

## **THE NATURE OF THE ROLE OF THE LEGAL CHAIR OF THE CARE TRIBUNAL**

The Care Tribunal of Northern Ireland was established under the provisions of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. The Care Tribunal hears appeals against decisions relating to the regulation of independent health care providers, residential care, nursing and children's homes, nursing agencies and as well as decisions prohibiting or restricting the employment of individuals teaching or caring for children or vulnerable adults and decisions concerning the registration of social workers.

Appeals are heard as and when they arise.

The members of the Care Tribunal are appointed by the Northern Ireland Judicial Appointments Commission and are fee-paid. There are two Legal Chairs of the Care Tribunal and a panel of lay members.

Appeals are heard by a Legal Chairperson and two lay panel members who will have knowledge and experience relevant to assist their consideration of a particular case. Directions hearings are conducted by the Legal Chair sitting alone.

The jurisdiction of the Care Tribunal in Northern Ireland is akin to that of the Upper Tribunal (Administrative) in England and Wales. The Care Tribunal deals with a variety of high-stakes, sensitive and often complex appeals which raise issues around the protection of vulnerable groups and an individual's right to pursue a chosen career. The Care Tribunal has a lighter workload than some other Tribunals but deals with a wide range of appeals from different sectors of the care industry.

Some examples of appeals to the Care Tribunal:

- A residential care home, who is appealing a decision of the Regulation & Quality Improvement Authority relating to their registration to operate their facility;
- A social worker or social care worker who is appealing against a decision of the Northern Ireland Social Care Council to cancel their registration, thereby impacting their ability to work with vulnerable adults or children;
- A youth worker seeking leave to appeal the decision of the Disclosure & Barring Service to place their name on either the Barred list for Children or Vulnerable Adults (or both), prohibiting them from engaging in regulated activity with said group;

Some appeals are by way of full re-hearing, others are limited in scope by statute and some require leave to appeal. The practice and procedures of the Care Tribunal are governed by the Care Tribunal Regulations (Northern Ireland) 2005, as amended. These rules provide for formal structures and processes for the Care Tribunal, however, the practice and procedure of can be less formal than the ordinary courts and is set by the Chairperson. A sitting day will not normally involve more than one appeal.

The length of an individual hearing will vary depending on the issues which arise, but they can range from one to several days. The Appeals are heard mainly in Belfast but may be required to sit at other venues in Northern Ireland.

### **The role of the Legal Chair**

Once an appeal has been lodged, the papers relating to the appeal are forwarded to one of the two Legal Chairs, who consider the papers, identify any legal issues and schedule a preliminary directions hearing, if needed. The Legal Chair sits alone for directions hearings, at which the parties are represented or present, and directions are issued for the expeditious determination of the appeal. This usually includes deciding any interlocutory applications, for example making orders for discovery, witness summons or orders restricting publication of details of the appeal or for the exclusion of press from the Appeal Hearing. The Chair will also make case management directions for the provision of witness statements, evidence, skeleton arguments on any legal issues arising and the filing of Appeal Bundles and the listing of the Appeal Hearing. In advance of the Appeal Hearing, two lay panel members are allocated to the appeal and sent the Appeal Bundle. The Legal Chair and panel members will be required to read and assimilate the information contained within the Appeal Bundle, in preparation for the hearing.

The Legal Chair will be required to be familiar with the relevant statutory provisions and case law and to use their knowledge and expertise to advise the Tribunal on matters of law, to ensure in each case the most expeditious dispatch of business compatible with the interests of justice, to preside over the hearing, ensuring the participation of all parties including those not legally represented, to maintain the authority and dignity of the Tribunal, to participate fully in the decision-making process and to keep a record of the proceedings and draft the reasoned decision. Decisions are not delivered on the final day of hearing but are reserved and issued in writing thereafter. Decisions of the Care Tribunal are usually published on the Judiciary Northern Ireland website.

It is the responsibility of the Legal Chair to provide legal expertise by producing and disseminating high quality jurisprudence and to issue practice directions and guidance as needed, to ensure the efficient and smooth running of the Tribunal. The Legal Chair is responsible for the case management of their own allocated appeals. This provides some freedom in terms of managing their own diary and balancing the commitments of the Care Tribunal alongside other commitments.

As well as the judicial function, the Legal Chair is required to develop effective working relationships with the other members of the Tribunal, the administrative support staff and representatives of the parties to the proceedings. Unlike some other Tribunals, there is no President of the Care Tribunal and therefore the two Legal Chairs are required to contribute to various judicial management activities, such as liaison with Tribunal users and judicial complaints processes, overseeing the training and appraisal of lay members, and liaison with the NICTS management and the Department of Justice on policy, legislative, and administrative matters affecting the Care Tribunal.

The Care Tribunal is supported by the Secretary to the Care Tribunal and administrative support is provided by the Northern Ireland Courts and Tribunals Service.

The role of Legal Chair of the Care Tribunal provides a challenging but rewarding opportunity to shape an important aspect of the safeguarding and protection of vulnerable groups in society. This role requires a high level of legal expertise to handle significant and complex cases, delivering just and timely decisions. Whilst the Care Tribunal's visibility may be lower than that of some other Tribunals, due to fewer appeals, the impact of its work remains substantial, contributing to the clarity and development of the legal landscape.

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