

**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 TO THE  
CHARITIES ACT (NORTHERN IRELAND) 2008**

**RE. RESPONDENT'S NOTICE (MR T. MCKEE)**

**UPON** 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 01/12/2022;

**AND UPON** a number of applications being received from individuals to be joined as a party to the determination of the Reference by the Tribunal;

**AND UPON** the Tribunal having granted a number of applications for joinder in a Joinder Decision Notice dated 05/09/2022;

**AND UPON** the Tribunal issuing Directions dated 05/09/2022;

**AND UPON** reading a Respondent's Notice dated 15/09/2022 from Trevor McKee, one of those joined as a party to the determination by the Tribunal of the Reference, that also includes a request for a Direction pursuant to Rule 3 of the Charity Tribunal Rules (Northern Ireland) 2010 ('the Rules') directed to the Charity Commission for Northern Ireland ('the Commission'), that is not a party to the determination of the Reference by the Tribunal;

1. In Reference proceedings, the only authority who can grant an application from a party to be joined to the determination of the Reference by the Tribunal, a judicial authority, is the Tribunal: the Attorney-General for Northern Ireland ('the Attorney-General'), not being a judicial authority, cannot join a party to the determination of the Reference by the Tribunal. Mr. McKee was joined as a party, on his application, by the Tribunal, not by the Attorney-General.
2. The Commission is not a party to the determination of the Reference by the Tribunal, not did it make application for joinder. Accordingly, the Commission

will not be the subject of a Direction issued by the Tribunal and the application of Mr. McKee in that regard is refused.

3. It is also important, in that context, to remind Mr. McKee, and each of the other joined parties, that the Determination by the Tribunal of a Reference, here made by the Attorney-General, is in an entirely different statutory interpretation context to appeal proceedings brought by a party against a decision of the Commission or an application for review proceedings brought by a party against a decision of the Commission. Reference proceedings are concerned with a referral by, in this case, the Attorney-General, to ask the Tribunal to determine a general point of charity law in Northern Ireland: a Reference *is* on a hypothetical question. Determination of a Reference by the Tribunal does not involve the Tribunal making a decision in respect of any particular decision made by the Commission against any particular party who may feel their legal rights were impugned by such decision or any individual who feels they were personally affected by a decision of the Commission. This entirely different statutory interpretation context between the determination of a Reference by the Tribunal and a decision made by the Tribunal on an appeal or application for review brought by any particular party, particularly where, in either context, that party comes before the Tribunal as a 'person affected' was explained at some length in the Joinder Decision Notice issued by the Tribunal to the AGNI, the successful applicants for joinder to determination by the Tribunal of that Reference and to the unsuccessful applicants for joinder.
4. The Referrer, the Attorney-General, as required, did state in the Reference who she thought might be affected by the Reference and why. The only person mentioned in this context was Mr. McKee. The Attorney-General expressed no opinion on the applications of the other six applicants for joinder to the determination by the Tribunal of the Reference
5. Mr. McKee, being one of the successful applicants for joinder as a party to the determination of the Reference by the Tribunal, filed a Respondent's Notice dated 15/09/2022. This Notice complied with the requirements of Rule 39(2) of the Rules. It seems Mr. McKee sent his Notice to the Attorney-General and, may have also sent it to the other six applicants for joinder.
6. Only the Attorney-General and four of the successful applicants for joinder, whether on their own part or on their behalf by a representative, including Mr. McKee, have filed with the Tribunal what is stated, or what might be construed as, a Respondent's Notice.
7. The Attorney-General has now withdrawn her submission that the substantial Determination of the Reference by the Tribunal should be done on the papers alone without a hearing.
8. The Tribunal will issue further Directions following 23/09/2022 concerning how the Determination by it of the Reference will proceed.

Signed

A handwritten signature in black ink, consisting of a series of connected, wavy loops that resemble a stylized 'D' followed by several smaller, similar loops.

**Damien J. McMahon**  
**President**

Date: 16 September 2022