



First-tier Tribunal Property Chamber (Residential Property)

Guidance on Rent Cases

General information about the process

This guidance is intended to help parties understand what happens when taking part in an application to the First-tier Tribunal Property Chamber (Residential Property), formerly the Rent Assessment Committee. For advice on how to present your case, or if you need to understand more about the law, you may wish to consult a Citizen's Advice Bureau or a solicitor.

We try to avoid using jargon but if there is anything about our procedures you do not understand please contact the regional tribunal office. Regional office details are at the end of this guidance.

Please note that tribunal decisions will be published on www.residential-property.judiciary.gov.uk/search/decision_search.jsp unless a party makes a written request that this should not be done.

Types of rent cases

There are two types of rents cases, depending on the tenancy involved.

1. Fair rent cases

When a rent officer fixes a fair rent for a property under the Rent Act 1977, either landlord or tenant can lodge an objection to the rent with the rent officer who then refers the matter to this tribunal.

2. Market rent cases

Market rent cases are referred to this tribunal in one of four ways.

- (a) Where the landlord under an **assured**, or **assured shorthold, periodic tenancy** has served a notice on the tenant, under **section 13 of the Housing Act 1988**, proposing a rent increase to take effect at the beginning of a new period of the

tenancy specified in the notice. At any time before the proposed date of increase, the tenant may refer that notice to this tribunal for an assessment by the tribunal of the rent to be payable. The tribunal must receive that application before the date specified in the landlord's notice of increase.

- (b) Where a tenant, under an **assured shorthold tenancy**, is dissatisfied with the rent payable under the tenancy, an application can be made to this tribunal under **section 22 of the Housing Act 1988**, provided it is received within the first six months of the initial tenancy. If the tribunal considers the rent to be significantly higher than could reasonably be expected, the tribunal will determine a market rent for that tenancy.
- (c) Where a **fixed term assured**, or **assured shorthold, tenancy** has come to an end and the landlord or tenant has, by notice under **section 6 of the Housing Act 1988**, proposed new terms for the **statutory periodic tenancy** which has automatically started. The recipient can refer the notice to this tribunal for it to determine the new terms, including rent.
- (d) Where there has been an application to the tribunal under the **Local Government and Housing Act 1989** where a **long lease** at a low rent has expired.

Who does what?

Tribunal members are appointed by the Lord Chancellor. There are two types of member:

- (a) the chairman, who will usually be a lawyer or surveyor, is responsible for the conduct of the case and will write the reasons for the tribunal's decision;
- (b) other members who may be lawyers, surveyors, other professional people or lay people.

When a tribunal is set up to consider the case, there will usually be two or three members including the chairman.

Case officers are the administrative staff who manage the process from start to finish and deal with correspondence. When an application is received, it is the case officer who will register the case and deal with the paperwork and correspondence until the parties have received the final decision. The case officers are able to speak to parties about the procedures relating to the application, but they cannot give legal advice or interpret the tribunal's decision.

What will happen once the tribunal receives the papers?

Unless a party asks for an **oral hearing** (when parties and any witnesses attend a hearing room in person and have their 'say'), the tribunal will arrange for the matter to be dealt with on the basis of submitted documents and all other relevant available evidence which the parties will be invited to provide.

What happens when there is an oral hearing?

In the London region, oral hearings are held at the London regional office. In other regions, the oral hearing could take place at the regional office but is more likely to take place at a venue as near to the property as is practical. In special cases the hearing venue may be the property itself.

A party can speak for themselves or someone else, whether professionally qualified or not, may be permitted to speak for them. A party will also be able to put relevant questions to the other party. The members of the tribunal will try to put people at their ease and will also ask some questions. If anything is unclear during the hearing, parties are encouraged to ask the tribunal for clarification.

Inspections

The tribunal may inspect the property if requested by either party or if the tribunal considers it necessary. A visit is considered necessary in most rent cases, although, if the tribunal is dealing with a number of similar properties at the same time, it may inspect a sample only. A visit will only take place on a date and at an approximate time notified to the parties.

With the permission of the tenant, the landlord is entitled to be present and members of the tribunal will normally want to inspect the inside of the property as well as the outside and any common parts. An inspection will usually be on the day of the hearing, if there is one, and when the tribunal makes its decision.

At the inspection, either party can draw attention to any physical aspect of the property or its surroundings, but may not then say anything further. For example, a damp patch on a wall can be pointed out but not any suggestion made as to why it appeared. 'Representations' (arguments and evidence) will either have been made in writing already or will be made at the oral hearing if one has been requested.

If the members of the tribunal are unable to gain access at the appointed time, they may decide to make another appointment or they may decide that they have sufficient information to go ahead and make a decision.

How will the rent be decided?

In **market rent** cases (assured or assured shorthold tenancies), the tribunal, when determining a rent, will look at the market or 'comparable' rents payable for similar properties in the locality. Parties are encouraged to provide evidence of comparable rents. The tribunal will ignore any improvements by the tenant to ensure that such improvements will not have the effect of inflating the rent.

For **fair rents** (under the Rent Act 1977), the tribunal will first make a similar assessment of the market rent for the property (again ignoring the effect on the rent of any tenant's improvements) and then consider whether there is a scarcity of similar properties in the area. If so, a deduction will be made to reflect that scarcity.

It is important to note that where a fair rent is already registered and an application is made to the rent officer for an increased rent, there is a limit on the amount of any increase. This is sometimes called the rent 'cap' or the 'capped rent'.

It is calculated in accordance with a formula set out in the **Rent Acts (Maximum Fair Rent) Order 1999** which only permits an increase in a fair rent which is linked to the retail prices index (RPI).

Where a landlord has repaired or improved the property to the extent that such change would result in an increase in the rent last registered or confirmed of at least 15%, the 'cap' will not apply.

Council tax is normally paid by the tenant direct and does not come into the assessment. However, if the property is a flat in a 'house in multiple occupation', the landlord will be responsible for the council tax and part of that will be included in the rent.

Service charges

These are sometimes charged by landlords as part of, or in addition to, the rent. They include charges for matters such as gardening, cleaning or electricity in the common parts.

In **fair rent** cases, the tribunal will include the value of such services to the tenant in the rent. However, some tenancy agreements provide that the charge for services may be changed from time to time (usually every 12 months) to reflect changes in the costs of providing the services. If that is the case, the rent officer or the tribunal may register the fair rent as **variable**, in which case the landlord will be able to increase the service charge before the next application for registration of a new fair rent without coming back to the rent officer.

In **market rent** cases, where the tenancy provides for a **variable service charge** (where the amount payable is linked to the cost of the service), the rent determined by the tribunal will not include the charge for services. Thus the service charge will be payable in addition to the rent determined by the tribunal.

In all cases (fair rent or market rent) where there is a variable service charge, an application as to the reasonableness of the charges can be made to the tribunal at any time under the Landlord and Tenant Act 1985 (see separate guidance booklet). This only applies in fair rent cases where the rent has been registered under the 1977 Act as variable.

'Supporting People' charges

If the tenancy provides for payment of 'supporting people' charges, these are normally payable in addition to the rent and service charges. However, the tribunal may decide that some or all of these charges should be included within the service charge.

Shared ownership

Where a tenant has bought a share of the property, the rent will be discounted to reflect that fact (rent will only be payable for the landlord's share).

Decisions and Appeals

The tribunal will send the parties its decision in writing and reasons for the decision will be provided on request. If the tribunal realises that a clerical mistake has been made (such as misspelling a name or address), then it can issue a **correction certificate**.

When the tribunal sends its reasons for decision, the parties will be notified that there is a right of appeal to the **Upper Tribunal (Lands Chamber)** on a point of law and they will receive details about how to appeal.

Tribunal website: www.gov.uk/housing-tribunals/overview

Tribunal booklets/leaflets

Code Description

T540 Guidance on Rent Cases

T541 Guidance on Service Charges, Administration Charges and other Management Issues

T542 Guidance on Enfranchisement

T543 Guidance on Housing Act Cases

T544 Guidance on Park Homes Cases

T545 Guidance on Tenants Associations

T546 Guidance on Right to Buy Cases

T609 Guidance on Appeal

Tribunal Regional Office details

Northern Region

Regional Judge: Simon Duffy

Regional Manager: David Higham

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential Property

1st Floor

Piccadilly Exchange

Piccadilly Plaza

Manchester M1 4AH

Tel: 0161 237 9491

Fax: 01264 785 128

This office covers the following Metropolitan districts: Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

It also covers the following unitary authorities: Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Cheshire East, Cheshire West and Chester, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

It also covers the following counties: Cumbria, Durham, Lancashire, Lincolnshire, Northumberland and North Yorkshire.

Midland Region

Regional Judge: David Jackson

Regional Manager: Claire Jones

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential Property

15th Floor

Centre City Tower

5-7 Hill Street

Birmingham B5 4UU

Tel: 0121 600 7888

Fax: 01264 785 122

This office covers the following Metropolitan districts: Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

It also covers the following unitary authorities: Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

It also covers the following counties: Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

Eastern Region

Regional Judge: Bruce Edgington

Regional Manager: Mark Allbut

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential Property,

Cambridge County Court,

197 East Road

Cambridge, CB1 1BA

Tel: 01223 841 524

Fax: 01264 785 129

DX 97650 Cambridge 3

This office covers the following unitary authorities: Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

It also covers the following counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

London Region

Regional Judge: Tim Powell

Regional Manager: Peter Frost

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential Property

1st Floor

10 Alfred Place

London WC1E 7LR

Tel: 020 7446 7700

Fax: 01264 785 060

This office covers all the London boroughs.

Southern Region

Regional Judge: Michael Tildesley

Regional Manager: Jim May

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential Property

Havant Justice Centre

The Court House

Elmleigh Road

Havant

Hants

PO9 2AL

Tel: 01243 779394

Fax: 0870 7395 900

This office covers the following unitary authorities: Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

It also covers the following counties: Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex, Wiltshire.