



Ministry
of Justice

**Tribunal Procedure Committee
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TPC Response to the consultation on the proposed new Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules – statement in relation to Rule 17

In paragraph 67 of the consultation response, the Tribunal Procedure Committee (TPC) makes reference to the Home Office's policy on withdrawal of the underlying decision; specifically it states that the policy was "*only to withdraw the underlying decision where the intention was to grant the application.*" This was based on information provided to the TPC by the Home Office.

Following publication of the response, the Home Office wrote to the Chair of the TPC, Mr Justice Langstaff, to advise that the information previously provided to the Committee, and which the TPC used to inform their drafting of rule 17(2), was unfortunately incorrect. The Home Office has clarified that its policy was, and remains, to withdraw immigration decisions where the decision is not legally sustainable, regardless of whether the Home Office has an intention or not to grant leave.

Home Office officials have apologised to the TPC for this mistake. The TPC Immigration Sub-group will meet and look again at the issue of withdrawals and will consider if any further action in relation to the rule is necessary. The TPC notes that, where a Home Office decision is withdrawn while an appeal to the Tribunal is pending, the Tribunal has power under the Rules to proceed with the appeal.

**Julie McCallen
(TPC Secretary)**