

New appeal rights or changes to functions with appeal rights

Purpose

1. To provide guidance to policy officers, both within the Ministry of Justice and Other Government Departments, on their role in alerting the Tribunal Procedure Committee (TPC) to any consideration of proposed new appeal rights in the First-tier Tribunal (F-tT) and Upper Tribunal (UT) or changes to functions of a body subject to such appeal rights, so as to ensure that the statutory obligations of the TPC are factored into timing.

Statutory Obligation

2. The TPC was created by the Tribunals, Courts and Enforcement Act 2007 to make and amend rules governing practice and procedure in the F-tT and UT. Power to make Tribunal Procedure Rules must be exercised under the Act with a view to securing that:
 - (a) justice is done in proceedings before the First-tier Tribunal and Upper Tribunal
 - (b) that the tribunal system is accessible and fair,
 - (c) that proceedings before the First-tier Tribunal or Upper Tribunal are handled quickly and efficiently,
 - (d) that the rules are both simple and simply expressed, and
 - (e) that the rules where appropriate confer on members of the First-tier Tribunal, or Upper Tribunal, responsibility for ensuring that proceedings before the tribunal are handled quickly and efficiently.
3. The Act states that before making Rules, the committee must –
 - (a) consult such persons (including such of the Chamber Presidents) as it considers appropriate,
 - (b) consult the Lord President of the Court of Session if the Rules contain provision relating to proceedings in Scotland, and
 - (c) meet (unless it is inexpedient to do so).

Guidance

4. The TPC works on two cycles each year. Any proposed **new appeal rights** or **changes to functions of a body whose decisions are the subject of existing appeal rights** need to be fitted into one or other of those two cycles. These, as with anything else which may affect procedure in the F-tT or UT, should be raised with the TPC Secretariat at the earliest opportunity. When possible to do so, policy officials should informally seek views from Tribunals Policy & New Jurisdictions Team responsible for New Appeal Rights policy in the relevant F-tT and UT jurisdictions. The TPC Secretariat can provide the appropriate contact details. A paper will be required to be submitted to the Overview Planning Subgroup. A template for additions to the TPC's work programme is attached as Annex A.
5. Officials should give the TPC Secretariat a clear idea of the nature of what is proposed (including the geographical jurisdictions involved whether affecting one or more of England, Wales, Scotland or Northern Ireland), how it will work in practice, and the issues that are likely to arise. The TPC Secretariat will assess whether an issue is suitable to raise with the TPC Chairman, who will consider whether the issue warrants full committee discussion. If so, the relevant policy official will be advised by the TPC Secretariat on the production of a paper setting out the issues.
6. Sometimes it may be possible to include appropriate questions on rules as part of the Departmental policy consultation. Departments should discuss the logistics with the TPC Secretariat. A question in the Departmental policy consultation as to rules may reduce the need for a TPC consultation exercise, but this cannot be guaranteed.
7. A TPC consultation will usually be required and conducted under relevant consultation principles. This means that as well as the actual duration of the consultation exercise itself, **any plans must factor in enough time** for:
 - (a) Setting clear objectives for the TPC consultation.
 - (b) Planning consultation activities and identifying stakeholders.

- (c) Carrying out any preliminary, informal consultation to inform the exercise (both in terms of content and practicalities, e.g. how best to reach people).
 - (d) Writing the consultation document and associated documents (NB TPC rules consultations rely on Departmental impact assessments and the TPC secretariat should be informed immediately in the event of any problems)
 - (e) Getting clearance to publish the consultation document.
 - (f) Analysing responses to the consultation and incorporating any appropriate changes into the policy proposal.
 - (g) Giving feedback, including through a report of the consultation, summarising the responses received.
8. On the part of the TPC there will be close liaison to inform policy officials of the TPC's likely timetable and of the outcome of TPC discussions as the matter progresses.

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