AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between 121TACD2023

[redacted]

and

[redacted]

Appellants

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") by [redacted] ("the Appellants") pursuant to section 28B(14A) of the Emergency Measures in the Public Interest (Covid-19) Act 2020 as amended ("EMPI Act 2020") against assessments raised by the Revenue Commissioners ("the Respondent") in respect of the Employment Wages Subsidy Scheme ("EWSS"). The assessments were raised for the period of January to April 2021 ("the relevant period"), and were in the total amount of €33,069.68 for the first Appellant and €20,503 for the second Appellant. Therefore, the total quantum under appeal is €53,572.68.

2. The assessments were raised on the basis that the Appellants had failed to demonstrate to the satisfaction of the Respondent that their businesses had expected or were expected to experience a 30% reduction in turnover or customer orders during the relevant period, in accordance with section 28B of the EMPI Act 2020. The net question to be determined in this appeal is whether the Appellants were entitled to rely on the

"Other Reasonable Basis" provision set out in the Respondent's Guidelines on the operation of the EWSS ("Guidelines") as the basis for their application for subsidy payments under the EWSS.

3. The appeal proceeded by way of an oral hearing on 27 June 2023.

Background

4. The EWSS was introduced by the Financial Provisions (Covid-19) (No 2) Act 2020, which inserted section 28B into the EMPI Act 2020. The EWSS replaced the Temporary Wage Subsidy Scheme and came into effect from 1 September 2020. The EWSS was introduced in the context of the restrictions implemented on foot of the Covid-19 pandemic, and provided for a flat-rate subsidy to qualifying employers based on the numbers of paid and eligible employees on the employer's payroll, and also charged a reduced rate of employer PRSI of 0.5% on wages paid that were eligible for the subsidy payment.

5. On 18 May 2022, the Respondent raised notices of assessments in the following amounts against the first Appellant, on the basis that it had not abided by the terms of the EWSS:

Period of Assessment	Amount €
January 2021	1050.00
February 2021	10,369.67
March 2021	16,750.01
April 2021	4,900.00

6. On 24 June 2022, the Respondent raised notices of amended assessments in the following amounts against the second Appellant, on the basis that it had not abided by the terms of the EWSS:

Period of Assessment	Amount €
January 2021	350.00
February 2021	4,750.00

March 2021	9,203.00
April 2021	6,200.00

7. The assessments raised against the first Appellant were appealed to the Commission on 16 June 2022. The assessments raised against the second Appellant were appealed to the Commission on 21 July 2022. As there is commonality of ownership and management between the two Appellants, and the same issue falls to be determined, both appeals were heard together on 27 June 2023.

Legislation and Guidelines

8. Section 28B of the EMPI Act 2020, as at 1 January 2021, provided *inter alia* that:

"*(2A) Subject to subsections (4) and (5), this section shall apply to an employer for the period from 1 January 2021 to the date on which the qualifying period expires where –*

(i) in accordance with guidelines published by the Revenue Commissioners under subsection (20)(a), the employer demonstrates to the satisfaction of the Revenue Commissioners that, by reason of Covid-19 and the disruption that is being caused thereby to commerce –

(I) there will occur in the period from 1 January 2021 to 30 June 2021 (in this subsection referred to as 'the second specified period') at least a 30 per cent reduction, or such other percentage reduction as the Minister may specify in an order made by him or her under subsection (21)(b), in either the turnover of the employer's business or in the customer orders being received by the employer by reference to the period from 1 January 2019 to 30 June 2019 (in this subsection referred to as 'the second corresponding period'),

(II) in the case where the business of the employer has not operated for the whole of the corresponding period but the commencement of that business's operation occurred no later than 1 May 2019, there will occur in the part of the second specified period, which corresponds to the part of the second corresponding period in which the business has operated, at least a 30 per cent reduction, or such other percentage reduction as the Minister may specify in an order made by him or her under subsection (21)(b), in either the turnover of the employer's business or

in the customer orders being received by the employer by reference to that part of the second corresponding period, or

(III) in the case where the commencement of the operation of the employer's business occurred after 1 May 2019, the nature of the business is such that the turnover of the employer's business or the customer orders being received by the employer in the specified period will be at least –

(A) 30 per cent, or

(B) such other percentage as the Minister may specify in an order made by him or her under subsection (21)(b),

less than what that turnover or those customer orders, as the case may be, would otherwise have been had there been no disruption caused to the business by reason of Covid-19,

or

(ii) the employer's name is entered in the register established and maintained under section 58C of the Child Care Act 1991,

and

(b) the employer satisfies the conditions specified in subsection (3).

(3) The conditions referred to in subsection (2)(b) or (2A)(b) are –

(a) the employer has logged on to the online system of the Revenue Commissioners (in this section referred to as 'ROS') and applied on ROS to be registered as an employer to which this section applies,

(b) having read the declaration referred to in ROS as the 'Covid-19: Employment Wage Subsidy Scheme' declaration, the employer has submitted that declaration to the Revenue Commissioners through ROS,

(c) the employer has provided details of the employer's bank account on ROS in the 'Manage bank accounts' and 'Manage EFT' fields, and

(d) the employer is throughout the qualifying period eligible for a tax clearance certificate, within the meaning of section 1095 of the Act, to be issued to him or her.

(4) Where on any date in the qualifying period the employer ceases to satisfy the condition specified in subsection (3)(d), the employer shall cease to be an employer to which this section applies as on and from that date.

(5) Where, by virtue of subsection (2) (apart from paragraph (a)(ii) thereof) or (2A) (apart from paragraph (a)(ii) thereof), and subsection (3), an employer is an employer to which this section applies –

(a) immediately upon the end of each income tax month (in this subsection referred to as 'the relevant income tax month') in the qualifying period, apart from July 2020 and the last such month, the employer shall review his or her business circumstances, and

(b) if, based on the result of that review, it is manifest to the employer that the outcome referred to in clause (I), (II) or (III), as the case may be, of subsection (2)(a)(i) or (2A)(a)(i) that had previously been envisaged would occur will not, in fact, now occur, then –

(i) the employer shall immediately log on to ROS and declare that, from the first day of the income tax month following the relevant income tax month (in subparagraph (ii) referred to as 'the relevant day'), the employer is no longer an employer to which this section applies, and

(ii) on and from the relevant day, the employer shall not be an employer to which this section applies and shall not represent that his or her status is otherwise than as referred to in this subparagraph nor cause the Revenue Commissioners to believe it to be so otherwise.

[…]

(11) Where the Revenue Commissioners have paid to an employer a wage subsidy payment in relation to an employee in accordance with subsection (7)(a) and it transpires that the employer was not entitled to receive such payment in relation to the employee, the wage subsidy payment so paid to the employer shall be refunded by the employer to the Revenue Commissioners.

[…]

(14A) A person aggrieved by an assessment or an amended assessment to relevant tax made on that person may appeal the assessment or amended assessment, as the case may be, to the Appeal Commissioners, in accordance with section 949I of the Act, within the period of 30 days after the date of the notice of assessment or the amended assessment, as may be appropriate.

[…]

(20) The Revenue Commissioners shall prepare and publish guidelines with respect to –

(a) the matters that are considered by them to be matters to which regard shall be had in determining whether a reduction, as referred to in subsection (2) or (2A), will occur by reason of Covid-19 and the disruption that is being caused thereby to commerce, and

(b) the matters to which an employer shall have regard in determining the appropriate class of Pay-Related Social Insurance to be operated by an employer in relation to a qualifying employee for the purposes of compliance by the employer with subsection (7) (e).”

9. As required by section 28B(20), the Respondent published Guidelines. The Guidelines dated 18 December 2020 stated, on pages 30 and 31, under the heading “*Other Reasonable Basis*”, that

> “*In Revenue’s administration of this scheme, the key focus will be on disruption to commerce as a result of COVID-19. In instances where application of the “turnover” or “customer order” tests do not adequately demonstrate this, an alternative “reasonable basis” should be applied. It is not possible to be prescriptive in guidance as to what might or might not constitute such a reasonable basis. However,* ***the starting point is that neither the turnover test nor the reduction in customer orders test is capable of being applied to the business in question.*** *It is not sufficient that the business does not meet either of these tests. It must be the case that neither of these tests are capable of being applied to the business in question before an alternative basis for assessing eligibility is used. In all such cases, guidance from Revenue should be sought through the relevant Revenue Division/Branch responsible for the tax affairs of the employer concerned.*
>
> *An example may be where the majority of a company’s contracts take 6 months or longer to complete and that the business otherwise is eligible for the subsidy, then such a business will be treated as meeting the criteria where no substantive work has taken place on any order since the business stopped working due to COVID-19*.” (emphasis in original)

10. The Guidelines were revised on 31 March 2021, but the section on “other reasonable basis” remained unchanged.

Evidence

[redacted]

11. [redacted] was the Managing Director of the Appellants. He stated that he would not have reopened his companies when he did if he knew that he would be subject to assessments, as "*we couldn't do it without the unprecedented support of the EWSS… we took back employees to keep the connection with the Company, rather than having our staff on social welfare, very much the thought process at the time was to take them in, use the EWSS to support us supporting them, and see if we were able to get through some meaningful work at the time*."

12. He accepted that, comparing the Appellants' 2021 turnover to the corresponding period in 2019, they fell short of the Respondent's Guidelines. The Appellants had based their application on 2020 compared to 2021, which they considered to be allowable under "other reasonable basis". He stated that he had tried to engage with the Respondent but the Respondent had refused to discuss it with him.

13. On cross examination, he agreed that both Appellants were incorporated and trading before 2019. He agreed that, in correspondence sent by the Appellants to the Respondent in October 2021, the Appellants had provided figures based on targets versus actuals for 2021. Subsequently, the Appellants based their application for EWSS on actuals for July – December 2020 versus actuals/forecasts for January – June 2021. The witness did not dispute that the Appellants had not used 2019 as the base period.

14. He did not dispute figures presented by the Respondent which showed the first Appellant having actual sales of €408,000 for January - June 2019. He did not dispute that compared to this corresponding period, the first Appellant showed an increase of 69% for January 2021, 78% for February 2021, 92% for March 2021 and 113% for April 2021. He agreed that, compared to the 2019 corresponding period, the first Appellant had an increase in turnover from January to April 2021. He agreed that turnover increased year on year from 2018 to 2021, and that there was an increase of 180% from 2019 to 2020.

15. The witness stated that he believed the first Appellant was justified in using a base figure of €1,241,882, from actual sales for July – December 2020 as its comparison against its actual sales for January to April 2021: "*Our business has changed substantially, we have gone from a million turnover to 1.85 million turnover from '19 to '20. And from '20 to '21, whether we are looking at actual or forecast, or even just numbers of staff, we have seen a severe decrease. And it's on that basis that we entered and claimed under the EWSS Scheme. And in April, when it became apparent to us that we were sort of back on the*

straight and narrow, or back on the road, we exited the Scheme. We didn't attempt to get another month out of it or anything like that." He stated that they had used July – December 2020 as a comparison period because the first six months of 2020 were impacted by the first lockdown.

16. He accepted that the Appellants used turnover in their calculations:

    "*Q. I have to put it to you that turnover was a reasonable basis and you utilised turnover, is that correct*

    A. Yes.

    Q. So you utilised turnover. So then in the circumstances, the argument of reasonable other basis does not apply, because turnover, you accept that turnover was applicable and you utilised it, is that correct?

    A. That is correct, yeah."

17. He further stated that "*So, the starting position is that neither turnover test nor reduction of customers order test is capable of being applied to the business in question. So, our interpretation of that was that the turnover test, referring strictly to 2019, was not applicable. But the turnover test relating to 2020, and our forecasted projections was what we were utilising*."

18. Regarding the second Appellant, the witness agreed that the first Appellant was its sole client for the period in question. He agreed that the actual sales from January – June 2019 were €34,245. He accepted that, using January – June 2019 as the corresponding period, the second Appellant experienced an increase of 142% in January 2021, 155% in February 2021, 160% in March 2021 and 173% in April 2021. He accepted that, on the basis of those figures, the second Appellant would not qualify for EWSS. He accepted that the first Appellant and second Appellant submitted their claims for EWSS payments separately.

19. The witness stated that, when the Appellants were claiming EWSS, they did not contact the Respondent regarding their utilisation of "other reasonable basis".

20. On re-examination, the witness provided the following explanation for the utilisation of "other reasonable basis":

    "*The argument being that for our business from 2019 to 2020 had undergone such a change that we were – whilst we were basing our EWSS eligibility on the forecast figures was as per the Revenue Guidelines for a newly incorporated company, which*

we weren't, which I acknowledge, the Company was incorporated in [redacted] *We started trading in* [redacted] *We have CT Returns there, we have gone through them from 2018. But given the drastic change, we were looking at the forecast figures, which we felt was a reasonable basis as there was an allowance for them or a prescription for them in the Guidelines*."

Submissions

Appellants

21. In written submissions, the first Appellant stated *inter alia* that:

"*As mentioned above, [the first Appellant] commenced trading in* [redacted] *From* [redacted] *to late 2019 our actual sales were quite modest as the company was only recently incorporated and things hadn't taken off yet. We were reliant on one big customer during that period.*

In many new companies there comes a point in time when things start to happen; for [the first Appellant] this was late 2019/ early 2020 when we launched a new brochure. There was good market demand and [the first Appellant] had become more established.

[…]

The EWSS was to assist companies impacted by a loss of revenue due to the challenges and disruption caused by Covid- 19. We were being hit severely in terms of revenue by Covid.

[The first Appellant's] revenue grew by 477% in the period July to December 2020 compared to the comparative period January to June 2019. This type of revenue growth does not happen in such a labour and equipment intensive business without significant change and investment.

Therefore, we didn't use the base period prescribed for companies trading prior to 2019 as the company had undergone significant change. Although [the first Appellant] was in existence and trading prior to 1 May 2019, the change within the company was so significant in the period that using the January to June 2019 base period was not rational.

We used the Revenue guidelines comparative period for companies that commenced trading post 1 May 2019 which was the projected turnover for the period 1 January to 30 June 2021. We believed we would qualify as a business that commenced trading

post 1 May 2019, such was the magnitude in the change of the company that occurred from late 2019.

We considered the previous 6 months actual revenue figures (July to December 2020) as the most reasonable and conservative revenue forecast for January to June 2021 and we used this period as the comparative base period.

We believe that the spirit of the EWSS scheme was not to punish those companies heavily effected by Covid and who happened to grow at the wrong time but to help and support businesses whose revenue was severely impacted by Covid restrictions.

The EWSS was paramount to [the first Appellant] re- opening in late January 2021 for the business to work on [redacted] *as it helped offset the losses we incurred.*

We understood that parameters were required in governing the EWSS and that the Government was responding to an emergency situation. However, we sincerely thought that an allowance would be made at a later date for those companies who could genuinely demonstrate a major shift in the company between early 2019 and January 2021.

We were not a company looking to add to our bottom line by claiming the EWSS. We were a company seeking to survive and taking on board the Government's message to carry on business as usual within the Covid restrictions and they will support us. We could not have opened our doors without the EWSS Support in late January 2021 and we wouldn't have opened them if we knew we would now be in this position. We knew it wasn't viable to open our doors in late January 2021 but we believed the Government would support small businesses trying to do the right thing as that was the message delivered."

22. The second Appellant stated that:

"*As our monthly average revenue for the 6 months July 2020 to December 2020 had been 389% of our average monthly revenue for the 6 months January 2019 to June 2019, we were effectively running a new business as it was so incomparable to the trade that had gone before. The most relevant set of revenue comparisons were undoubtedly the July 2020 to December 2020 figures*."

It reiterated the arguments made by the first Appellant regarding the unsuitability of the January – June 2019 comparison period.

23. In oral submissions, the agent of the Appellants stated that the companies entered into the EWSS in good faith and in the spirit of why the Scheme was created. He stated that

the Appellants considered that they were different companies in 2020 compared to 2019, and that consequently they considered that comparing 2021 to 2019 was not a reasonable basis for assessing whether they had incurred a decrease of 30% in turnover or sales orders.

24. The sums involved might not be large compared to other companies, but for the Appellants they were hugely important from a year-to-year trading perspective, where margins were tight and competition was high. The Appellants considered that they had acted reasonably and it was submitted that the guidance provided by the Respondent to firms on the workings of the EWSS was insufficient. The definition of "other reasonable basis" was not provided in the legislation and therefore fell to be interpreted, and the Appellants considered their understanding of the phrase was reasonable.

Respondent

25. In written submissions, the Respondent submitted that section 28B of the EMPI Act 2020 was not a taxing statute, and therefore the normal canons of statutory interpretation applied. In any event, the legislation was clear and unambiguous as to what constituted the comparison period for calculating the 30% reduction in turnover for a business that was commenced prior to 1 May 2019.

26. Section 28B (2A)(a)(i) of the EMPI Act 2020 detailed the turnover eligibility for EWSS in year 2021. Pursuant to s. 28B (2A) the employer had to be able to demonstrate to the satisfaction of the Respondent that, as a result of Covid-19 disruptions, during the second specified period, 1 January 2021 to 30 June 2021, the turnover of the business or customer orders had reduced by a minimum of 30% by reference to the corresponding period in 2019, 1 January to 30 June. The employer had to consider this second specified period as a whole rather than on an individual monthly bases and had to illustrate that the disruption was as a result of Covid-19 restrictions and associated disruptions.

27. The Appellants had arbitrarily utilised a different referable period for the purpose of comparison that was unsupported by legislation. An alternative reasonable and durable basis for the assessment of eligibility could only be utilised when neither the turnover nor customer orders tests were capable of being applied to the business in question. However, such an alternative basis was limited to the metric of assessment and did not extend to the referable timeframes which were provided for in clear terms at s. 28B (2A). There was no reasonable basis for an alternative basis of assessment as suggested by the Appellant in circumstances where the turnover test was capable of being utilised by the Appellant and had, in fact, been utilised by it.

28. In oral submissions, counsel stated that the witness for the Appellants had accepted that the Appellants did not meet the 30% reduction test based on the provisions of the legislation. The starting point for statutory interpretation was to take a literal approach, and the language of section 28B(2A) was clear. There was no discretion afforded to the Respondent regarding the correct base period to be applied.

29. The Appellants had contended that their business had changed so much they were almost akin to new businesses. But the witness had accepted that both Appellants were trading before 1 May 2019, which was the cut-off date set out in section 28B(2A) for treating a company as a new business. The Appellants' financials showed them to be on an upward trend from 2019 to 2021.

30. The "other reasonable basis" provision was irrelevant in circumstances where the turnover test was available and had been used by the Appellants. Furthermore, the Guidelines provided that, where an employer was considering utilising the "other reasonable basis" provision, guidance should be sought from the Respondent, but the witness had accepted the Appellants had not done so while participating in the EWSS.

31. In response to a question from the Commissioner, counsel stated that the "other reasonable basis" was not provided for in the EMPI Act 2020 but was instead contained in the Guidelines, which were drawn up under section 28B(20).

Material Facts

32. The material facts were not in dispute. Having read the documentation submitted, including the agreed statements of facts, and having listened to the oral evidence and submissions at the hearing, the Commissioner makes the following findings of material fact:

    32.1. The Appellants were incorporated and commenced trading prior to 2019. The first Appellant is a [redacted] and the second Appellant is a [redacted].

    32.2. The Appellants registered for EWSS in January 2021. The first Appellant was paid €33,069.68 from January to April 2021. The second Appellant was paid €20,503.

    32.3. In their claim for subsidy payments under the EWSS, the Appellants did not utilise the relevant corresponding period set out in section 28B(2A) of the EMPI Act 2020, being 1 January 2019 to 30 June 2019. Rather, they utilised a

corresponding period of July to December 2020, on the ground of "other reasonable basis" as set out in the Respondent's Guidelines.

32.4. The Appellants did not experience a reduction of at least 30% in turnover or customer sales from January to April 2021 by reference to 1 January 2019 to 30 June 2019.

32.5. The Respondent raised notices of assessment against the first Appellant on 18 May 2022, and against the second Appellant on 24 June 2022, seeking repayment of the subsidies paid to the Appellants under the EWSS from January to April 2021.

Analysis

33. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49, Charleton J. stated at para. 22: "*The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable.*"

34. The EWSS provided for wage subsidies during the Covid-19 pandemic where an employer was expected to experience a reduction of at least 30% in either turnover or customer orders being received during a specified period compared to the appropriate corresponding period. From 1 January 2021, the specified period was 1 January 2021 to 30 June 2021 and the corresponding period was 1 January 2019 to 30 June 2019. The net issue to be determined in this appeal is whether the Appellants were entitled to disregard this corresponding period, and instead apply a corresponding period of July – December 2020 utilising the "other reasonable basis" provision set out in the Respondent's Guidelines.

35. The first point to note is that the "other reasonable basis" is not included in section 28B of the EMPI Act 2020, which only provides for the payment of a wage subsidy where the employer demonstrated a 30% reduction in either turnover or customer orders compared to the relevant corresponding period. "Other reasonable basis" is set out in the Guidelines published by the Respondent under section 28B(20).

36. The Appellants contend that they were entitled to utilise the "base period" of July – December 2020, rather than January – June 2019, as their businesses had undergone significant change between 2019 and 2020, so that using the corresponding period set out in section 28B(2A) was "*not rational*". In written submissions, they stated that, "*We*

believed we would qualify as a business that commenced trading post 1 May 2019, such was the magnitude in the change of the company that occurred from late 2019."

37. The Commissioner considers that section 28B(2A) clearly provides that, for participation in the EWSS between January and April 2021, the corresponding period was 1 January 2019 to 30 June 2019. The EMPI Act 2020 does not allow for an employer participating in the EWSS to unilaterally apply a different corresponding period when participating in the Scheme. There was an exception where a business commenced after 1 May 2019, whereby it could compare its turnover or orders against the projected turnover or orders for January – June 2021 (section 28B(2A)(i)(III)). However, in evidence, the Appellants' witness accepted that both of the Appellants were incorporated and trading prior to 2019. Therefore, the Commissioner is satisfied that they were not entitled to utilise the exception for businesses set up after 1 May 2019.

38. Turning to the Guidelines, the relevant section on "other reasonable basis" has been set out at paragraph 9 above. The following sentence was underlined and in bold in the Guidelines: "*the starting point is that neither the turnover test nor the reduction in customer orders test is capable of being applied to the business in question*." However, the Commissioner considers that the Appellants had applied the turnover test in its application for the EWSS; it simply applied its turnover for January – April 2021 to a different corresponding period than set out in the EMPI Act 2020. The Commissioner agrees with the Respondent that this demonstrates that the Appellants were in a position to apply the turnover test to their businesses, and that consequently they were not entitled to seek to rely on the "other reasonable basis" test.

39. Furthermore, it was accepted by the Appellants that their turnover for January to April 2021 did not meet the 30% reduction test, compared to January to June 2019. The Commissioner notes that the figures provided by the Respondent, and not disputed by the Appellants at the hearing, show significant percentage increases in turnover compared to the statutory corresponding period (First Appellant: Jan 2021 – 69%; Feb 2021 – 78%; Mar 2021 – 92%; Apr 2021 – 113%. Second Appellant: Jan 2021 – 142%; Feb 2021 – 155%; Mar 2021 – 160%; Apr 2021 – 173%), and therefore he is satisfied that the Appellants were not entitled to the payments received under the Scheme.

40. The Commissioner appreciates that the Appellants considered that they participated in the EWSS in good faith, and will be disappointed with this outcome. However, the Respondent, and the Commissioner on appeal, are obliged to apply the legislation as enacted by the Oireachtas. The Commissioner is satisfied that the EMPI Act 2020, and the Guidelines enacted pursuant to that Act, do not permit the Appellants' application of

a different corresponding period to that set out in section 28B(2A), and therefore their appeal is not successful.

Determination

41. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is satisfied that the Respondent was correct in raising EWSS assessments to tax against the first Appellant in the amount of €33,069.68 and against the second Appellant in the amount of €20,503 for January to April 2021. Therefore, the assessments stand.

42. The appeal is hereby determined in accordance with section 949AK of the Taxes Consolidation Act 1997 as amended ("TCA 1997"). This determination contains full findings of fact and reason for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 42 days of receipt in accordance with the provisions set out in the TCA 1997.

Simon Noone
Appeal Commissioner
14th July 2023