

References – Some Questions and Answers

What is a “Reference”?

The Charities Act 1993 (as amended by the Charities Act 2006) allows the Attorney General (or the Charity Commission with the Attorney General’s consent) to “refer” certain questions of charity law to the Tribunal for a ruling.

“Charity law” is defined for these purposes in Schedule 1D paragraph 7 of the 1993 Act – see the “Rules and Legislation” section of this website - <http://www.charity.tribunals.gov.uk/ruleslegislation.htm>

“References” are therefore a different type of case for the Tribunal. They differ from an Appeal or an Application for Review (which are usually brought by a charity or a trustee or a beneficiary of a charity) in that they involve general questions of charity law rather than the consideration of a specific decision direction or order made by the Charity Commission.

What is the Law Governing “References”?

The relevant law in relation to references is contained in section 2A(4)(b) of the Charities Act 1993 and in Schedule 1D to the Act. Both are available in the “Rules and Legislation” section of this website - <http://www.charity.tribunals.gov.uk/ruleslegislation.htm>

What are the Procedural Rules concerning References?

The relevant procedural rules governing references are The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended). In particular, rule 26(4) provides that:

- “(4) If the notice of appeal relates to a reference under Schedule 1D of the Charities Act 1993—*
- (a) if the appellant is the Charity Commission, it must send evidence of the Attorney General’s consent to the reference with the notice of appeal; and*
 - (b) on receiving the notice of appeal the Tribunal must publish details of the reference and information as to how a person likely to be affected by the reference can apply to be added as a party to the proceedings”.*

You can view the Rules here

<http://www.charity.tribunals.gov.uk/documents/GRCRulesConsolidated.pdf>

Who is the Attorney General?

The current Attorney General is Dominic Grieve QC MP. More information about the Attorney General is available at <http://www.attorneygeneral.gov.uk/Pages/default.aspx>

How will I know if the First-tier Tribunal (Charity) has received a Reference from the Attorney General or the Charity Commission?

If and when a reference is received, it will be entered into the Register of Cases on this website. See <http://www.charity.tribunals.gov.uk/registerofcases.htm>

Can I get involved in the Reference?

The Tribunal can give permission for

- (a) the charity trustees of any charity which is likely to be affected by the Tribunal's decision on the reference;
- (b) any such charity which is a body corporate; and
- (c) any other person who is likely to be so affected, to be joined as a party to the reference proceedings.

There is no set procedure for applying to be joined as a party, if you think you fall into one of the categories above you can write to the following address, asking to be joined as a party to a reference. You will need to explain how you are likely to be affected by the Tribunal's decision on the reference. The Tribunal will then consider whether to give you permission to join as a party. Write to:

The First-tier Tribunal (Charity)
Tribunals Operational Support Centre
PO Box 9300
Leicester
LE1 8DJ
Telephone: 0845 6000 877
Fax: 0116 294 4253

E mail CharityTribunal@tribunals.gsi.gov.uk

If you are considering applying to be joined as a party to a reference, we would suggest you read our guidance on where you can obtain legal support, whether you might have to pay any costs and general information about hearings- see <http://www.charity.tribunals.gov.uk/formsguidance.htm>.