

Neutral Citation No: [2019] NIQB 32

Ref: McC10921

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

*Delivered ex tempore:
8/3/2019*

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

No. 18/093214/01

IN THE MATTER OF AN APPLICATION BY WILLIAM DAVID McQUADE
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

McCLOSKEY J

[1] I have considered fully all of the written materials provided by both parties and I have also considered the oral representations made by Mr McQuade, representing himself and by Mr Henry, of counsel, who represents the proposed respondent namely the Upper Tribunal, Administrative Appeals Chamber.

[2] Until today it was not clear to the court that the further hearing ordered by the President of the Upper Tribunal was in effect in a state of moratorium. It has now been made clear that the further hearing, which must as a matter of law take place, can be arranged and would require a minimum of eight weeks for the necessary practical and organisational arrangements to be completed and would not necessarily be heard within a maximum period of eight weeks because of the imponderables involved.

[3] One of the major issues in these judicial review proceedings is whether the Applicant, Mr McQuade, has any sustainable case having regard to the availability of the remedy of a further appeal hearing in the Upper Tribunal. If this court were to make a determination at this stage there is a real possibility that it would rule that the judicial review proceedings are misconceived on that ground and perhaps others. The overriding objective compels the court to adopt what appears to it to be the most practical and efficient course available. I am in no doubt that that course involves the adjournment of these proceedings pending the exhaustion of the appeal remedy available to Mr McQuade.

[4] It is essential to emphasise that this court, being a court of supervisory jurisdiction, is not equipped to provide Mr McQuade with the ultimate remedy which he is seeking. This court can be nothing more than a staging post en route to

the conclusion to which Mr McQuade claims he is entitled. It is therefore abundantly clear that the appeal should proceed and be exhausted.

[5] Whatever the outcome of the appeal it is unlikely that this court will find sufficient merit in the challenge to grant leave to apply for judicial review. However, I make no concluded determination on that issue at this stage having regard to the prevailing uncertainties and imponderables. Accordingly, I adjourn the application for leave to apply for judicial review. I will not activate the direction that I had in mind at an earlier stage since that is rendered otiose by the course which the court is now adopting as the preferable course. The only further direction I will make is that the proposed respondent provide Mr McQuade and the court with a brief update in writing on the progress of the appeal arrangements and that this be undertaken in the first place by 5 April, and with a further report of that kind not later than 14 June or sooner, if appropriate.