

## NATURE OF THE ROLE

### LEGAL MEMBER CHARITY TRIBUNAL FOR NORTHERN IRELAND

The Charity Tribunal of Northern Ireland was established in 2010. It comprises a President, two legally qualified members and four lay members.

The Tribunal is the judicial forum to determine substantive matters that come before it by way of appeal or by way of application concerning decisions made by the Charity Commission for Northern Ireland in the exercise of its statutory functions. Proceedings may also come before the Tribunal by way of reference from the Attorney-General for Northern Ireland (or from the Charity Commission with the consent of the Attorney-General). The Attorney-General is at liberty to intervene in any proceedings before the Charity Tribunal at any time and has done so on two occasions.

Appeals are by way of re-hearing, while applications are determined in accordance with judicial review principles. References do not involve substantive discrete matters of dispute but, instead, involve the Tribunal expressing a view on a general point of charity law in Northern Ireland on the subject matter of the reference. There have been no appeals nor references to date: so far all proceedings before the Tribunal have been by way of applications, the first proceedings coming before the Tribunal in 2013.

The Tribunal is somewhat unique in having a specific role to determine points of law in particular circumstances.

The purpose of the Tribunal is to provide low cost, swift access to justice and to develop a body of quality jurisprudence in charity law in Northern Ireland. Proceedings before the Tribunal have, however, proved to more formal than in many other Tribunals. Proceedings can be complex, high value and have a high profile.

The composition of the Tribunal in any particular hearing is determined by the President. This can vary. For example, a matter might be determined by the President or by one of the legally qualified members sitting alone, or by the President sitting with one of the legally qualified members and/or one or more of the lay members, or the President or one of the legally qualified members sitting with two lay members (The Tribunal in any particular proceedings must not exceed three members in total). The President, or one of the legally qualified members, will always chair a Tribunal hearing and be responsible for the conduct of the proceedings. In addition to substantive matters, the Tribunal will often hold Directions Hearings, some of which are required by legislation.

Almost invariably, Directions Hearings will be conducted by the President or one of the legally qualified members sitting alone. Directions may also be issued, as part of an overall case management function, by way of determination on the papers or by way of a telephone hearing. Any Directions made are written up and published on the Tribunal website.

In general terms, each matter coming before the Tribunal will comprise one Directions Hearing and one substantive hearing, the latter not exceeding one day. A sitting day will not normally involve more than one matter.

By way of illustration a recent matter before the Tribunal by way of application has involved one of the legally qualified members being assigned to deal with a series of interlocutory matters that required a number of Directions Hearings, while the substantive hearing comprised a Tribunal consisting of the President, the same legally qualified member and one lay member.

Once assigned to particular proceedings, whether interlocutory and/or substantive, a legally qualified member, in the absence of involvement in the proceedings by the President, will be responsible for the tasks identified in the Job Description in respect of those proceedings.

These can be summarised as follows:

- liaising with the Secretary of the Tribunal;
- preparing for hearings, whether interlocutory or substantive;
- discussing, on the day of a substantive hearing, the issues with the assigned lay member(s), if any, ensuring there are no conflicts of interest and establishing a framework for the conduct of the hearing;
- to introduce the members of the Tribunal to the parties at the hearing, emphasising the Tribunal's independence, and explaining how the hearing will be conducted (particularly for those who are not legally represented)
- to generally chair the proceedings, ensuring that all relevant matters are fully presented; that the authority and dignity of the Tribunal is preserved ; that the proceedings are conducted fairly, expeditiously and in the interests of justice in accordance with the Tribunal's enabling role (particularly where the parties, or any of them, are not legally represented);
- to take a careful note of the evidence;
- following the hearing, to discuss the evidence with the lay member(s) and agree the facts found, the decision and the reasons for same;
- to draft a written decision, have it considered by the lay member(s) of the Tribunal, sign the decision and arrange with the Secretary to have the decision issued to the parties and published on the website;
- to determine any post hearing interlocutory applications such as an application for leave to appeal to the High Court against the decision of the Tribunal;
- as required by the President from time to time, to contribute to various other activities such as judicial management activities; liaison with Tribunal users and judicial complaints processes;
- to undertake training from time to time.

Hearings will normally be heard in the Tribunal Hearings Centre, The Law Courts, Chichester Street, Belfast and will commence at 10.00am. Where the legally qualified member is sitting with other Tribunal members, the members will meet no later than 9.30am to discuss the

issues arising from the papers, agree an approach to the hearing and to address any factual, legal or procedural matters that may arise.

Currently, the work commitment, in terms of sittings days, is limited. It is not possible to predict if, or when, this will change as any matters coming before the Tribunal will depend on actions taken at any time by the Charity Commission in the exercise of its statutory functions.

The role of a Legally Qualified Member of the Charity Tribunal of Northern Ireland is a most satisfying one and provides an opportunity to contribute to the development of the law in Northern Ireland in a relatively new regime set out in the Charities Acts (Northern Ireland) 2008 and 2013.