

**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**

DIRECTIONS NOTICE

WHEREAS a Reference pursuant to paragraph 2(b) to Schedule 4 of the Charities Act (Northern Ireland) 2008 ('the Act') having been made to the Charity Tribunal for Northern Ireland ('the Tribunal') by the Attorney-General for Northern Ireland ('the Attorney-General') on 01/12/2021

AND WHEREAS Directions and details of that Reference having been published on the JudiciaryNI website on 08/03/2022;

AND WHEREAS a number of applications were received from persons wishing to be joined as parties to the determination by the Tribunal of the said Reference in response to Tribunal Directions published on 07/04/2022;

AND WHEREAS written submissions were provided by the Attorney General in response to Tribunal Directions dated 09/05/2022;

AND WHEREAS the Tribunal issued a Decision Notice dated 05/09/2022 ruling on the said applications for joinder;

IT IS DIRECTED THAT

1. A submission agreed by all parties (the Attorney-General and those applicants permitted to be joined as parties to the Determination of the Reference by the Tribunal) on whether the hearing should be determined on the papers alone, or be determined remotely, by WebEx, or be determined in a face-to-face hearing shall be filed with the Tribunal by 4.00pm on Friday, 16/09/2022. If agreement cannot be reached each party shall file its own submission with the Tribunal by that date and time.

2. If a party requests a face-to-face oral hearing, rather than an oral hearing by video by WebEx, or determination of the Reference on the papers it must explain in detail why it considers that necessary since Reference proceedings are a novel legal process, probably unique to the charity law jurisdiction, the statutory intention of which behind the creation of a declaratory jurisdiction such as the Reference procedure is only, as in this case, to enable the Attorney-General to seek the ruling of the Tribunal on, essentially, a hypothetical question of general law pertaining to charities in Northern Ireland. The Act provides only for a limited class of those intimately involved in the subject matter of the Reference to be joined as parties – at the discretion of the Tribunal. Reference proceedings are not intended to be adversarial.
3. If any party (the Attorney-General or any of the five additional parties now joined to these Reference proceedings, wish to make further written submissions, that must be strictly confined to the subject-matter of the Reference and nothing else, such written submissions must be received by the Tribunal by no later than 4.00pm on Friday, 23/09/2022.
4. Similarly, if either of the two applicants for joinder, whose applications have been refused wish to make any written submission on the specific subject-matter of the Reference, and nothing else, and not in respect of the joinder decision, they are at liberty to do so, by no later than 4.00pm on Friday, 23/09/2022, pursuant to Rule 29 of the Rules.
5. The crucial issue for determination will be the meaning to be given to the phrase *'likely to be affected'*. The legislature cannot have intended that these provisions be construed widely enough to include other persons with an indirect interest in proceedings of this nature. The phrase *'likely to be affected'* falls to be considered and interpreted on a different basis in the context of the determination of a Reference than the consideration and interpretation of that phrase in the context of an appeal or an application to review a decision of the Charity Commission for Northern Ireland. There is unlikely to be any persuasive reason why determination of the Reference would require a face-to-face oral hearing or, indeed, any hearing, and that the determination of the Reference can be properly and appropriately done on the papers alone.
6. The Attorney-General shall provide the Tribunal with a hearing bundle for the determination of the Reference no later than 4.00pm on a date 14 days before the date fixed to determine the Reference.
7. Determination of the Reference shall be made by the President of the Tribunal sitting alone.
8. The time estimate for any hearing, should there be a hearing, is two hours.
9. The parties shall use their best endeavours to bring this matter to hearing, if there is to be a hearing, during the listing window of October 2022, excluding, if possible, 5, 6, 10,12, 13,17 and 25/10/2022, due to other judicial commitments involving the President on those dates.

Signed

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

Damien J. McMahon
President

Date: 5 September 2022