

## **Retired (Fee-Paid) Chairman of the Care Tribunal Kenneth Irvine**

Kenneth Irvine was appointed Part Time Chairman of the Care Tribunal in 2005. He also had a similar role in the Appeal Tribunals.

The Care Tribunal is set up to hear appeals against decisions in relation to the Regulation and Quality Improvement Authority relating to the regulation of residential care homes, nursing homes, children's homes, nursing agencies and independent health care providers and other care services; decisions prohibiting or restricting the employment of individuals teaching or working with children, or working with vulnerable adults, or decisions concerning the registration of social workers.

It was established under the provisions of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and its proceedings are carried out in accordance with the Care Tribunal Regulations (Northern Ireland) 2005 (No. 178) as amended.

Appeals are heard, as and when they arise.

With 40 years experience in private practice as a solicitor specialising in non-contentious construction work, Kenneth commenced his gradual retirement from private practice in 2000.

He was involved with Appeal Tribunals work for over 25 years. In this article, he explains how he got involved in the two Tribunal posts; in particular the fee paid Chairman of the Care Tribunal.



## **What attracted you to working in a judicial post?**

While in private practice as a Solicitor, I sat as Chairman of Appeal Tribunals dealing mainly with Disability Living Allowance and Incapacity Benefit (and their predecessors) but also with the whole range of Social Security Benefits. This gave me extensive experience of dealing with members with various other, mainly medical, backgrounds and working as a team in deciding cases.

I commenced working on the Appeals Tribunal over 25 years ago, doing one day a week. Over the years, and since my retirement in 2005, this had grown to a time commitment of 2-3 days a week on average.

Just as I was moving totally out of private practice the Care Tribunal was established and I was asked to be one of its two Chairmen. (I had been Chairman of its two predecessor Tribunals, the Registered Homes Tribunal and the Social Care Tribunal, but, unlike the present body, those Tribunals rarely were called upon.)

## **Was the role in the Care Tribunal what you imagined it would be?**

I found it be a most challenging and rewarding experience. Most cases had been in relation to Child Protection and Vulnerable Adult matters.

We dealt with new law and therefore we had the opportunity to shape the practice and procedure in these important fields. These are challenging because on the one hand we are asked to determine the right of a person to work in their chosen occupation and on the other hand there is the very important matter of protection of the vulnerable.

The non-legal members have a vital role to play in these cases because they have the specialised knowledge of working in the fields under consideration. It is then for the legally-qualified Chairman or woman to guide them through the law and the evidence so that the Decision is ultimately very much a team effort.

The attraction of working part-time as a Tribunal Chair is that it enabled me to continue to exercise my legal skills and to make a contribution to the community while at the same time allowing time for family and relaxation. Tribunals provide great scope for lawyers who wish to continue working in the law but not to be tied to a full-time post to make their contribution in this way.

You're in total control of the time you commit to it. There is a large degree of flexibility with it – this comes from having to schedule hearings two or three months in advance. The normal practice is to call a preliminary hearing which will schedule a date for hearing (avoiding personal commitments, holidays etc!) and work back from there, arranging for the case timetable, disclosure of documents, calling in papers, sharing of evidence, etc. When I had a Care Tribunal hearing scheduled I notified Appeals Service that I was not available to them for that week so there was no conflict between the two posts.

This element of control makes it much easier to achieve a good work/life balance, which is personally very important to me.

### **What did your working day look like?**

It really depended on whether I was involved in a hearing. The length of cases varies but generally it only lasts between one and two days. The Tribunal would normally sit from 10.30 a.m. to around 4 p.m.

Our practice was that we did not make our decision on the last day of the hearing. We always take time to go over all the evidence and then we came together, usually on the following day, to discuss it.

Writing the decision, which is the Chairman's responsibility, can take a full day (or longer).

Prior to the hearing all of the members will have received the full case papers and will be expected to read them beforehand; administrative support is provided by staff from Northern Ireland Courts and Tribunals Service. The Chairman will also have much other work to do, usually from home, such as drafting Directions, Orders, Summonses etc. and also, because the law is relatively new, dealing with novel applications which take time to consider. The reading of the case papers will generally take a day or more (not necessarily all at the one time) and the other matters can vary from fifteen minutes to an hour or two, depending on the complexity.

### **What is the hardest part of your job?**

The legislation can be quite constricting. It would be good if the legislation gave the power to give direct orders to recommend re-training or that individuals should be strictly supervised at work.

At the moment, the legislation is very black and white and if someone is found guilty of misconduct, they may be placed on a "disqualification" list preventing them from working with children, elderly or vulnerable adults.

As you can imagine, not all cases are clear cut and there can be mitigating or contributory circumstances which lead to cases where behaviour falls short.

Some of these circumstances can lead to a Decision that while the person has committed an act of misconduct they are not unsuitable to work with children or vulnerable adults. This can be a difficult issue upon which the Tribunal must exercise its judgment.

**Is the role of Chairman of the Care Tribunal conducive to a good work/life balance?**

Yes. This role allowed me to schedule my time, personal and family commitments. For me, weekends have always been sacred. Another great aspect of this job is that you can switch off. You are not constantly tied to a mobile phone fielding calls from the office...!

**Finally, what part of your job gives you the most satisfaction?**

Being able to exercise your legal abilities, having a good work/life balance and also giving something back to the community.

Further information on the work of the Care Tribunal can be accessed online at [www.courtsni.gov.uk/en-GB/Tribunals/CareTribunal](http://www.courtsni.gov.uk/en-GB/Tribunals/CareTribunal)