

Reference No. HRRT 021/2012

UNDER THE HUMAN RIGHTS ACT 1993

IN THE MATTER OF AN APPLICATION BY TVNZ FOR ACCESS TO THE TRIBUNAL FILE

BETWEEN THE GAY AND LESBIAN CLERGY ANTI-DISCRIMINATION SOCIETY INC

PLAINTIFF

AND THE BISHOP OF AUCKLAND

DEFENDANT

AT AUCKLAND

TRIBUNAL: Rodger Haines QC, Chairperson

REPRESENTATION:

Mr D Ryken and Mr G Wong for Plaintiff

Mr B Gray QC and Professor PT Rishworth for Defendant

Ms H Wild for TVNZ

DATE OF DECISION: 1 May 2013

**DECISION OF CHAIRPERSON
GRANTING APPLICATION BY TVNZ FOR ACCESS TO THE TRIBUNAL FILE**

[1] The hearing of these proceedings will commence on Monday 6 May 2013 at the Auckland District Court. The period 6 May 2013 to 17 May 2013 has been set aside.

[2] By application dated 22 April 2013 Ms Lucy Wilkinson, News Producer, One News, TVNZ has lodged an application for non-party access to the Tribunal file.

[3] By *Minute* dated 29 April 2013 the plaintiff and defendant were asked to advise whether the application was opposed and if so, the reasons for the opposition. The Chairperson would then make a determination on the papers. The parties were invited to consider (inter alia) s 107 of the Human Rights Act 1993 and *IHC New Zealand v Ministry of Education (Non-Party Access to Tribunal File)* [2013] NZHRRT 2 (31 January 2013) and *Adoption Action Incorporated v Attorney-General (Non-Party Access to Tribunal File)* [2013] NZHRRT 4 (22 February 2013).

Position of the parties

[4] On 30 April 2013 both parties advised that they had no submissions to make on the application and would abide the decision of the Tribunal.

Discussion

[5] It will be seen from the two decisions cited above that the Tribunal has adopted, with all necessary modifications, the High Court Rules, Part 3, Subpart 2 – Access to court documents, being rr 3.5 to 3.16.

[6] As no substantive hearing has yet taken place, the relevant Rule (by analogy) is r 3.13 which, in turn, brings into play r 3.16 which prescribes the matters to be taken into account on such application.

[7] As neither party opposes the application and there being no proper grounds for declining the application, it is granted. There are, however, two concerns. The first arises from the fact that the Secretariat is based in Wellington at the Tribunals Unit of the Ministry of Justice. That is where the Tribunal file is kept. In preparation for the hearing it will be sent to the Auckland District Court for it to be available to the Tribunal both prior to and during the hearing itself. Given the close proximity of the hearing, access by TVNZ to the Tribunal file must not hinder the Tribunal's own access to the file. In the words of High Court Rules, r 3.16, access by TVNZ to the Tribunal file must not interfere with the orderly and fair administration of justice.

[8] The second concern relates to the fact that there is an operative interim order prohibiting publication of the name and other details of the complainant as set out in the *Minute* dated 10 September 2012. In this regard it is noted that in her email dated 22 April 2013 Ms Wilkinson states that TVNZ gives an undertaking that all suppression orders will be complied with.

[9] The terms on which the application is granted follow below.

Directions

[10] The application by TVNZ for access to the Tribunal file is granted subject to the following conditions:

[10.1] Access by TVNZ must not interfere with or impede access to the file by the Tribunal itself.

[10.2] All non-publication orders must be strictly adhered to unless or until such orders are rescinded.

[10.3] Access is not granted to communications between the Tribunal, its Chairperson and the Secretariat.

[10.4] Access to the Tribunal file is to be arranged through the Case Manager, Mr Gareth Davies or in the alternative, through Ms Kelly Curran, both of the Tribunals Unit, Wellington.

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Mr RPG Haines QC
Chairperson

