Tribunal Procedure Committee

Consultation on Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 and Tribunal Procedure (Upper Tribunal) Rules 2008 in relation to detained appellants

Introduction

1. The Tribunal Procedure Committee ("TPC") is the body that makes rules that govern practice and procedure in the First-tier Tribunal and in the Upper Tribunal. It is an independent Non-Departmental Public Body, sponsored by the Ministry of Justice. Information on the TPC can be found at:

   www.gov.uk/government/organisations/tribunal-procedure-committee

2. The TPC's remit includes the rules for the First-tier Tribunal (Immigration and Asylum Chamber) (the 'IAC') and the Upper Tribunal (Immigration and Asylum Chamber). These Chambers deal with appeals against government decisions in immigration, asylum and nationality matters.

3. When these Chambers were established, with effect from February 2010, the existing Asylum and Immigration (Procedure) Rules 2005 ("AIT Rules") were ordered to have effect as Tribunal Procedure Rules for the First-tier Tribunal. Only necessary amendments for the transfer of work to the new chamber were made. The Tribunal Procedure (Upper Tribunal) Rules 2008 ("the Upper Tribunal Rules"), which already applied to two other chambers of the Upper Tribunal, were amended so that they were also suitable for the new Immigration and Asylum Chamber of the Upper Tribunal.

4. In 2013 the TPC issued a consultation on revised rules for the IAC and Upper Tribunal. The proposed revised rules aimed to replace the previous AIT Rules with rules drafted by the TPC in line with the Committee's duties under the Tribunals, Courts and Enforcement Act 2007 ("the TCE Act").

5. Specifically, section 22(4) of the TCE Act requires that the TPC's rule-making powers be exercised with a view to securing that:
   (a) in proceedings before the First-tier Tribunal and Upper Tribunal, justice is done,
   (b) the tribunal system is accessible and fair,
   (c) proceedings before the First-tier Tribunal or Upper Tribunal are handled quickly and efficiently,
   (d) the rules are both simple and simply expressed, and
   (e) 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.

6. Following the consultation, new rules were introduced in 2014 (the 'Principal Rules'). The Principal Rules contained, in a schedule, provision for a "Detained Fast Track", in the form of Fast Track Rules. These applied to some, but not all, individuals appealing a Home Office decision in relation to asylum who were in detention. This reflected the previous rules, which had included (in various forms) a Detained Fast Track since 2000. Although the new Fast Track Rules made some changes to the details of those previous rules and altered some of the time limits involved, there was no substantive change in the procedural approach to these cases. It also reflected the accelerated process, also referred to as Detained Fast Track, that was applied to some detainees by the Secretary of State in relation to decisions prior to the appeal.

7. In summary the Fast Track Rules applied much shorter deadlines than existed in the Principal Rules and limited the IAC's powers to adjourn cases or remove them from the Fast Track procedure.

8. In June 2015, the High Court, in *R (Detention Action) v First-tier Tribunal (Immigration and Asylum Chamber), Upper Tribunal (Immigration and Asylum Chamber), Lord Chancellor & Secretary of State for the Home Department* [2015] EWHC 1689 (Admin) found that the Fast Track Rules were unlawful. Mr Justice Nicol concluded that the Fast Track Rules were structurally unfair, because their abbreviated timetable and the restricted case management powers available to the judge created a serious procedural disadvantage that could be imposed by the respondent to an appeal.

9. This decision was upheld by the Court of Appeal in Lord Chancellor v Detention Action [2015] EWCA Civ 840. The Court of Appeal agreed that the abbreviated timescales made a fair hearing impossible in a significant number of cases. The Court emphasised that speed and efficiency must not trump justice and fairness. Given this finding, the Court concluded that it was not necessary to decide whether the fact that an appellant was placed in the Fast Track as a result of decisions by the respondent to the appeal created any additional unfairness. An unfair process was unlawful, however it came about. The Court of Appeal did suggest, however, that if a fast track process was procedurally fair, how an appellant came to be in that system would not be relevant.

10. The Fast Track Rules were accordingly quashed. Since then, all immigration cases, including those involving detained parties, have been dealt with under the Principal Rules.

11. Since these decisions, there have been discussions both within the TPC and between the TPC, Ministry of Justice and the Home Office as to the appropriate response to the decisions and whether further rules should be made in relation to appeals involving detained parties. The TPC anticipated carrying out a consultation to seek stakeholders' views.

12. However, on 12th October 2016 the Ministry of Justice launched its own consultation, *Immigration and Asylum Appeals: Consultation on proposals to expedite appeals by immigration detainees*. The MoJ consultation recognised that responsibility for the rules rested with the TPC under the TCE Act, but wished to gather evidence and stakeholder views in order to formulate a considered Government policy.

13. The Government's response to this consultation was issued in April 2017. The response sets out the Government's view that there is a need for specific rules in respect of appellants in detention. This is because, in the Government's view, only specific rules will achieve a guaranteed maximum timeframe for the determination of detained appeals. The Government believes that the appropriate timeframe to determine an appeal in the IAC, from the time it is lodged to the time to the time it is determined by the tribunal, should be 25 working days. Further the government's view is that if the TPC believes that 25 working days is too short this timeframe should not exceed 28 working days.

14. In addition, the Government believes that the rules should require that the decision on whether the appellant has permission to appeal to the Upper Tribunal take no longer than 20 working days. They suggest that this might be divided as follows: five working days to apply to the First-tier Tribunal for permission to appeal and five working days for the tribunal to allow or refuse the application. If refused, the appellant would then have a further five working days to renew their permission to appeal application to the Upper Tribunal, who would have five working days to allow or refuse it.

15. Copies of the MoJ consultation and response can be found at:

consult.justice.gov.uk/digital-communications/expedited-immigration-appeals-detained-appellants/

16. In its response, the Government expressed the view that this maximum time frame should cover all detained immigration appellants, including Foreign National Offenders ('FNOs') detained in prison. FNOs are individuals who are not British citizens, who were convicted of a criminal offence, remain detained and may be subject to deportation.

17. In March 2018, however, the TPC was informed that the Home Office and Ministry of Justice had agreed that, in the short term, it would not be operationally practical to include FNOs held in prison within any fast track rules. FNOs held in prison present a number of logistical challenges, particularly related to their attendance at hearings, since they are detained around the prison estate and must be brought to hearings held at various secure (often criminal) court buildings. Both the Home Office and Ministry of Justice expect these challenges to be overcome in the future, but were not able to commit to doing so in time for the launch of any fast track rules or by any particular date.

18. In these circumstances, the TPC concluded that it would not be appropriate to consult on a potential rule change that could not currently be implemented in practice. This consultation, therefore, relates only to those held in Immigration Removal Centres. This means that it includes FNOs held in such centres, but not those held in prisons. If fast track rules are adopted following consideration of the response to this consultation, then once the Government is satisfied that it would be practicable to apply those rules to FNOs held in prison, the TPC will hold a further consultation on the question of whether to extend the application of the rules in that regard.

19. It is important to note that the TPC is not bound by the Government's policy view in relation to rules (although it is, of course, a view that the TPC will take into account). Under the TCE Act, responsibility for making procedural rules for the tribunals lies with the TPC, in accordance with its duties set out above.

20. In light both of the Government's view and its own consideration of the High Court and Court of Appeal judgments referred to at paras 8 and 9 above, the TPC is now consulting on the appropriate rules to govern cases within the IAC when an appellant is detained.

21. Below you will find further information on the following:

    (a) the First-tier Tribunal and the Upper Tribunal,
    (b) background information on the source jurisdictions and present appeal rights,
    (c) the consultation questions,
    (d) how to respond and by when.

22. The current First-tier Tribunal and Upper Tribunal Rules can be found at:

    www.gov.uk/government/publications/immigration-and-asylum-chamber-tribunal-procedure-rules

    Further information on the IAC can be found at:

    www.gov.uk/courts-tribunals/first-tier-tribunal-immigration-and-asylum

The First-tier Tribunal and the Upper Tribunal

23. The TCE Act provides for the First-tier Tribunal and the Upper Tribunal. Both are independent tribunals, and the First-tier Tribunal is the first instance tribunal for most jurisdictions.

24. The First-tier Tribunal is divided into separate chambers which group together jurisdictions dealing with like subjects or requiring similar skills.

25. The First-tier Tribunal Chambers are:
    (a) Social Entitlement Chamber,
    (b) Health, Education and Social Care Chamber,
    (c) War Pensions and Armed Forces Compensation Chamber,
    (d) General Regulatory Chamber,
    (e) Immigration and Asylum Chamber ('IAC'),
    (f) Tax Chamber, and
    (g) Property Chamber.

26. The Upper Tribunal decides appeals from the First-tier Tribunal as well as judicial review applications on certain decisions relating to immigration, asylum and human rights claims.

27. The IAC is responsible for deciding appeals against some decisions made by the Home Office relating to permission to stay in the UK, deportation from the UK and entry clearance to the UK. It also deals with applications for immigration bail from people being held by the Home Office on immigration matters.

28. The Upper Tribunal (Immigration and Asylum Chamber) deals with appeals against decisions made by the IAC and with judicial reviews of certain decisions made by the Home Office relating to immigration, asylum and human rights claims.

29. Given the nature of these jurisdictions, some of the appellants in cases before the IAC are held in detention. Most are detained in specialised Immigration Removal Centres. Many FNOs, however, are detained in prisons, rather than Immigration Removal Centres.

The TPC's approach to drafting rules

30. The TPC must make rules with a view to securing the objectives set out by the TCE Act: see para 5 above. In the context of the previous rules having been found to be unlawful by the courts, the TPC will have particular regard to the issues raised by those judgments.

31. In addition, the TPC considers that the recent Supreme Court case, *R (UNISON) v Lord Chancellor* [2017] UKSC 51, sets out relevant guidance. In particular the Supreme Court has held that a procedural regime must not create a real risk that individuals will not have effective access to justice and that any intrusion on the right to access to justice must not be greater than is justified by the objectives which the measure it intended to serve.

Background information on how appeals are currently being dealt with under the Principal Rules

Appeals involving detained appellants

32. Since June 2015, all appeals involving appellants who are detained have been conducted under the Principal Rules. From October 2016, HMCTS has applied a centralised approach to prioritising these cases, known as Detained Immigration Appeals ('DIA'). This aims to expedite the listing and resolution of these cases. DIA applies to all appeals lodged from Immigration Removal Centres in England and Wales. It therefore applies to FNOs held in such centres but

not to FNOs held in prison. The DIA does not, at present, extend to the Upper Tribunal. The judiciary and HMCTS are, however, working towards a similar system of prioritisation there.

33. Information about the current timescales operating in DIAs is available in the *Statistical notice: further breakdown of immigration and asylum tribunals - Detained Immigration Appeals* published as part of the *Tribunals and gender recognition certificate statistics quarterly*. The most recent data of this type was published on 14th June 2018. It covers the financial years 2016/17 and 2017/18. It is available at:

    https://www.gov.uk/government/statistics/tribunals-and-gender-recognitions-certificates-statistics-quarterly-january-to-march-2018

34. In 2017/18, 1,204 appeals were received under DIA. This is a significant increase from 2016/17 when 342 appeals were received under DIA. This substantial increase largely reflects the fact that the DIA procedure began midway through the 2016/17 year.

35. Since DIA started part way through that financial year, the number received in 2017/18 and beyond is likely to be significantly greater. 632 appeals were received in the first two quarters of 2017/18.

36. In 2017/18 it took an average of 4.5 weeks following the receipt of an appeal to reach a substantive hearing in the IAC. It took an average of 9.3 weeks from receipt of an appeal for the IAC to issue a judgment disposing of the case.

Appeals involving FNOs

37. As explained above, FNOs are individuals who are not British citizens, who were convicted of a criminal offence, remain detained and may be subject to deportation.

38. In the first two quarters of 2017/18, the IAC disposed of 168 appeals from FNOs held in Immigration Removal Centres and 121 appeals from FNOs held in prison.

39. As noted above, the position of the Government is that, at present, it is not practicable for FNOs held in prison to be included in any system of fast track rules. In these circumstances the TPC does not propose to consult on introducing rules to cover FNOs held in prison at this time. This consultation does, however, include those FNOs held in Immigration Removal Centres.

Tribunal timescales in the wider context

40. When considering measures to speed up the tribunal process for detained appellants, the TPC believes it may be relevant to consider the wider context of detention. In particular the TPC believes that it may be relevant to consider the length of time that individuals are detained outside the tribunal process, both before an appeal is lodged and after the tribunal process is complete. Only by considering that wider context can the full effect of a potential change to the tribunal process be appreciated.

41. The TPC has therefore sought from the Home Office information on these timescales. We have been informed by the Home Office that this information is not part of the publicly available data. They have sought to compile information from their manual records, but this has not been practical because the data is not held in a way that is easily recoverable.

42. The Home Office position, as the TPC understands it, is that it is in any event wrong to assume that there is limited benefit to expediting detained appeals, even if this might have limited impact on the overall time spent in detention. Their aim is to make all aspects of the process more efficient, which includes the length of appeals. They argue that this aligns with the Government policy to ensure that time spent in detention is minimised and that decisions on immigration status are resolved as quickly as possible consistently with fairness. Detention is an important element of this in appropriate cases, but continued detention is only possible when there is a reasonable prospect of removal within a reasonable timeframe. They argue that the lack of clear timescales for appeals results in release of individuals, some of whom then go on to abscond. This delays removal, is detrimental to immigration control and wastes resources. They also note that, in certain cases, they seek to avoid wasting resources by waiting for the outcome of an appeal before making arrangements for removal.

43. While the TPC accepts that these are complex and nuanced matters, it nonetheless believes that the wider context of the time spent in detention may be relevant to its consideration of potential fast track rules.

Consultation

44. The TPC is interested to receive your views on the Government's proposal to the TPC that there should be fast track rules, including your replies to the questions below.

45. When responding, please keep in mind that any rules should be simple and easy to follow. They should not impose unnecessary requirements or unnecessarily repeat requirements that are contained elsewhere. The TPC must secure the objectives set out in section 22(4) of the TCE Act; and aims to do so in a consistent manner across all jurisdictions. Where your views are based upon experience of the existing or previous rules in practice, the TPC would be assisted by reference to relevant evidence.

Confidentiality and data protection

46. In general, the TPC regards consultation responses as public documents. They may be published by the TPC and referred to in its Reply to the Consultation.

47. If you would prefer your response to be kept confidential, you should be aware that information you provide, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 and the Data Protection Act 2018.

48. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the TPC.

Questions

Question 1: Do you think there should be specific rules setting down time limits in cases where an appellant is detained in an Immigration Removal Centre that differ from those in the Principal Rules?

Question 2: How long is it reasonable to expect most appellants detained in an Immigration Removal Centre to be able to:

a) *Lodge a notice of appeal after receiving a decision?*
b) *Prepare for a hearing after lodging a notice of appeal?*
c) *Request permission to appeal after receiving a judgment?*
d) *Renew a request to appeal to the UT after permission is refused by the FTT?*

Question 3: How long is it reasonable to expect the respondent to be able to:

a) *provide the relevant documents after receiving the notice of appeal?*
b) *Request permission to appeal after receiving a judgment?*
c) *Renew a request to appeal to the UT after permission is refused by the FTT?*

49. The Government's view is that an expedited appeals process that applies to those in detention centres and is embodied in procedural rules is necessary to achieve speed and certainty for all parties. They acknowledge that there is a risk of appellants being disadvantaged, but expect that fairness can be ensured with sufficient safeguards, such as judicial discretion to extend timeframes or remove a case from any fast track process. They invite the TPC to make such rules and have proposed timeframes, see para 13 above.

50. The TPC believes that it is desirable for appeals involving detained appellants to be resolved promptly. It is undesirable for anyone to be detained for longer than necessary; both in their own interest and because of the expense involved in detaining them. At the same time, it is important that appeals are resolved properly and fairly, which requires that all parties have sufficient time to prepare their case.

51. At present, the TPC has not reached any conclusions as to whether some form of fast track rules are desirable in cases involving detained appellants. Similarly, the TPC has not formed a view as to the appropriate timescales any form of fast track might involve. The TPC therefore welcomes views from stakeholders both on whether there should be such rules and, if there were to be such rules, what timescales should be involved. To make it easier to compare responses, it would be helpful if evidence and suggestions as to time scales were expressed in the form of working days.

52. One of the key issues identified by the High Court, in concluding the Fast Track Rules were unlawful, was that they did not provide sufficient time for an appellant to prepare for the hearing of their appeal. At paragraph 22 of his judgment, Mr Justice Nicol summarised the evidence he received, noting that between the refusal of asylum and the substantive hearing a representative would be involved in:

    i) Checking whether the general detention criteria have been properly applied;
    ii) Making representations, where appropriate, that the appellant is unlawfully detained;
    iii) Applying for bail which itself involves identifying sureties, taking instructions from them; and checking their availability for any bail hearing and finding a bail address;
    iv) Taking instructions from the appellant on the refusal letter. Restrictions on visits to detainees may mean this has to be done over more than one day;
    v) Preparing the appellant's statement, checking it with the appellant and having it signed.
    vi) Arranging the translation of any necessary documents;
    vii) Arranging for any expert evidence, including identifying an appropriate expert, applying for an extension to the controlled legal representation certificate to fund this or any other additional expense, further representations to the legal aid authorities (if necessary in the event of initial refusal), arranging for the expert to attend the appeal hearing; and

viii) Making an application where appropriate for the appeal to be transferred out of the Fast Track appeal procedure. Considering the response to such an application from the SSHD.

53. In addition to this work, the representative (or a litigant in person) would need to prepare for the substantive hearing. This could include preparing to challenge the appropriateness of detention; making any application for postponement / transfer out of a fast track procedure and dealing with questions of bail.

54. Following receipt of an adverse decision by the IAC, an appellant is likely to consider whether to appeal and must therefore have sufficient time to request permission to do so properly (and, if the initial application is refused, to renew it to the Upper Tribunal).

55. So far as the TPC is aware, the timescales currently operating under the Principal Rules have not been criticised as creating potential unfairness.

56. The TPC is, however, interested in stakeholders' views as to how long, in practice, these steps are taking and how long is needed for them to be completed in most cases. If the TPC concludes that specific rules for detained appellants are appropriate and that these should set a shorter set of deadlines than the Principal Rules, this information is likely to inform the TPC's choice of timescales.

57. Similarly, before the substantive hearing the Respondent must carry out the work of producing the necessary documents for the tribunal, as well as preparing for the hearing itself. The TPC is similarly interested in stakeholders' views as to how long it should take for the respondent to complete these steps in most cases.

58. It should be noted that the TPC does not believe that any specific timescale will be suitable for all cases. Even if specific rules for detained cases were introduced, there will always be some cases that cannot be dealt with fairly under such timescales. The TPC is therefore considering whether there is a consensus on an expedited timeframe within which <u>most</u> cases can be dealt with fairly.

59. The TPC also recognises that, if a faster timetable is appropriate in some cases, this does not necessarily require specific rules. Timescales can be affected in a number of ways, including by resourcing decisions made by HMCTS and by judicial decisions. The TPC therefore welcomes views on whether the rules should set out time limits in detained cases.

Question 4: Should the rules impose time limits on judges dealing with appeals where a party is detained? In particular, should the rules require that:

a) Judges produce a decision within a specified timeframe; if so, what should that timeframe be?
b) IAC Judges produce a decision on an application for permission to appeal within a specified timeframe; if so what should that timeframe be?
c) Upper Tribunal Judges produce a decision on an application for permission to appeal within a specified timeframe; if so what should that timeframe be?

60. The previous Fast Track Rules imposed a requirement that judges produce a decision within two working days of the end of the substantive hearing (subject to certain exceptions). The Principal Rules currently contain no such requirement.

61. As noted above, the most recent statistical data 2017/18 indicates that it takes an average of 4.5 weeks from the receipt of a Detained Immigration Appeal to reach the first substantive hearing. It takes an average of 9.3 weeks from receipt of the appeal to disposal of the case in

the IAC. This implies that from the first substantive hearing it takes an average of 4.8 weeks for a case to be determined. Much of this difference will be accounted for by cases where the first substantive hearing is postponed. To a degree, however, it will also reflect the time taken to produce decisions. The TPC's understanding, based only on anecdotal information, is that it now takes longer for decisions to be produced than it did under the previous fast track process.

62. In relation to applications for permission to appeal, the recent data indicates that in 2017/18 it took an average of 14 weeks from the receipt of an appeal for the IAC to decide on applications for permission to appeal to the Upper Tribunal. This suggests that resolving the permission to appeal application at the IAC takes an average of 4.7 weeks. Similarly, since it takes an average of 20.5 weeks from the original receipt of the appeal at the IAC for the Upper Tribunal to resolve permission to appeal, this suggests that it takes the Upper Tribunal approximately 6.5 weeks to decide on an application for permission to appeal.

63. The TPC is considering whether imposing specific timescales on judges would be desirable and welcomes stakeholder views on this.

Question 5: If specific rules were made in relation to cases where an appellant is detained, should they also provide for a case management review in all cases? Should such a case management review involve a hearing?

64. One of the challenges that any expedited procedural process must face is that it will not be suitable for all cases. There must therefore be a mechanism for deciding which cases enter or remain in the expedited process.

65. This issue is further complicated where one party to the litigation is in a position to make decisions as to which cases will enter the expedited process or to influence this decision.

66. The Government's consultation response proposed that there should be a case management review shortly after an appeal is lodged to determine how it is to be dealt with and, in particular, whether it should remain within a fast track process. The aim would be to ensure those cases suitable for any expedited process were dealt with quickly, while making sure that any cases that could not be dealt with fairly within such a process were removed.

67. The TPC's preliminary view, similarly, is that any expedited process would require a case management review to ensure that cases were dealt with fairly. However, we welcome views from stakeholders. In particular, the TPC wishes to hear views on the form of such a case management review. Should it involve an in-person hearing, or should it be conducted on paper? What information should be provided to the tribunal prior to the review?

Question 6: If specific rules were made in relation to cases where an appellant is detained, should the rules apply a different rule to adjournments than the Principal Rules? In particular, a) should the rules apply a different test when deciding whether a case should be adjourned; and b) should they require that the case be relisted within a particular timescale?

68. Under the Principal Rules, a judge has a wide discretion to adjourn any hearing, using their general case management powers to give effect to the overriding objective.

69. Under the previous Fast Track Rules, this discretion was more limited in Fast Track cases. Rule 12 required that:

> "Unless the Tribunal makes an order under rule 14, the Tribunal may postpone or adjourn the hearing of the appeal only where the Tribunal is satisfied that—

(a) the appeal could not justly be decided if the hearing were to be concluded on the date fixed under the Fast Track Rules; and
(b) there is an identifiable future date, not more than 10 working days after the date so fixed, upon which the Tribunal can conclude the hearing and justly decide the appeal within the timescales provided for in the Fast Track Rules."

70. Rule 14 allowed cases to be removed from Fast Track where they could not justly be decided within the relevant timescales.

71. The Government consultation response was silent on this question, beyond indicating that it was a matter for the TPC and expressing the hope that the outcome should be to ensure all detained appeals are dealt with expeditiously.

72. If specific rules in relation to detained cases were introduced, the TPC would need to consider whether additional rules on adjournments were appropriate. These might include restricting the tribunal's discretion as to whether to grant an adjournment or putting a limit on the time that a case could be adjourned for. We welcome stakeholders' views on these issues.

Question 7: Should the time spent in detention outside the tribunal process affect any decision on potential fast track rules?

73. As noted above, the TPC believes that the time spent in detention before and after the tribunal process may be potentially relevant to a decision on potential fast track rules.

74. In particular, the TPC is interested in any information stakeholders can provide as to (a) how long most individuals are detained before an appealable decision is reached, and (b) how long, once appeal rights are exhausted, individuals remain in detention before being released or removed.

75. Further, the TPC welcomes views on the possibility that the lack of defined timescales within the rules make it more likely for individuals to be released and what impact this should have on our decision.

Question 8: Do you have any other comments?

76. The TPC welcomes any comments on matters related to this consultation, which have not been raised by the other questions.

Questions

Question 1: Do you think there should be specific rules setting down time limits in cases where an appellant is detained that differ from those in the Principal Rules?

Question 2: How long is it reasonable to expect most detained appellants to be able to:
- *a) Lodge a notice of appeal after receiving a decision?*
- *b) Prepare for a hearing after lodging a notice of appeal?*
- *c) Request permission to appeal after receiving a judgment?*
- *d) Renew a request to appeal to the UT after permission is refused by the FTT?*

Question 3: How long is it reasonable to expect the Respondent to be able to:
- *a) provide the relevant documents after receiving the notice of appeal?*
- *b) Request permission to appeal after receiving a judgment?*

c) *Renew a request to appeal to the UT after permission is refused by the FTT?*

Question 4: Should the rules impose time limits on judges dealing with appeals where a party is detained? In particular, should the rules require that:

a) *Judges produce a decision within a specified timeframe; if so, what should that timeframe be?*
b) *FT Judges produce a decision on an application for permission to appeal within a specified timeframe; if so what should that timeframe be?*
c) *UT Judges produce a decision on an application for permission to appeal within a specified timeframe; if so what should that timeframe be?*

Question 5: If specific rules were made in relation to cases where an appellant is detained, should they also provide for a case management review in all cases? Should such a case management review involve a hearing?

Question 6: If specific rules were made in relation to cases where an appellant is detained, should the rules apply a different rule to adjournments than the Principal Rules? In particular, a) should the rules apply a different test when deciding whether a case should be adjourned; and b) should they require that the case be relisted within a particular timescale?

Question 7: Should the time spent in detention outside the tribunal process affect any decision on potential fast track rules?

Question 8: Do you have any other comments?

How to respond

Contact Details

77. Any comments to the consultation should be sent to the Tribunal Procedure Committee Secretariat at:

Tony Allman
Secretary to the Tribunal Procedure Committee
Justice Policy Group
Ministry of Justice
1st Floor Piccadilly Exchange – 2 Piccadilly Plaza
Manchester
M1 4AH

Email: tpcsecretariat@justice.gsi.gov.uk