

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

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**IN THE CHARITY TRIBUNAL FOR NORTHERN IRELAND**

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

**DIRECTIONS**

1. A Reference, attached to a Notice dated 07/03/2022 issued by the Tribunal pursuant to paragraph 2(b) to Schedule 4 of the Charities Act (Northern Ireland) 2008 ('the Act'), was made to the Charity Tribunal for Northern Ireland ('the Tribunal') by the Attorney-General for Northern Ireland ('the Attorney-General') on 01/12/2021. The Reference was published by the Tribunal.
2. The Reference sets out a statement of the question being referred; the reason for the Reference; a statement of what is stated by the Attorney-General to be the relevant law and a list of other parties whom the Attorney-General thinks may be affected by the Reference and why they may be affected. The Attorney-General expressed a view that only one person, Mr. Trevor McKee, may be affected by the subject of the Reference. The Attorney-General declined to express a view on whether any of the other Respondents, joined to these proceedings by a Decision of the Tribunal dated 03/09/2022, on their application of each to be so joined, may be affected by the subject of the Reference.
3. The Attorney-General, pursuant to paragraph 2(2) to Schedule 4 of the Act is a party, a Respondent, to these proceedings, by reason of having brought the proceedings, together with those other Respondents joined in that capacity by the said Decision of the Tribunal.
4. Reference proceedings can only be brought to the Tribunal either by the Attorney-General, as in this case, or by the Charity Commission for Northern Ireland ('the Commission') to ask the Tribunal, in the case of a Reference made by the Attorney-General, a question that involves either the operation of charity law in Northern Ireland in any respect, or the application of charity law in Northern Ireland. Reference proceedings cannot determine a matter of charity law in respect of an individual who considers that they may have been

aggrieved by a decision of the Commission: such matter can only be considered by such individual bringing an appeal or application for review of a reviewable matter, as the case may be, to the Tribunal.

5. The Commission was specifically notified by the Tribunal of the making of the Reference by the Attorney-General pursuant to Rule 38(5)(c) of the Rules. The Commission declined to be joined as a Respondent.
6. The following Directions are made by way of Case Management and timetabling of a hearing to determine the Reference.

### **Listing**

7. These proceedings are listed for substantive hearing for up to one day only on Friday, 10/02/2023, by way of a remote video hearing by the WebEx remote video platform, commencing at 10.00, before a Tribunal comprising solely of the President, sitting alone. The Respondents, and each of them, are directed to use their best endeavours to ensure that this time scale will be strictly adhered to by them and to co-operate with each other and the Tribunal in that regard. The Respondents, and each of them are, and always were, required to liaise with each other concerning procedural matters; to identify and clarify the issues; to agree a course of action; to identify and agree any additional directions required before referring to the Tribunal. This requirement was previously directed by the Tribunal on a number of occasions in the context of these proceedings. It is intended that the determination of these proceedings will now be in accordance with these Directions.
8. The Tribunal may, by statute, give Directions of its own initiative. Having regard to Direction 20 of these Directions, there is nothing to be gained, in the interests of the Respondents, and each of them, and in the interests of a just, expeditious and economical determination of the substantive proceedings, in convening a separate oral Directions hearing in advance of the substantive hearing and determination.

### **Issue for Determination**

9. The sole issue in these proceedings is the determination by the Tribunal of the referred question of charity law, thought to be of general applicability in Northern Ireland, requested of the Tribunal in the Reference made by the Attorney-General. The Tribunal, in these proceedings, will not make a Decision in respect of any Respondent who may be aggrieved, on a personal basis, by any decision of the Commission made at any time. The determination of a Reference by the Tribunal does not extend to making any such Decision.

### **Role of Tribunal**

10. In case of the joined Respondents, who are either not represented at all, or are not legally represented, that is by solicitor or counsel, the Tribunal will consider the subject-matter of the question raised in the Reference and make its own decision on that question.

## **Procedure at Hearing**

11. In further ease of the joined Respondents, the hearing shall proceed in the following manner: the representative of the Attorney-General shall put her case first, followed by each of the joined Respondents in the order in which they each made application for joinder where such application was accepted by the Tribunal. The Tribunal may well have questions for each of the Respondents at any stage of the hearing. The fact, however, that the joined Respondents are either not represented at all, or do not have legal representation, does not mean that they will be afforded special treatment or latitude, but the Tribunal will keep in mind that they are not represented, or do not have legal representation, and will intervene where appropriate or necessary to ensure the imperatives of a fair hearing, pursuant to section 6 of the Human Rights Act 1998.

## **Witnesses**

12. The determination of these proceedings will be by way of legal submissions only. Various written submissions have been furnished by some Respondents. These may be supplemented by oral legal submissions by, or on behalf of, the Respondents, and each of them at the hearing. No evidence of facts will be required. Accordingly, no provision is made for the submission of Witness Statements nor is it envisaged that there is any need for oral evidence of facts, as opposed to submissions on the law, to be adduced at the hearing.

## **Observers**

13. The hearing will be a public judicial proceeding. It is open, therefore, subject to the following limitations, if they arise, for any person to join and observe the proceedings remotely. However, no person who is not a Respondent, or a representative of a Respondent, is permitted to actively participate in the hearing, nor may the proceedings be recorded or published by any person, in any manner, under pain of contempt of court. Any person who wishes to attend in an observer capacity shall notify the Secretary to the Tribunal no less than 7 days in advance of the date of the hearing, proving their full identity and the purpose of their intended observation, as it may be necessary that a specific judicial direction will require to be made in this regard in advance of the hearing. The ability to join remotely may also be constrained by issues of the ability of the technology in use to accommodate a particular number of observers. Applications for observer status shall be considered on a 'first come, first served' basis.

## **Consolidated Bundle**

14. A Consolidated Bundle for hearing (not a draft Bundle) shall be prepared by the Attorney-General and served on the joined Respondents by 4.00pm on Monday, 23/01/2023.

15. The Jointed Respondents shall notify the Attorney-General of any additional documents they wish to have added to the Consolidated Bundle by 4.00pm on Friday, 27/01/2023.

### **Final Bundle**

16. The Attorney-General shall furnish a hard copy of the Final Bundle to the Tribunal by 4.00pm on Friday, 03/02/2023.

### **Skeleton Arguments**

17. All Respondents shall exchange their respective skeleton arguments in writing with each other and furnish copies to the Tribunal by 4.00pm on Friday, 03/02/2023.

### **Bundle of Authorities**

18. All Respondents shall serve on the other Respondents, along with their skeleton arguments, a bundle of authorities, statutory or common law, if any, upon which each intends to rely upon the hearing of these proceedings by 4.00pm on Wednesday, 01/02/2023.

19. The Attorney-General shall prepare and serve a Consolidated Authorities Bundle on the joined Respondents and the Tribunal by 4.00pm on Friday, 03/02/2023.

### **Other**

20. Any Respondent has permission to apply to the Tribunal to vary these directions, or seek further directions, provided that such application is made in writing, with agreement having been sought from each of the other Respondents, setting out the full reasons for the application and before the time limit for compliance has been reached.

Signed:

**Damien McMahon,  
President,  
Charity Tribunal for Northern Ireland**

Date: 22 December 2022

