

**THE CHARITIES ACT (NORTHERN IRELAND) 2008
THE CHARITY TRIBUNAL RULES (NORTHERN IRELAND) 2010
IN THE MATTER OF AN APPEAL OF A DECISION OF THE CHARITY
COMMISSION FOR NORTHERN IRELAND TO THE CHARITY TRIBUNAL FOR
NORTHERN IRELAND**

Appeal No. 1/23

BETWEEN

TINA IRVING

Appellant

and

THE CHARITY COMMISSION FOR NORTHERN IRELAND

Respondent

DECISION ON AN APPLICATION FOR DIRECTIONS

1. The Appellant issued a Notice of Appeal/Application for a review dated 4 August 2023. The Notice of Appeal/Application relates to a decision notice dated 12 May 2023. The Appellant states that she received the decision notice on 19 May 2023.
2. Both from the appeal/application itself and from an email sent by the Appellant to the Tribunal on 2 August 2023, it is apparent that the Appellant accepts that her appeal/application has been submitted outside the statutory time-limit.
3. The appeal/application includes in accordance with Rule 17(8) of the Charity Tribunal Rules (Northern Ireland) 2010 (“the Rules”), a request for a direction under Rule 3 allowing the appeal or application to be made after the time limit for doing so has expired.
4. Rule 17(11) of the Charity Tribunal Rules (Northern Ireland) 2010 provides as follows:

Where a request is made under paragraph (8) the Tribunal must take no further action in relation to the appeal notice until such a request has been determined.

5. By letter dated 29 August 2023, the Respondent seeks a direction from the Tribunal under Rule 3 as to whether the Tribunal has jurisdiction to entertain the Appellant’s appeal/application. The Respondent contends that, regardless of the time point, the Charity Tribunal does not have legal jurisdiction to determine an appeal against a decision *not* to take regulatory action in respect of a charity.
6. On 3 October 2023, the Tribunal gave directions to the parties, seeking their submissions on the Respondent’s contention that the Tribunal does not have jurisdiction to entertain the Appellant’s appeal/application. On 9 February 2024, the Tribunal gave further directions as to submissions on that question.

7. Having considered those submissions, pursuant to Section 15(4)(b) of the 2008 Act, the Tribunal considers it necessary to have fully argued the following questions:
- i. Whether the Tribunal has jurisdiction to determine an appeal against a decision by the Respondent not to take regulatory action in respect of the three charities identified by the Appellant.
 - ii. In the event that the Tribunal does not have such jurisdiction, how ought the Tribunal to dispose of the Appellant's appeal.
- b. In accordance with Section 15(4)(b) of the 2008 Act and Rule 23 of the Rules, the Tribunal requests the Attorney General to argue those questions before the Tribunal.
- c. For the purposes of Rule 23(2)(b) of the Rules, the Tribunal directs that paragraphs 1 to 6 above constitute an account of the proceedings.
- d. For the purposes of Rule 23(2)(c) of the Rules, the Tribunal confirms that it wishes to have the assistance of the Attorney General on the determination of the question of its legal jurisdiction.
- e. Pursuant to Rule 23(3) of the Rules, the Tribunal directs that the Appeal Form, Response, submissions of the parties and Decisions and Directions of the Tribunal in this appeal be provided to the Attorney General.

Right of Appeal

Pursuant to Rule 32(2) of the Rules, a right of appeal lies from this Decision of the Tribunal to the High Court of Justice in Northern Ireland. Any party, or the Attorney General, seeking permission to appeal must make a written application to the Tribunal for permission to appeal, to be received by the Tribunal no later than 28 days from the date on which the Tribunal sent notification of this decision to the person seeking permission to appeal. Such application must identify the alleged error(s) in the Decision and state the grounds on which the person applying intends to rely before the High Court.

Adrian Colmer KC
15.03.24