

SCOTLAND / JUDGMENT

Matthew McGill v Glasgow City Council

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DECISION OF Sheriff Komorowski ON THE REQUEST FOR EXTENSION OF TIME FOR LODGING A NOTICE OF APPEAL IN THE CASE OF Mr Matthew McGill

- and - Glasgow City Council FTS Case Reference: BL00014-2503 2026UT69 Ref: UTS/AP/26/0054 Appellant Respondent 14 September 2026 The request to extend time is refused. The notice of appeal is not admitted. REASONS FOR DECISION

- [1] The appellant seeks permission to appeal against a decision of the First-tier Tribunal (FTS), upholding Glasgow City Council's imposition of a penalty of one hundred pounds (£100) for contravention of a bus lane, being the bus gate consisting of the entire width of the carriageway at Union Street and Gordon Street in Glasgow. He had appealed to the FTS on the basis of the poor state of the road markings and there being insufficient signage alerting road users to the bus gate. The FTS refused his appeal because, put shortly, the road markings and signage were good enough to provide substantial compliance with the requirements to alert road users.
- [2] The appellant's application to the Upper Tribunal for permission to appeal is late.
- [3] The appellant's application appears to have been prepared without the assistance of a lawyer or other specialist. His lack of assistance may have caused him various difficulties, such as sending the application to the wrong tribunal, and the notice of appeal and its accompanying documents are difficult to follow at points. Deadline imposed by the Upper Tribunal Procedure Rules
- [4] According to the Upper Tribunal for Scotland Rules of Procedure 2016, a notice of appeal against a decision of the First-tier Tribunal must be lodged within 30 days after receipt of the First-tier Tribunal's notice of its decision on permission to appeal (rule 3(9)). A late appeal must include a request for an extension of time, explain why it is late and why it is in the interests of justice to extend time (rule (5)(a)). Where time is not extended, the notice must not be admitted (rule (5)(b)). Deadline imposed by the Time Limits Regulations [5] I have previously noted (Macdonald v. East Lothian Council, 27 June 2025, para. 13) that there is also separate legislative provision in the Scottish Tribunals (Time Limits) Regulations 2016 for a deadline for such applications. Whilst also expressed as thirty days, the time allowed for an application will always be at least a day shorter in substance given the different way that period is calculated (reg. 3(1), (2); Guven v. Secretary of State for the Home Department [2010] CSIH 46, 2010 SC 555 (para. 9)). [6] In this case I have only considered the deadline more favourable to the appellant, found in the Upper Tribunal Procedure Rules. Timeline

- [7] On 28 January 2026, the FTS e-mailed to the appellant a copy of its decision refusing him permission to appeal. That decision was dated 8 December 2025 but was not, in error, posted at that time to the appellant. As the appellant has provided an e-mail of the same date in reply, I am satisfied that the FTS's decision was not only sent but was actually received on 28 January.
- [8] The last date for a timely notice of appeal was therefore 27 February 2026.
- [9] The appellant appears to have made various attempts to lodge an appeal.
- [10] Initially these were sent to the wrong tribunal. There is a document bearing the stamp of the "UTAAC" (presumably the Upper Tribunal [United Kingdom] (Administrative Appeals Chamber)) with the date of 26 March 2026. There is a letter from the FTS, also dated 26 March 2026, forwarding an appeal application to the Upper Tribunal for Scotland.
- [11] The notice of appeal initially received by this tribunal was incomplete. Only on 22 April 2026 was a fully completed notice received.
- [12] The earliest sign of attempts to appeal I can find in the papers submitted by the appellant is a copy of an e-mail, curiously with identical addresses for sender and receiver, of 13 March 2026. Even at that point, any appeal would have been 14 days late. Request to extend time
- [13] The appellant advances the following considerations in support of the appeal being permitted to proceed albeit late.
- [14] The appellant states: "I am sorry for my own lateness due to my PTSD." Evidence of his post-traumatic stress disorder is not provided. There is no explanation as to how that disorder would have caused or contributed to his application being late. Nothing else is said as to why the appeal is late.
- [15] The appellant also relies upon, as I understand it, delays and confusion by the First-tier Tribunal in arriving at and then sending a decision on his application to it for permission to appeal.
- [16] The appellant also makes brief reference to the merits of the appeal as well as what he believes is the significance of the issue, namely the legitimacy of Glasgow City Council recovering penalties in respect of the bus gate at Union Street and Gordon Street, given what he considers is the parlous state of the signage and road markings.
- [17] In view of these matters, the appellant invites the Upper Tribunal to conclude that it is in the interests of justice to extend time. Correct approach to whether to extend time
- [18] In *Macdonald v. East Lothian Council*, *supra*, para. 7, I set out the following propositions on extension of time:
- a. The seriousness of the failure to lodge in time should first be considered. The reason for the failure as well as all the other circumstances are also relevant.

- b. Where the failure is not serious or significant, it is unlikely much thought need be given to the other considerations before extending time.
 - c. A good reason will likely result in the notice being received albeit late; an absence of good reason is relevant but not necessarily decisive.
 - d. Mere inadvertence is not a good reason; nor is that the appellant is acting without representation a good reason in itself.
 - e. For reasons of expediency, the merits of the appeal will not usually be considered as part of the circumstances, unless it is clear without much investigation that the grounds are very strong or very weak.
- [19] I explained (para. 7) that I derived those principles from *R (Hysaj) v Secretary of State for the Home Department* [2014] EWCA Civ 1633, [2015] 1 WLR 2472. I noted (para. 8) that *Hysaj* had been applied by the Upper Tribunal (United Kingdom) in immigration appeals (*R (Onowu) v. First-tier Tribunal (Immigration and Asylum Chamber)* (extension of time for appealing: principles) IJR [2016] UKUT 185 (IAC)). I thought it right that the like approach be taken in the Upper Tribunal for Scotland as that, at least for some matters, in the Upper Tribunal of the United Kingdom.
- [20] Since my decision in *Macdonald*, the Upper Tribunal for Scotland has issued a decision on extension of time applying an approach derived from sheriff court practice (*Sheikholeslami v. Quartermile Estates Ltd.*, 24 February 2026).
- [21] In that decision, Sheriff Reid begins (para. 15) by setting out a non-exhaustive list of considerations relevant to the extension of time: (i) The explanation for the delay; (ii) The prima facie strength of the appeal; (iii) The prejudice (or lack thereof) to either party; (iv) The wider public interest in efficiency, certainly and finality with judicial decisions.
- [22] Sheriff Reid then conducts (para. 16) an analysis of the shrieval case law, which might be set out as the following propositions:
- a. There is no requirement to show special, exceptional or extraordinary circumstance (*Semple Cochrane v. Hughes* 2001 SLT 1121).
 - b. But failures to comply with time limits should not be too readily excused (*Brogan v O'Rourke* 2005 SLT 29; *Macphail*, *Sheriff Court Practice* (4th ed.), paragraph 5.94).
 - c. A short delay with an acceptable explanation by a bona fide appellant ought generally to be excused (*Anderson Brown & Co v Morris* 1987 SLT (Sh Ct) 96; *Eurocopy (Scotland) Plc v British Geological Survey* 1997 SCLR 392).
 - d. By contrast, a long delay or a delay with no acceptable explanation might not be excused (*Macphail*, *Sheriff Court Practice* (4th ed.), paragraph 18.56).

- [23] I do not perceive any material difference between the propositions I set out in Macdonald and the approach of Sheriff Reid in Sheikholeslami. For both of us, the reason for the delay is relevant, but the quality of the excuse is not decisive. Both consider the scale of the delay though that again is not decisive. Both consider the apparent strength of the appeal, though I would say this is only material where the merit (or absence thereof) is readily apparent and appears to strongly favour one party. As Sheriff Reid notes, time limits promote, amongst other things, efficiency. To spend time routinely considering the merits in detail would lose much of that benefit. It makes little sense to do much work in considering the substance of the appeal as a preliminary to deciding whether its substance ought to be considered.
- Application to the instant case
- [24] I proceed on the basis that the appellant first attempted to lodge an appeal on 13 March 2026. I will assume there was a good reason or excuse for the delay beyond that point till the fully complete notice of appeal was submitted. I will therefore only consider the delay till 13 March as requiring to be excused, justified or otherwise in some way condoned. That delay of 14 days is more than trivial, almost half again of the permitted time to appeal.
- [25] The reason advanced for the late appeal — the appellant's PTSD — is not obviously an explanation as to why the appeal could not have been lodged earlier. The delay is thus significant (albeit not serious) and there is no real explanation.
- [26] I must also consider the other circumstances.
- [27] Issues with how the application for permission was handled by the First-tier Tribunal (and indeed the time elapsed whilst this renewed application has been pending before the Upper Tribunal) are of marginal significance. The respondent is not responsible for that delay. The respondent also has an interest in the tribunals determining such applications efficiently.
- [28] The apparent merits of the appeal do not clearly support the application to extend time. The appellant's comments on the intended basis of the appeal appear in multiple points in the papers he has submitted with his notice of appeal.
- a. The appellant's main ground of appeal might be read charitably as a contention that the First-tier Tribunal had no reasonable basis to arrive at the conclusion it did as to substantial compliance with the requirements to alert road users. Questions as to the adequacy of road markings and signage are classic matters of evaluation for the tribunal charged with determining questions of fact. There is nothing patently unreasonable about the First-tier tribunal's assessment. There is no apparent failure to take account of any evidence. There is no other error of law apparent from its reasons. I cannot say more without a detailed consideration of the evidence, which would be inappropriate for the purpose of determining whether to extend time.

- b. The appellant also appears to complain that additional photographs submitted after the FTS's substantive decision were not considered by the FTS when deciding whether to grant permission to appeal. But whether the FTS was entitled to reach its original decision must be assessed on the basis of the evidence that was provided at the time.
 - c. The appellant also contends that the FTS failed to notify him of the decision in a timely manner. I am unclear whether he means the decision of the FTS on the substantive appeal, or his application for permission to appeal against the substantive decision. If the latter, that complaint is irrelevant to whether the original decision was legally correct. If the former, it is not said nor is it clear how delay could have affected the outcome, given the FTS's evaluation would principally be based on considering photographic evidence of the road markings and signage.
- [29] The significance of the appeal is not such as to favour the extension of time, either in terms of the consequences for the appellant (a penalty of £100 as well as further charges arising from its collection) or more generally for the Union Street and Gordon Street bus gate. The First-tier Tribunal's assessment of the adequacy of signage and road markings is not binding in other cases involving that bus gate.
- [30] Accordingly, it is not in the interests of justice to extend time. Sheriff Komorowski Member of the Upper Tribunal for Scotland

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