

**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**

The Charity Tribunal for Northern Ireland

Application Reference: 1/22

Sitting in Chambers

BETWEEN

DISABLED POLICE OFFICERS' ASSOCIATION NORTHERN IRELAND

Applicant

-and-

THE CHARITY COMMISSION FOR NORTHERN IRELAND

Respondent

DIRECTIONS NOTICE

WHEREAS the Applicant, through its joint authorised representatives, Robert Crawford and Trevor McKee, by way of an application for review dated 15/04/2022, received by the Tribunal on 20/04/2022, applied for review of a decision dated 14/02/2014 made by the Respondent to institute a statutory inquiry into the Applicant, a decision made pursuant to section 22 of the Charities Act (Northern Ireland) 2008 ('the 2008 Act').

AND WHEREAS the said decision is now stated by the Applicant to be a 'relevant action' within the meaning of section 1 of the Charities Act (Northern Ireland) 2022 ('the 2022 Act') that provides for refreshed appeal rights (that includes an application for review), including allowing an appeal to be made to the Tribunal within 91 days of the coming into operation of the 2022 Act, that is, 91 days from 30/03/2022.

AND WHEREAS the Applicant also applied for a Direction pursuant to Rule 3 and Rule 14 of the Charity Tribunal Rules (Northern Ireland) 2010 ('the 2010 Rules') that a preliminary hearing be held by the Tribunal to consider –

- (1) whether a lawfully constituted committee of, presumably, the Respondent in accordance with paragraph 9 to Schedule 1 of the 2008 Act, took the said decision on 14/02/2014 to institute a statutory inquiry into the Applicant; and
- (2) if no such committee existed, whether the said decision was, therefore, *ultra vires* the powers of the Respondent and, accordingly, void.

AND WHEREAS the Respondent, by correspondence dated 10/06/2022, received by the Tribunal on that date, denied that the said decision, the subject of this application, was a 'relevant action', pursuant to the 2022 Act as it was not a decision made, or purported to be made, by a member of staff of the Respondent and, instead, was a decision made by a committee comprising three Commissioners of the Respondent, and that, therefore, fresh appeal rights, as envisaged by the 2022 Act, do not arise and the application is, therefore, out of time. The Respondent further submitted, in those circumstances, that a preliminary hearing to determine whether the said decision was made by a lawfully constituted committee was not required since it was of no consequence, in any event, whether or not the committee of Commissioners of the Respondent was properly convened as the provisions of section 1 of the 2022 Act only apply to a 'relevant action' taken by staff of the Respondent and not to decisions taken by Commissioners of the Respondent. Accordingly, the Respondent, too, applied for a Direction, presumably pursuant to Rule 3 of the Rules, that the Tribunal require the Applicant to request a direction under Rule 3 to extend time in which to bring the application, time to do so having expired pursuant to Rule 17(8) of the Rules. The Respondent declined to furnish its Response until the Tribunal made a decision on its submission to that effect.

AND WHEREAS by letter dated 11/07/2022, sent by email on that date to the Tribunal, but not copied to the Respondent, the authorised representatives of the Applicant submitted, *inter alia*, that Rule 18 of the Rules required the Respondent to submit its Response within 28 days of being sent the papers by the Tribunal but had failed to do so but instead, on 10 June 2022, made an application seeking the making of a Direction to the Applicant by the Tribunal. The Applicant's representatives advised that the Applicant had made certain observations to the Respondent on 15/06/2022 on the position adopted by the Respondent, but had received no acknowledgement of this. Those representations were not copied to the Tribunal. The Applicant's representatives submitted that in the absence of any permission from the Tribunal to apply any longer timescale, the Respondent was in breach of its statutory obligation pursuant to Rule 18(2) of the Rules.

AND WHEREAS the Attorney-General for Northern Ireland ('the Attorney-General'), by letter dated 19/07/2022 from her solicitor, to the Respondent, copied to the Tribunal, declined to participate in these proceedings (meaning, presumably, that she declined to join the proceedings as an Intervening Party), but would be willing to assist the Tribunal if required, a role governed by Rule 23 of the Rules.

IT IS HEREBY DIRECTED AS FOLLOWS:

1. A remote oral Directions hearing shall take place to determine the applications brought by each party for a Direction in respect of the respective matters set out above.

2. The preliminary hearing shall take place orally using the WebEx platform, on Monday, 17/10/2022, at 2:00 pm, and is listed for one half day.
3. The Attorney-General is invited to assist the Tribunal in determining the parties' respective applications for Directions, having regard to the position taken by each in respect of this novel area of charity law in Northern Ireland consequent on the enactment of the 2022 Act (and, for her convenience, a copy of this Notice is sent to her) and is invited join the Directions hearing.
4. The following Directions are made in connection with the Directions hearing.

Bundle of Documents

5. The parties shall agree a consolidated bundle of documents to be used at the preliminary hearing that shall be lodged with the Tribunal by the Respondent, copied to the Appellant and the Attorney-General, by no later than 4:00pm on Monday, 10/10/2022.

Witness Statements

6. The Tribunal does not envisage that either party will furnish witness statements in connection with the matters for determination at the Directions hearing.

Written Submissions

7. The parties may rely on any written submissions they may have already furnished.
8. However, if any party wishes to furnish further written submissions, the Applicant shall exchange same with the Respondent and the Attorney-General, and furnish a copy to the Tribunal, by no later than 4:00pm on Monday, 26/09/2022. The Respondent may reply to such further written submissions, and/or may make any additional written submissions of its own, by email, furnishing a copy to the Tribunal and the Attorney-General, by no later than 4:00pm on Monday, 03/10/2022.
9. Within 7 days of the date of this Notice, the parties shall confirm whether it is their respective understanding that the issue of whether a statutory inquiry into the Applicant, pursuant to a decision made by the Respondent on 14/02/2014 has already been the subject of a judicial determination by the Tribunal, or other judicial authority and, if so, whether the legal doctrine of *res judicata* might apply in respect of this instant application. The Attorney-General is specifically invited to comment on that aspect to the Tribunal and copy such comment to the parties.
10. Within the same time period, the Applicant is directed to furnish the Tribunal with a copy of its representations dated 15/06/2022 made to the Respondent consequent on the Respondent's submissions and application to the Tribunal dated 10/06/2022 and the Respondent, also within that time period, shall furnish the Tribunal with any reply made thereto.

Bundle of Authorities and Statutory Materials

11. The parties shall agree a bundle of authorities and statutory materials, that shall be prepared by the Respondent. The bundle shall be lodged with the Tribunal, copied to the Applicant and the Attorney-General, by no later than 4:00pm on Monday, 10/10/2022.

Other

12. The parties shall be at liberty to apply to vary these Directions or to apply for further Directions provided such application is in writing, by email, setting out the full reasons for the application and, where applicable, in advance of the time limit for complying with the Direction.

13. The parties are reminded of their statutory duty to co-operate with each other and the Tribunal at all times. They are directed to ensure, at all times, that any correspondence from either to the Tribunal, is copied to the other party and to the Attorney-General in this case.

Signed



Damien J. McMahon
President,
Charity Tribunal for Northern Ireland.

Date: 30 August 2022