

**THE CHARITIES ACT (NORTHERN IRELAND) 2008
THE CHARITIES ACT (NORTHERN IRELAND) 2013
THE CHARITIES ACT (NORTHERN IRELAND) 2022
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. 1/22

BETWEEN

DISABLED POLICE OFFICERS' ASSOCIATION OF NORTHERN IRELAND

Appellant

and

THE CHARITY COMMISSION FOR NORTHERN IRELAND

Respondent

DECISION

Decision without oral hearing

1. Pursuant to Rule 25(b) of the Charity Tribunal Rules (Northern Ireland) 2010, the Tribunal may determine an appeal, an application, or any particular issue arising in an appeal or application, without an oral hearing, if the parties agree in writing. The parties have so agreed and, accordingly, the Tribunal has determined the matters which are the subject of this Decision without an oral hearing.
2. The Tribunal records its thanks to the parties and their representatives for their helpful and efficient approach in the determination of the matters which are the subject of this Decision.

Background

3. On 14 February 2014, the Respondent, acting pursuant to the Respondent's powers in section 22 of the Charities Act (Northern Ireland) 2008 ("the 2008 Act") took a decision to institute an inquiry into the Appellant ("the Respondent's Decision").
4. On 15 April 2022, the Appellant issued an application for a review of the Respondent's Decision. In the time since then, applications and an appeal have been heard and determined on the discrete legal question of whether or not the Respondent's Decision was amenable to review pursuant to the provisions of the Charities Act (Northern Ireland) 2022 ("the 2022 Act"), which, in short, conferred upon a putative appellant a fresh right of appeal in respect of "relevant actions" – as defined in the 2022 Act.
5. Madam Justice McBride in her judgment in Disabled Police Officers' Association of Northern Ireland v Charity Commission for Northern Ireland [2024] NIKB 90, dated 25.10.24, upheld a ruling of the Tribunal that the Respondent's Decision does not constitute a relevant action for the purposes of the 2022 Act.

6. This Tribunal notes that, in paragraph [67] of her judgment, Madam Justice McBride said as follows:

[67] Secondly, as the Charity Tribunal noted, the DPA can make an application to the Charity Tribunal to extend time for appeal. In accordance with the Charity Tribunal rules, an applicant can seek leave to extend time. As I have observed, there are several substantive issues which have not been determined on the merits and this has been acknowledged by the Charity Tribunal. I, therefore, consider sympathetic consideration should be given to an application by the DPA to extend time so that the merits of its appeal can be heard and determined.

7. As to the question of extension of time, in response to the Appellant's 15 April 2022 application for a review, the Respondent, on 10 June 2022, wrote to the Tribunal making points about the "relevant actions" aspect (which has now been disposed of).
8. In that letter, the Respondent also asked the Tribunal to give a direction, under Rule 3 of the Charity Tribunal Rules (Northern Ireland) 2010 ("the Rules"), requiring the Appellant to make an application for extension of time to appeal under Rule 17(8) of the Rules.
9. On 16 December 2024, the Appellant submitted an application under Rule 17(8) of the Rules "for an extension of time" in order to (as the application put it) "**reinstate this appeal**" (**emphasis added**).

The application to extend time and the 9 October 2015 Order

10. Under Rule 17(11) of the Rules, where a request is made under paragraph 17(8) for an extension of time the Tribunal must take no further action in relation to the appeal notice until such a request has been determined.
11. Rule 17(8) provides as follows (**emphasis added**):
- (8) Where the time limit for making an appeal or application under paragraph (2) has expired, an appellant **must include with the appeal notice** a request for a direction under rule 3 to allow the appeal or application to be made after the time limit for doing so has expired.*

12. The Tribunal notes that in its application for a review dated 15 April 2022, when asked whether it would like the Tribunal to consider an out of time appeal, the Appellant said as follows:

"No. This appeal is within time by virtue of refreshed appeal rights created by sections 1(7) and 1(8) of the Charities Act (Northern Ireland) 2022".

13. However, in response to a request in the same application form to "Please give reasons that you would like the tribunal to take into account when considering whether to accept your out of time appeal", the Appellant set out five paragraphs which included reference to the 2022 Act.

14. The Tribunal also notes that on 9 October 2015, an Order was made by the Tribunal, in Case No 12/14, being proceedings between the Appellant and the Respondent, dismissing the Appellant's appeal.

Tribunal's directions of January 2025

15. On 17 January 2025, and acting in accordance with its powers under Rule 3(1), (2) and (3) of the Rules, the Tribunal directed that (i) the Appellant should confirm to the Tribunal, in writing the nature of its proceedings before the Tribunal, including as to whether the application of 15 April 2022 is a new appeal, and as to whether the Appellant is applying to "reinstate an appeal", and if so, which appeal it is so applying to reinstate; (ii) that the Respondent should confirm to the Tribunal whether it took any point about the Appellant's compliance with Rule 17(8) of the Rules; and (iii) both parties should set out their position in respect of the Order of Tribunal made on 9 October 2015.

Parties' compliance with directions of January 2025

16. On 24 January 2025, and in compliance with the Tribunal's directions, the Appellant set out its primary position, namely that its appeal of 15 April 2022 "was a new appeal". This was accompanied with alternative submissions, including as to the significance of the order of 9 October 2015.
17. Also on 24 January 2025, and in compliance with the Tribunal's directions, the Respondent confirmed that it took no point arising out of any apparent failure on the part of the Appellant to seek an extension of time for an appeal in its application of 15 April 2022. The Respondent helpfully drew attention to Rule 3 of the Rules and the Tribunal's powers therein to give directions "at any time" (Rule 3(1)). As to the 9 October 2015 Order, the correspondence from the Respondent included the following:

The Respondent considers that a review of the decision to institute a statutory inquiry into the charity, DPOANI has not been the subject of a judicial determination by the Charity Tribunal, or other judicial authority.

A number of applicants, including the Appellant have previously lodged applications to review the impugned decision, however the applications were either withdrawn or not admitted for hearing as the time limit for initiating an application was not extended.

In McKee & Ors v Charity Commission for Northern Ireland [2019] NICH 6, the validity of the opening of the Inquiry was raised in written submissions by Mr Crawford, however the court directed that this question be addressed after the court determined the key issue. The court did not re-visit the matter and therefore we do not consider that the principle of res judicata applies in the instant application.

18. In these circumstances, the Tribunal has concluded as follows:

- a. The Appellant's application of 15 April 2022 is a new appeal to the Tribunal, by which the Appellant seeks a review of the Respondent's Decision;
- b. The Appellant's application of 15 April 2022 did, in substance, contain an application for an extension of time;
- c. In any event, the Appellant has since applied latterly for an extension of time, and, exercising its powers under Rule 3 of the Rules, the Tribunal is entitled to consider that application;
- d. The Appellant's application of 15 April 2022 is not affected by the 9 October 2015 Order.

Consideration of application for extension of time

19. By submissions made on 28 February 2025, the Respondent confirmed that it is "neutral to the extension of time application in that it neither consents or objects and observes that this is a decision of the Tribunal, exercising its discretion."
20. In considering this application to extend time, the Tribunal has had regard to the principles laid down in Davis v Northern Ireland Carriers [1979] NI 19 by Lowry LCJ at page 2 as follows:
 1. *Whether the time is sped: a court will, where the reason is a good one, look more favourably on an application made before the time is up.*
 2. *When the time limit has expired, the extent to which the party applying is in default.*
 3. *The effect on the opposite party of granting the application and, in particular, whether he can be compensated by costs.*
 4. *Whether a hearing on the merits has taken place or would be denied by refusing an extension.*
 5. *Whether there is a point of substance (which in effect means a legal point of substance when dealing with cases stated) to be made which could not otherwise be put forward; and*
 6. *Whether the point is of general, and not merely particular, significance...*
 7. *...that the rules of court are there to be observed.*
21. Clearly this appeal has been brought, and the application for an extension of time has been made, many years after the Respondent's Decision. However, the interactions of the Respondent with respect to the Charity and its trustees have been in issue, in one way or another, throughout that period. The Tribunal, the High Court and HM Court of

Appeal have had cause, on a number of occasions, to give decisions and judgments concerning those interactions.

22. In that regard, in its submissions, the Respondent helpfully commented as follows:

... the Commission is conscious of and has reflected upon the comments of Madam Justice McBride, who heard the “relevant action” appeal. The learned Judge stressed that whilst ultimately a decision for the Charity Tribunal, there are certain factors which may be considered supportive of the Charity Tribunal extending time. Those factors are:

I. Orders were made removing Mr Crawford, and others from their role as Trustees of the Charity. From that point Mr Crawford was not empowered to bring a challenge in the name of the Charity.

II. Mr Crawford had challenged the decision of 14 February 2014 from an early stage.

III. In the decision in Hughes and The Attorney General for Northern Ireland v The Charity Commission for Northern Ireland and The Department for Communities [2019] NICh 6, issues that are relevant to the challenge to the decision of 14 February 2014 were before the Court but were not finally determined. See paragraph 33 of the judgment.

23. Fundamentally, the Respondent’s Decision has never been the subject of a hearing on the merits. If the application for an extension of time were refused, there would be no such hearing. As the High Court has noted, there are several substantive issues which have not been determined on the merits. It is also of importance that the Respondent is neutral on the application for an extension.

24. In these circumstances, pursuant to Rule 3 of the Rules, the Tribunal extends time for the making of the application for a review of the Respondent’s Decision.

25. The Tribunal notes that the Respondent has raised the question of costs. The Tribunal will address the question of costs at the end of the hearing of the substantive application.

26. The parties are directed to agree directions, to be filed within 14 days, setting out a timetable to full hearing.

Adrian Colmer KC
02.04.25