

**THE CHARITIES ACT (NORTHERN IRELAND) 2008
THE CHARITIES ACT (NORTHERN IRELAND) 2013
THE CHARITY TRIBUNAL RULES (NORTHERN IRELAND) 2010**

IN THE CHARITY TRIBUNAL FOR NORTHERN IRELAND

**IN THE MATTER OF A REFERENCE PURSUANT TO SCHEDULE 4 TO THE
CHARITIES ACT (NORTHERN IRELAND) 2008**

JOINDER DECISION NOTICE (No. 4)

1. The Charity Tribunal for Northern Ireland ('the Tribunal') issued a Joinder Decision Notice dated 05/09/2022 to the Attorney-General for Northern Ireland ('the Attorney-General') and to each of the Applicants who sought to be joined as parties to the determination by the Tribunal of the Reference made to the Tribunal by the Attorney-General pursuant to paragraph 2(b) to Schedule 4 of the Charities Act (Northern Ireland) 2008 ('the Act'), determining which of the Applicants would be joined as parties and which of the Applicants would not be joined as parties;
2. One of the unsuccessful Applicants for joinder, the Disabled Police Officers' Association Northern Ireland ('DPOANI'), through its Chairperson, Mr. Stephen McAllister, wrote to the Tribunal on 15/09/2022, attaching certain documents, making a fresh application that DPOANI should be joined as a party as it, in common with a number of the successful Applicants for joinder, had been the subject of a Direction Notice in the past, issued by the Charity Commission for Northern Ireland ('the Commission'), pursuant to the Commission having opened a statutory inquiry under the Act into the charity known as DPOANI. Mr. McAllister attached a copy of the Direction Notice dated 14/02/2014 issued to DPOANI. However, no mention of that fact was made in the original application to join DPOANI as a party to the determination of the Reference by the Tribunal. The closing date for applications to be joined as a party was 06/05/2022. DOPANI had made application to be joined as a party but the application was refused. Directions issued by the Tribunal and details of that Reference were published on the JudiciaryNI website on [08/0307/04/2022](#).
3. This second request for joinder on behalf of DPOANI was refused.
4. By application dated 05/0/2023, a third request for joinder on behalf of DPONI was again made by its Chairman, Mr. Stephen McAllister, under cover of a

letter dated 05/01/2023 appointed the representative of DPOANI in respect of this further renewed application that DPONI be joined as a Respondent to these Reference proceedings brought by the Attorney-General, the Tribunal does not require solicitors to be authorised in writing by a party, or potential party, as that party's representative (unlike the position where a party is not represented by solicitors).

5. The Original Joinder Decision Notice dated 05/09/2022 issued by the Tribunal explained, in considerable detail, the nature of the determination of a Reference by the Tribunal and how the Tribunal approached its decision on joinder. Crucially, determination by the Tribunal of a Reference is a determination of a hypothetical question and is not concerned with the individual rights or interests of any particular Applicant for joinder as a party to that determination. Further, the meaning of a 'person affected' in the context of the determination of a Reference by the Tribunal has a completely different meaning to that of a 'person affected' in the context of an appeal against a decision of the Commission, or an application for review of a decision of the Commission.
6. It is understandable that the nature of the determination of a Reference by the Tribunal and the meaning of a 'person affected' in that context, may be confusing since Reference proceedings are a very novel and unusual form of legal proceedings, unique to charity law. It is an extremely rarely used procedure in any of the United Kingdom legal jurisdictions and this is the first time it has been invoked in Northern Ireland.
7. The Tribunal, in its said original Joinder Decision adopted what could be regarded as an overly-expansive view of which of the Applicants for joinder should be joined as parties. However, the original joinder application of DPOANI application for joinder, did not reach even that level to be joined as a party to the determination of the Reference by the Tribunal.
8. To now permit DPOANI to be joined as a party to the determination of the Reference by the Tribunal would raise a grave risk of unfairness to other potential Applicants and, in essence, would require the entire procedure to date to be aborted and re-commenced. This would simply be contrary to the interests of justice and the obligations imposed on the Tribunal pursuant to Rule 3 of the Charity Tribunal Rules (Northern Ireland) 2010 ('the Rules').
9. The determination of the Reference is listed for hearing, remotely, by WebEx, on Friday, 10/02/2023 at 10.00am.
10. However, as stated in the original Joinder Decision Notice, all seven applicants for joinder, included unsuccessful applicants, of whom DPOANI was one, were at liberty to furnish written submissions, strictly confined to the issues for determination in respect of this Reference. This approach was decided by the Tribunal as being possible, on a liberal interpretation of the provisions of Rule 29 of the Rules. However, any such written submissions were required be furnished by 4.00pm on Friday, 23/09/2022, a deadline that has now passed.

11. Having given careful consideration to this third application by DPOANI to be joined as a Respondent to these Reference proceedings brought by the Attorney-General, this latest application is refused for the same reasons set out in the two previous decisions on the same application brought by DPOANI, both also refused. There is nothing new in this latest third application that will permit the Tribunal, in the interests of justice, to permit DPOANI to be joined a Respondent outside the time permitted to make application for joinder.

Signed

A handwritten signature in black ink, appearing to read 'Damien J. McMahon', written in a cursive style.

Damien J. McMahon
President

Date: 13 January 2023