

Tribunal Procedure Committee (TPC): Minutes: Wednesday 12 February 2020

Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London

Present

(Mr Justice) Peter Roth (PR)
Christine Martin (CM)
Gabriella Bettiga (GB)
Donald Ferguson (DF)
Michael Reed (MJR)
Tim Fagg (TF)
Shane O'Reilly (SOR)
Vijay Parkash (VP)
Will Ferguson (WF)
Adam Smith (AS)

Guests

Louis Kopieczek (LK) (Upper Tribunal IAC Liaison Judge)
Russell Campbell (RC) (Resident Judge – FtT IAC)
Mark Sutherland Williams (MSW) (Resident Judge – FtT IAC)
Julie McCallen (JM) (IAC Reform Project Team, HMCTS)
Aneeqa Ahmed (AA) (Tribunal Caseworker, HMCTS)
Tony Allman (TA) (Administrative Justice, MoJ)

Apologies

Philip Brook Smith (PBS)
Mark Loveday (ML)
Jayam Dalal (JD)
Rebecca Lewis (RL)

Minutes

1. Introductory matters

- 1.1. PR welcomed everyone and noted apologies from PBS, JD, ML and RL.
- 1.2. The Senior President of Tribunals (SPT)'s office will be represented in the future by one of the SPT's legal advisers, Rebecca Lewis and Catherine Yallop, instead of Chukwuma Uju.
- 1.3. The draft minutes of the TPC meeting held on 12 December 2019 were approved.

Matters Arising

- 1.4. The interviews for the two vacant Lord Chancellor's (LC) appointments to the TPC would take place on 21 February 2020. The assessment panel would be interviewing 3 applicants. Following the interviews, the Public Appointments Team (PAT) would submit their advice to the LC regarding the panel's preferred recommendation(s) for the vacancies.
- 1.5. The Mental Health Consultation had been published on 11 February 2020 with the deadline for consultees to respond being the 07th April 2020.

- 1.6. SOR was thanked for his work to update the consolidated Upper Tribunal Rules and Immigration and Asylum Chamber (FtT) Rules. The consolidated Upper Tribunal Rules and Immigration and Asylum Chamber (FtT) Rules had now been posted on GOV.UK.

Action log

- 1.7. The TPC action log was updated.

2. IAC Sub-Group

- 2.1. An oral update was given by MJR covering preparation of the latest version of the draft IAC consultation paper. The draft was reviewed by the TPC.
- 2.2. A presentation was made by representatives of the FtT Immigration and Asylum Chamber (IAC) Reform team on the ongoing work to digitalise IAC administrative processes. JM summarised the current position for the digital IAC online appeals system and confirmed the expected implementation timetable for its roll-out in the IAC. AA provided an overview on the role of a Tribunal Caseworker in the reformed service and RC and MSW reconfirmed the scope for proposed rule changes.
- 2.3. JM said that the project would conclude in September 2020 and that a dual system would continue until practical problems had been resolved for how legal aid payments will work under the new online appeals system.
- 2.4. The TPC thanked RC, MSW, JM and AA for their assistance in answering questions from the Committee. They were asked to keep the TPC informed of developments regarding the regime for legal aid payments for immigration and asylum appeals by the new online appeals system in the First-tier Tribunal.
- 2.5. The TPC agreed that the IAC consultation should last for 12 weeks.
- 2.6. The TPC noted the legal note from SOR on the effect of the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020, and in particular, the amendments made by those Regulations to the Rules in the Immigration and Asylum Chambers.
- 2.7. SOR said that there was one very minor drafting point which might require a rule change, which could be included in the next Rules SI.

AP/01/20 To contact the Home Office regarding the possible rule change following the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 – SOR

3. Litigation Friends

- 3.1. An oral update was given by TA. TA said that the policy exercise to identify options and a preferred recommendation for how a public funding mechanism for the appointment of a litigation friend in tribunal proceedings would be administratively operated had nearly been finalised. He would be seeking

clearance in March and he would accordingly liaise with MJR to agree the next steps for progressing the work for any required rule changes.

4. HSW Sub-Group

- 4.1. An oral update was given by CM. The TPC agreed that the hold-up in publication date for the MHT consultation had an impact on when the TPC could discuss any potential rule changes and accordingly for any agreed rule changes to be included in the next scheduled Tribunal Procedure (Amendment) Rules 2020 SI (which was provisionally expected to be laid on 27 May). The TPC agreed that the laying date for the SI should be postponed to the 30 June to enable the TPC to discuss any potential rule changes at their May meeting.

AP/02/20: To advise the Parliamentary and Legislation team that the laying date for the Tribunal (Amendment) Rules 2020 SI would be deferred to 30 June/early 2020 – TPC Secretariat.

AP/03/20: – Dates for Tribunal (Amendment) Rules 2020 SI to be made/laid to be amended - TPC Secretariat.

5. GTCL Sub-Group

- 5.1. VP reported that PBS had circulated his draft consultation with Judge McKenna and the Information Commissioner's Office and that he was awaiting their reply/comments. He added that he was not aware for any other GTCL substantive issues that required the TPC's immediate attention.
- 5.2. In PBS' absence, the TPC agreed to discuss the GTCL draft consultation paper at the 12 March TPC meeting.

6. Costs Sub-Group

- 6.1. Nothing raised.

7. Confidentiality Sub-Group

- 7.1. TF said that the consultation questionnaire has gone out to tribunal chamber presidents. WF said that Judge McKenna has concerns about confidentiality in the General Regulatory Chamber (First-tier Tribunal), but she is likely to raise these formally with the SPT's Office.

8. Overview of Sub-Groups

- 8.1. The TPC work programme has been updated and circulated as at 04 February 2020.

9. AOB

- 9.1. There was no other business.

Next Meeting: Thursday 12 March 2020