

O-089-16

ORDER under the Companies Act 2006

In the matter of application No. 1030

By NCG trading as Newcastle College

for a change of company name of registration

No. 09750200

DECISION

The company name NEWCASTLE INTERNATIONAL COLLEGE LTD has been registered since 26 August 2015.

By an application filed on 9 October 2015, NCG trading as Newcastle College applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 27 October 2015, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The copy of the application was sent by Royal Mail special delivery. On 17 December 2015, the parties were advised that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. The parties were granted a period of 14 days to request a hearing in relation to this matter, if they so wished. No request for a hearing was made.

On 29 December 2015, the copy of the application that was sent to the primary respondent's registered office on 27 October 2015 was returned to the tribunal by the Royal Mail; the envelope (which bore the date "24.12.15") contained the following indication: "addressee gone away"; the letter of 17 December 2015 has not been returned to the tribunal.

Given the lengthy delay that had occurred in returning the undelivered application to the tribunal, the application was re-sent to the primary respondent's registered office by both special delivery and ordinary post on 13 January 2016. That letter recounted the chronology of the proceedings to date, and allowed the primary respondent a final 14 day period in which to respond. The letter included the following:

"...Should the form not be filed by the date that has been specified, the adjudicator will make an order."

A review of the Royal Mail's "Track your item" website, indicates that this letter was delivered on 15 January 2016 and was signed for by "VICKEY" at 10.15am.

The primary respondent did not file a defence within either the original one month or the additional 14 day period specified by the adjudicator under rule 3(3). Rule 3(4) states:

“The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1).”

Under the provisions of this rule, the adjudicator may exercise discretion so as to treat the respondent as opposing the application. In this case I can see no reason to exercise such discretion and, therefore, decline to do so.

As the primary respondent has not responded to the allegations made, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

(a) NEWCASTLE INTERNATIONAL COLLEGE LTD shall change its name **within one month** of the date of this order to one that is not an offending name¹;

(b) NEWCASTLE INTERNATIONAL COLLEGE LTD shall:

(i) take such steps as are within its power to make, or facilitate the making, of that change;

(ii) not cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

In accordance with s.73(3) of the Act, this order may be enforced in the same way as an order of the High Court or, in Scotland, the Court of Session

In any event, if no such change is made within one month of the date of this order, I will determine a new company name as per section 73(4) of the Act and will give notice of that change under section 73(5) of the Act.

NCG trading as Newcastle College having been successful is entitled to a contribution towards its costs. I order NEWCASTLE INTERNATIONAL COLLEGE LTD to pay NCG trading as Newcastle College costs on the following basis:

Fee for application:	£400
Statement of case:	£400
Total:	£800

This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Any notice of appeal against this decision to order a change of name must be given within one month of the date of this order. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

The company adjudicator must be advised if an appeal is lodged, so that implementation of the order is suspended.

Dated this 18TH day of February 2016

Christopher Bowen
Company Names Adjudicator

ⁱAn “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely— to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or to give rise to a further application under section 69.