



Tribunals Service

Charity Appeals, Reviews and References

# Introduction to the Charity Jurisdiction in the First-tier and Upper Tribunal

Alison McKenna

Principal Judge, First-tier Tribunal (Charity)



## Creation of Charity Tribunal:

- \* Charities Act 2006:
  - (i) low-cost access to justice for charities
  - (ii) develop case law – role of Attorney General
  
- \* Initially established as “stand-alone” tribunal March 2008
  - now part of unified tribunal following TCEA 2007 reforms
  
- \* Consolidation of 1993 and 2006 Acts?



## Jurisdiction (1):

The Tribunal shall have jurisdiction to hear and determine:

- (a) Such appeals and applications as may be made to the Tribunal in accordance with schedule 1C to this Act... in respect of decisions, orders or directions of the Charity Commission; and*



## Jurisdiction (2):

*(b) Such matters as may be referred to the Tribunal in accordance with schedule 1D to this Act by the Commission or the Attorney General.*

(s.2A Charities Act 1993, as amended)



## Jurisdiction (3):

3 types of application:

- Appeals
- Reviews
- References



# Tribunals Courts and Enforcement Act 2007

- First-tier and Upper Tribunal divided into “Chambers”
- Created generic two-tier Tribunal: First-tier and Upper Tribunal
- Charity Tribunal is a “hybrid” jurisdiction i.e. transferred jointly to First-tier (General Regulatory Chamber) and Upper Tribunal (Tax and Chancery Chamber) - permits “fast-tracking” of cases



# Tribunals Courts and Enforcement Act 2007

- Procedure: The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009
- See <http://www.tribunals.gov.uk/Tribunals/Documents/Rules/GRCRulesConsolidated.pdf>
- Onward Appeals:  
Upper Tribunal; Court of Appeal; Supreme Court – point of law/with permission



# Administration

- Tribunals Service: an Executive Agency of the Ministry of Justice.
- Appeals administered by Tribunals Operational Support Centre in Leicester.
- Target: 75% of cases to be completed in 30 weeks.
- Hearing venues throughout England and Wales.



# Appeals (1)

- Appeals against CC decisions, orders or directions in column 1 of Schedule 1C Table
- Parties: AG or “any person specified in column 2 of the Table”. CC is respondent.
- Tribunal Powers: in column 3 of the Table.



# Appeals (1)

Schedule 1C paragraph 1(4):

“In determining such an appeal the Tribunal –

- (a) Shall consider afresh the decision...appealed against, and
- (b) May take into account evidence which was not available to the Commission”.



TABLE

1	2	3
<p>Decision of the Commission under section 3 or 3A of this Act—</p> <p>(a) to enter or not to enter an institution in the register of charities, or</p> <p>(b) to remove or not to remove an institution from the register.</p>	<p>The persons are—</p> <p>(a) the persons who are or claim to be the charity trustees of the institution,</p> <p>(b) (if a body corporate) the institution itself, and</p> <p>(c) any other person who is or may be affected by the decision.</p>	<p>Power to quash the decision and (if appropriate)—</p> <p>(a) remit the matter to the Commission,</p> <p>(b) direct the Commission to rectify the register.</p>



## Reviews (2)

- Review where no right of appeal : matters in Schedule 1C paragraph 3(2) and (3).
- Includes: decision to open a s.8 inquiry; decision not to make orders under ss.26,36,38 of 1993 Act.
- Parties: AG or “any person specified in column 2 of the Table”. CC is respondent.



## Reviews (2)

*“...the Tribunal shall apply the principles which would be applied by the High Court on an application for judicial review”.*

- Tribunal Powers: dismiss application or exercise powers in column 3 of the Table.
- Remit: generally or in accordance with a finding or direction made by the Tribunal.



# AG's Role

- References
- Applications
- Interventions
- Assistance to the Tribunal



## References (3)

AG (or CC with consent of AG) can refer to the Tribunal questions involving the operation of charity law in any respect or the application of charity law to a particular state of affairs.



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## Charity Appeals, Reviews and References

Charity Tribunal Current Cases, as at:

30th September 2010

Case Number	Appellant	Date Received	Type	The Charity Commission's Decision Reference	Other interested Parties	Current Status	Hearing Details	Neutral Citation Number	Performance against 30 week disposal aim.	Appeal
CRF/2010/0001	Her Majesty's Attorney General	28/09/2010	Reference			Referral Received				
CA/2010/007	Catholic Care (Diocese of Leeds)	28/09/2010	Appeal	Catholic Care Decision 21 July 2010		Awaiting response from The Charity Commission				
CA/2010/0008	Mr Christopher Lasper	23/08/2010	Appeal	C-286046-W29C (appeal in respect of The Town Field)		Received Response				
CA/2010/0006	Ms Pat Cumbers	09/08/2010	Appeal	LC/222142-C-291733 (appeal in respect of Melton Mowbray Town Estate)		Appeal struck out pursuant to Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009			5 Weeks	



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## Charity Appeals, Reviews and References

Charity Tribunal Current Cases as at:

30<sup>th</sup> September 2010

CA/2010/0004	Mr Philip Donald Moss	26th July 10	Appeal	LC/222142 - C - 281733/ Cser (appeal in respect of Melton Mowbray Town Estate)	Appeal struck out pursuant to Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009		7 Weeks	
CA/2010/0003	Mr Basharat Hussain	15-Jul-10	Appeal	RB/269886/C-279147/AU (appeal in respect of Imamia Mission London UK)	Appeal Closed : Transferred to the Administrative Court Office, Royal Courts of Justice		3 weeks.	
CA/2010/0002	Professor Leon Poller	14-May-10	Appeal	HMID-278629/FDT (appeal in respect of Manchester and District Home for Lost Dogs Ltd)	Appeal struck out pursuant to Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009		3.0 weeks	
CA/2010/0001	Mr Geoffrey Morris	10-Mar-10	Appeal	00940037 (appeal in respect of Romsey Public Walk and Pleasure Ground)	Appeal struck out pursuant to Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009		2.7 weeks	No
CA/2009/0004	Eyob Ghebre-Sellassie, African Aids Action	06-Nov-09	Appeal	010/2009 (appeal against decision not to discharge an order following a review under s.18(13) of the 1993 Act)	Permission to appeal to the Upper Tribunal is Granted		13.7 weeks	Permission Granted



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## Charity Appeals, Reviews and References

Charity Tribunal Current cases as at: 30<sup>th</sup> September 2010

CA/2009/0002	Lennox Patrick Ryan	06-May-09	Appeal	005/2009		Part Allowed		[2009] UKFTT 377 (GRC)	27.9 weeks	No
CA/2009/0001	Derek Maidment	24-Apr-09	Appeal	005/2009		Part Allowed		[2009] UKFTT 377 (GRC)	29.4 weeks	No
CA/2008/0003 & CA/2008/004	Father Hudson's Society & Catholic Care (Diocese of Leeds)	04-Dec-08	Appeal	LD0/0944E	Attorney General EHRC	Father Hudson Withdrawn Catholic Care Dismissed		Final Ruling dated 18/09/2009 [2009] UKFTT 378 (GRC) Preliminary Hearing dated 13/06/09 [2009] UKFTT 304 (GRC)	19.8 week & 25.6 weeks	<a href="#">High Court Link HERE</a>
CA/2008/0001	Nagendram Seevaratnam	06-May-08	Appeal	67/2008	Attorney General	Allowed		Final Decision dated 13/10/08 [2009] UKFTT 376 (GRC) Ruling on Costs dated 10/12/08 [2009] UKFTT 303 (GRC)	75.6 weeks	No



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# Any Questions?

Alison McKenna  
Principal Judge