email or letter to your residential address prior to meetings being held."

51. Letters from Lawmatic on behalf of seven of the persons suspended then followed.

52. By letter dated 12 June 2023, Lawmatic sent what was described as a pre-action protocol letter inviting withdrawal of the letters of suspension dated 02 May 2023 in respect of its seven clients. In summary, the letters were said to be "unlawful and/or ultra vires at best, because:

> "a. The decision to suspend our clients were taken arbitrarily and/or not in accordance with the provisions of the Constitution of the *Tees Valley lslamic & Cultural Association*;
>
> b. The decision to suspend was taken in contrary to the provisions propounded in the Equality Act 2010;
>
> c. The decision to suspend was publicly propagated by you, with malicious and/or defamatory intention;
>
> d. You have unlawful and unduly used your position in public office;
>
> e. The decision to suspend was unfair and disproportionate."

53. Newbys, acting for TVICA, wrote back by letter dated 28 June 2023, denying the allegations and making a number of points including (among others) that the decision to suspend was one properly taken by the Executive Committee of the TVICA and not by its Chairman, Mr Uddin, personally and that the suspensions were:

> "the culmination of several years of your client and his associates behaving in a violent and thuggish way at the Mosque to the growing alarm and concern or all other Mosque users, including the women and children who frequent the Mosque."

54. Reliance was placed on earlier incidents on 21 April 2023 and 24 April 2023.

55. By letter dated 17 January 2024, Lawmatic sent by email a notice of imminent proceedings.

56. By letter dated 24 January 2024, Newbys wrote to Lawmatic confirming that a disciplinary meeting had been held by the executive committee of TVICA on 15 January 2024. At that meeting, it was said, five (of the seven) suspensions regarding Lawmatic's clients were lifted but, as regards the Claimants before me, the suspensions had been replaced by a decision to expel those gentlemen from the mosque on a permanent basis.

(e) the 2024 Application

57. According to a skeleton argument dated 17 April 2024 of then counsel for the Applicants in the proceedings I define in the next paragraph as the "2024 Application", an application for injunctive relief was first filed by electronic filing in the wrong court (although the relevant date was not revealed) and the applicants' solicitors notified of the incorrect filing on 27 March 2024. My suspicion is that the application was sought to be issued in the ordinary King's Bench Division list, in London, as the documents bear the words "Kings Bench Division" in the heading.

58. On 27 March 2024, the misfiled application notice was refiled this time in the Property and Business Courts in England and Wales (that is, in the Rolls Building in London) seeking urgent interim injunctive relief on behalf of seven defendants (the current claimants being two of such persons) (the "2024 Application"). That application notice was issued the same day. The proceedings were given the number PT-2024-000262. The Claimants before me in these proceedings were listed as the first and seventh applicants. The other five applicants, being the second to sixth applicants, were: (2) Mr. Mollik Kadria Ahmed; (3) Mr. Mollik Nasim Ahmed; (4) (Mr. Mallik Nahid Ahmed; (5) Mr. Mollik Jakir Ahmed and (6) Mr. Thahria Ahmed. The respondents were Mr Zafar Uddin and the TVICA.

59. The application notice was dated 06 February 2024. The reason for the delay between 06 February 2024 and 27 March 2024 (or indeed since the notice of imminent proceedings dated 17 January 2024) was not explained in the supporting evidence.

60. The order sought was on the basis that the application should precede issue of a claim form, though there seemed no reason at all why a claim form should not have been issued at the same time. Under CPR 25.2(2) an interim remedy may only be granted before a claim has been started if the matter is urgent or it is otherwise desirable to do so in the interests of justice. Neither condition would appear to have been met.

61. The order sought was, first, a prohibitory injunction preventing the Defendants from suspending or excluding the Claimants from worshipping at the Masjid E-Nomira Mosque on the basis of the suspension letter dated 2 May 2023 and a purported decision of the Disciplinary Meeting held on 15 January 2024. Secondly, it sought a mandatory injunction to allow the Claimants entry into the Masjid solely for the purposes of worship.

62. By order dated 27 March 2024, Fancourt J, then Vice-Chancellor of the County Palatine of Lancaster and supervising Judge of the North Eastern and Northern circuits, transferred the proceedings to the Business and Property Courts in Newcastle, which is clearly where they should have been issued in the first place. The order refers to an application dated 27 April 2024 but there is no trace of an application notice with such a date on CE File and it seems likely that this is a typo for 27 March 2024. Notice of this Order appears to have been sent out on 09 April 2024.

63. On 10 April 2024, I made an order listing the application for directions only on 18 April 2024 and made a number of ancillary orders. Among other recitals was the following:

> "AND the Court noting that the Claim Form and Particulars of Claim placed before the court have not been issued. If they are issued they should be issued under the same Newcastle case number as the Application
>
> AND the Court indicating that it will expect the claim form and particulars of claim to be issued and served by the time of the hearing referred to below and if not so issued and served by then for good reason to be provided to the Court at the hearing as to why they have not been so issued and served".

64. On 11 April 2024, the Newcastle court sent out correspondence confirming that the new case number of the proceedings transferred in from London was now PT-2024-NCL-000008.

65. On 16 April 2024, a Part 7 claim form was filed and issued the following day, 17 April 2024.

66. Mr Stephen Fletcher of counsel appeared for the Defendants. In his skeleton argument dated 17 April 2024 he indicated that at least the following issues needed to be addressed:

    (1) Issue and service of a claim form (he was clearly unaware that one was issued the same day as his skeleton argument);

    (2) The proper identification and naming of defendants;

    (3) Whether the proceedings were charity proceedings requiring consent of the Charity Commission first to be sought and, if refused, an application to the court under s115(5) Charities Act 2011 being required;

    (4) Service of the application notice and details of what order was being sought against which defendants and whether the matter should proceed to trial given the delay since the suspensions in May 2023;

    (5) If the application for interim relief was to proceed, what directions were appropriate (especially regarding a timetable for evidence).

67. The skeleton argument of Ms Emma Harris of Counsel for the Claimants, attached draft directions (leading to an injunction hearing some time after 20 June 2024) involving a timetable for an application by the Claimants to join other persons as Defendants and, in

default of such application, for a hearing of the injunction application after 20 June 2024. In her Skeleton argument she said the following:

> "In light of the issues raised for the first time in the Defendants' skeleton argument on the day before this hearing, the Claimants seek 14 days to consider the position further and to have the opportunity to make a further application in relation to the identity of the named Defendants if necessary.
>
> It is the Claimants' position that these proceedings have been commenced without the consent of the Charity Commission because the dispute does not relate to matters within the charity itself and its administration and the achievement of its objects."

68. At the hearing on 18 April 2024, I made an order striking out the claim form. I cannot now recall the basis of this decision but suspect it followed on from the suggestion that the Claimants wanted time to reconsider the entire case including whether Charity Commission consent was needed and the appropriate persons to be identified as defendants. I doubt that I would have taken this course without Ms Harris indicating that this would not unduly prejudice her clients.

69. Details regarding the 2024 application were not provided in the evidence before me on the current application. I consider that they should have been. Instead, during the hearing the court had to try and interrogate the CE filings in respect of these other proceedings, which were clearly relevant on the question of the extension of time aspect of the application. This was unsatisfactory, not least because there was insufficient time to look at the detail of all the filings to try and reconstruct what had happened and counsel did not have access to the relevant CE file at the hearing.

(f) Application to the Charity Commission

70. An application for a s115 Order was made by Lawmatic to the Commission in respect of its seven clients by letter dated 21 May 2024. This was over a year after the original suspensions. The letter also sought guidance as to whether the proceedings would be considered charity proceedings and if so whether the Attorney General would need to be joined to the proceedings.

71. The Commission letter refusing to make an order under section 115(2) if the 2011 Act is dated 15 September 2025. It apologised for its delayed appearance. I do not know what the explanation for the delay was. The substance of the reasoning was as follows:

> "As explained below, our reason for this decision is that the commencement of this litigation would appear to be in the interests of the Claimants rather than the Charity as a whole.
> Regardless of whether the Claimants have a legally sustainable claim to argue, the Commission does not consider that litigation would be in the Charity's interests because there is clearly a risk that such a claim might have a detrimental impact upon the Charity's funds. The Claimants have estimated that their costs for the proceedings would be £16,530 and that they will be funded privately. They have requested an order that the defendants are liable for the Claimants' costs. The Charity's income for the period to 5/4/2024 was £32,500 and expenditure £19,180. It appears to have no other assets.

> There is therefore a real risk that the assets of the Charity, which are held upon charitable trusts, would be severely depleted. The Commission has a duty, in performing its functions, to act in a way that is compatible with its objectives. These are set out in section 14 of the Charities Act 2011 and particularly in this case the Commission must have regard to promoting the effective use of charitable resources. As with any charity, the Commission seeks to ensure that charitable funds are protected."

72. The letter also drew attention to the right to apply to the High Court under section 115(5), and also drew attention to the need to bring such an application within 21 days of the Commission's decision:

> " The application must be made within 21 days of receipt of this refusal letter under the Civil Procedure Rules rule 64.6(1).
> …
> We would draw your attention to the time frame to issue a section 115(5) application stated above. Whilst an application can be made out of time, whether or not it would be successful, is a matter for the court to decide."

(g) October 2025 Application

73. By application notice dated 06 October 2025, and filed for issue on that date in the 2024 Application proceedings, an application was made for permission to proceed with proceedings pursuant to 115(5) of the Charities Act 2011. By order dated 28 October 2025, and on the papers without a hearing, DJ Temple struck out the application and marked it as totally without merit on the basis that there were no extant proceedings within which to issue the application. No application to appeal or vary/discharge that order was made.

(h) November 2025 Proceedings

74. The application notice dated 06 October 2025 was then issued as a self-standing application in proceedings that were given the number PT-2025-NCL-000052. No claim form was issued at that time. The application notice was filed and issued on 11 November 2025.

75. By Order dated 18 November 2025 I ordered a Part 8 Claim Form complying with CPR Part 64 to be issued and in default the Application be dismissed. If the claim form was issued within time, then further directions applied. One of the recitals to the order noted that the need to comply with CPR Part 64 had been pointed out by the Charity Commission. The need for a claim form has also been pointed out before.

76. A claim form was not issued by the time provided and the application was accordingly struck out automatically. This was pointed out to the parties by letter from the court sent on 1 December 2025.

77. By application notice dated 21 January 2026, and filed and issued on 22 January 2026, relief from sanctions and an extension of time to issue the Part 8 Claim Form was sought. The evidence in support, from Mr Hasan, a paralegal and caseworker at Lawmatic, asserted that he had heard on 16 November 2025 that his father had suffered a heart attack and was

hospitalised. He was required urgently to travel to his father in Bangladesh and was out of the country between 18 November 2025 and 29 December 2005. The witness statement did not explain (a) why no-one else at Lawmatic had dealt with my order of 18 November 2025 nor (b) why it took until 21 January 2026 to make the application for relief from sanctions.

78. By order dated 22 January 2026, the application for relief from sanctions was listed for hearing on 17 April 2026, with directions setting out a timetable for evidence, bundles and skeleton arguments.

79. In the meantime, the claim form in the present proceedings was lodged for issue in the November 2025 proceedings. It was initially lodged on 19 February 2026. It was accompanied by a witness statement of Mr Islam (the individual solicitor at Lawmatic dealing with the Claimants' case) dated 11 February 2026. That witness statement does not appear in the hearing bundle before me but I do not think it said anything new.

80. The claim form was defective. The Attorney General had not been joined. The second Defendant was identified as "Trustees of [TVICA] (see draft order for full names)". The Third Defendant was identified as "Registered Proprietors and Trustees of Redcar and Cleveland Islamic and Quranic Cultural Association (see Draft Order for full names)". (I understand that this named Association is in fact an earlier name of the TVICA.) Further the Claim Form still did not comply with Part 64 CPR and its relevant practice direction.

(i) Disposal of the 2025 Proceedings and initiation of the current 2026 proceedings

81. On 17 April 2026, the application for relief from sanctions came before me. The sanction in that case simply struck out an application notice seeking interim relief. Whether or not I gave relief from sanctions, there would still be an issued Claim Form to be dealt with. Rightly or wrongly, I decided that there was no point in me granting (or considering granting) relief from sanctions and that the appropriate course was to proceed on the basis of the Part 8 Claim Form that had been issued as commencing fresh proceedings. I refused relief from sanctions (in striking out the application notice), directed that the claim form should be treated as commencing new proceedings and a new claim number was allocated to it. I gave directions for amendments to the Claim Form to deal with the inadequacy of the identified Defendants and non-compliance with CPR Part 64 and its PD and the need to extend time for bringing the claim.

On the merits should permission be given?

82. Although the extension of time to bring the application under s115 of the Charities Act 2011 is logically the first issue, on such application I would have to consider the strength of the case for permission. I therefore consider the question of whether permission should be granted first, leaving aside any question of delay. If that issue is decided against the Claimants, that will also determine the logically prior question of whether there should be an extension of time to make the application.

83. I am satisfied, as was the Commission, that the Claimants have standing to bring the proceedings they now wish to bring.

84. As I have indicated, I have some reservations as to whether all relevant persons have been joined as Defendants. However, the majority of relevant Defendants have now been joined. As I have indicated earlier in this judgement, pending clarification, the matter could no doubt proceed by way of a representation order if necessary and so these issues would not prevent the proceedings going ahead.

85. As regards the pleaded cause of action, the current position seems to be that the Claimants wish to challenge both (a) their initial suspension and (b) the termination of their membership (and expulsion from the building) on the grounds that:

(1) Relevant procedures under the Constitution were not followed. These include: the Executive Committee not having acted validly by reason of
    (a) the meetings(s) of the Committee not having been properly convened (notices not having been given to all the committee members but only those not thought to have been involved in the altercation in a blameworthy manner, something the minutes of the suspension meeting seem to bear out);
    (b) the procedural requirements for termination of membership (in terms of notice and hearing of representations) not being followed (this is disputed);
(2) each decision (a) not having been taken properly in the best interests of the charity (and therefore in breach of fiduciary duty owed to the Charity) and/or (b) for a collateral purpose, namely, to secure the personal position of the First Defendant and/or his supporters in controlling the Charity (and therefore in breach of fiduciary duty), are both potential causes of action relied upon.

86. I am not satisfied that these matters are properly pleaded, at the moment. However, it would be wrong in my judgment to refuse permission under s115 on that ground, if the matter can be put right by amendment. I am satisfied that these points could be pleaded and that there is material to support them such that the usual amendment test would be passed. In this respect too I agree with the Commission's assessment that there is a viable claim (or claims).

87. I turn to the financial impact on the Charity of the proceedings, if permitted to proceed.

88. First, I do not accept that the suggestion on behalf of the Claimants that by case management the costs of the proceedings could be limited to some £16,000 or so. The evidence filed to date by the Claimants on what should be a short application for permission gives the lie to that. It seems to me that the allegations regarding improper motive/lack of bona fides of the decisions impugned are likely to require consideration at least evidentially of the course of conduct going back to encompass the allegations against the Claimants of earlier misconduct and an examination of the background to as well as the altercation itself and the procedural course taken by the executive committee and/or its members thereafter. Counsel were, I think, agreed that this would be likely to involve at minimum a 4-5 day trial and, in my estimation at the moment, that is the minimum length of time. Seeing the potential witnesses referred to by both sides and I can see that the trial may well be longer. Mr Swirsky suggested that the costs on each side might be limited to £50,000. Mr Morgan suggested they might well be double that.

89. Secondly, such costs are wholly unable to be paid by the Charity, in terms of funding the defence of the proceedings. It is unclear that the Claimants, if they lost, would have the money to pay the Charity (or the relevant Defendants') costs. The fact that they have, I am

told, paid costs orders against them to date does not really address the point. Further, the costs payable by the Claimants would not be a full indemnity, potentially leaving the Charity in a position where relevant Defendants would be entitled to an indemnity from the Charity for any shortfall in costs recovered from the Claimants. Mr Swirsky, not surprisingly, concentrated on the costs position if the Claimants won. That however is only one side of the possibilities and is no answer to the point that the Charity Commission identified and which I endorse. Further, even on the basis that the Claimants ultimately "won", I cannot be sure that the Defendants would not now be entitled to an indemnity from charity funds whilst proceedings were on foot and that they might not be able to repay the same, if required to, at the end of the day.

90. I should add that I consider that, were permission otherwise to be granted, it should only be granted as regards the current status of the Claimants which follows from their memberships having been terminated rather than from their original suspension. I am also not persuaded that permission should be granted regarding the procedural complaints because those (if made out) could be rectified now and there is no indication that the current Executive Committee would come to any contrary view. However, even if permission to bring those claims were not to be granted I am confident they would have to be looked into in connection with the remaining claims.

91. Mr Swirsky sought to look at the interests of the Charity more widely than simply the financial effect of proceedings. He submitted that the charity would also benefit from it being made clear (if the Claimants win) that procedural matters must properly be followed in the administration of the charity, as well as trustees (and/or members of the Executive Committee, if different) being compelled to act properly in line with their fiduciary duties.

92. As regards this, first there is no convincing evidence that, in addition to the matters specifically complained of by the Claimants, procedures within the Charity have not been properly followed. Mr Swirsky points to evidence from former Executive Committee members complaining that they did not receive notice, as such committee members, of committee meetings. That is a matter which it seems to me, should be or should have been raised with the Charity Commission in the first instance and which had powers to deal with that sort of charity administration point. In any event, a decision regarding two specific expulsions is unlikely to address any more systemic failings, if there are any.

93. Secondly, there have since been elections and the composition of the Executive Committee has changed. That might be seen as a decision by the members as to how, and by whom, the governance of the charity should be carried forward.

94. Thirdly, and given the election of Executive Committee members, there seems to be no ongoing widespread dissatisfaction/altercations within the charity over the status of the Claimants which is impinging on the ongoing governance of the charity.

95. Fourthly, and in connection with the third point, there is evidence of an informal survey suggesting the same position. One hundred or so returns were made, all in favour of retaining the expulsions.

96. The hearsay statement from one of those surveyed, Mr Hoque, is relied upon by the Claimants as throwing doubt upon the integrity of the survey. He is one person among many. Further his statement is not very persuasive. He had essentially four options presented to him, not to engage at all or to engage and identify (by ticking the appropriate box) whether his position was that (a) he wished for the Claimants to continue to be excluded from the mosque; or (b) he would like them to be allowed to return as members to the mosque or (c) he did not wish to express an opinion. He suggests that he signed the document but then changed his mind about engaging at all and handed it back signed but without ticking any box, not even the "express no opinion" box because even signing that box would have been "tantamount to choosing a side" (which one would have thought he was doing by providing his statement). It is difficult to understand the rationale for not ticking the "express no opinion" box or, even more, handing back a signed sheet rather than retaining the sheet or tearing it up. He claims the box backing continued expulsion was later, improperly, ticked by someone else. The absence of any statement of truth on this statement further weakens its probative value.

97. I regard the informal survey as at least some evidence that there is no widespread disquiet about the expulsion of the Claimants from the mosque.

98. In conclusion, I am not satisfied that there is any benefit to the charity, rather than to the Claimants, in the proposed proceedings and I am satisfied that the financial position of the charity is such that permission under s115 Charities Act 2011 should not be granted. In short, refusal of permission rather than granting permission for the proposed litigation is, echoing the words of Norris J, the least worst course for the charity.

99. It is therefore unnecessary for me to reach a conclusion as to whether I would have extended time of the making of the current application before me. However, if I am wrong on the merits and permission on the merits would (leaving aside any question of delay) have been granted, I would have refused permission for an extension of time, given the procedural course before the courts and the amount of court time and resource the Claimants have already taken up and given the length of time that has passed since they have been excluded from the mosque (over three and a half years). In particular, there have been periods of delay since the Charity Commission letter which are unexplained or only partly explained and which are, in my judgment, unsatisfactory.

100. Since I circulated a draft of this judgment, the parties have agreed that, in light of the judgment, the Claimants should pay the Defendants' costs to be summarily assessed if not agreed. I make an order to that effect, dismissing the claim, and laying down a timetable for further steps in the event that agreement is not reached.