Tribunal Rules

Implementing part 1 of the Tribunals, Courts and Enforcement Act 2007

Responses to the consultation on possible changes to the First-tier Tribunal (General Regulatory Chamber) Rules 2009 in connection with withdrawals of appeals

(May to August 2020)

Reply from the Tribunal Procedure Committee

November 2020

Introduction

1. The Tribunal Procedure Committee ("the TPC") is established under section 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007 ("the TCEA"), with the function of making Tribunal Procedure Rules for the First-tier Tribunal and the Upper Tribunal.

2. Under section 22(4) of the TCEA, power to make Tribunal Procedure Rules is to 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.

3. In pursuing these aims the TPC seeks, among other things, to:
   (a) make the rules as simple and streamlined as possible;
   (b) avoid unnecessarily technical language;
   (c) enable tribunals to continue to operate tried and tested procedures which have been shown to work well; and
   (d) adopt common rules across tribunals wherever possible.

4. The TPC also has due regard to the public sector equality duty contained in section 149 of the Equality Act 2010 when making rules. Further information on the TPC can be found at our website: https://www.gov.uk/government/organisations/tribunal-procedure-committee

5. The First-tier Tribunal is divided into separate chambers which group together jurisdictions dealing with like subjects or requiring similar skills. One of the Chambers of the First-tier Tribunal is the General Regulatory Chamber (the "GRC", and the Rules which apply there are the Tribunal Procedure (First-tier Tribunal) (General Regulatory

Chamber) Rules 2009 (the “GRC Rules”). These Rules can be found in the “Publications” section of our website: https://www.gov.uk/government/organisations/tribunal-procedure-committee

6. The GRC is responsible, in particular, for handling appeals against decisions by a wide range of government regulatory bodies.

The Consultation Process

7. A consultation (the “Consultation”) ran over the period May to August 2020, its purpose being to seek views as to possible changes to the GRC Rules in relation to withdrawals of appeals.

Background

8. In jurisdictions in which appeals fall for determination in the GRC, there is the possibility that after an appeal against a decision has been initiated the decision is reconsidered by the decision-maker (usually, a regulator), with an outcome favourable to the appellant. This may be termed ‘revocation’ or ‘withdrawal’ of the decision.

9. There may be a distinct statutory authority governing a reconsideration or review of a decision. This might be important as regards the right of a prospective appellant to bring an appeal before the Tribunal (for example, it may be stipulated that an appellant must first proceed through a ‘review’ stage with the regulator, before they can appeal). But a statutory regime for reconsideration/review may be unconnected to a right to appeal the decision.

10. In some cases, a decision will be revoked/withdrawn outside any statutory framework of ‘review’. As a matter of general principle under public law, a regulator always has power to revoke/withdraw a decision it has made, and that is the case even when the decision is under appeal. It is conceivable that a regulator, having looked in vain for a statutory basis for revocation/withdrawal of a decision, may simply inform the appellant that the decision is no longer relied on.

11. There are presently 4 ways in which an appeal may be disposed of in the GRC upon the decision under appeal being revoked/withdrawn.

    (i) Withdrawal of the appeal under GRC rule 17
    (ii) Non-opposition to the appeal
    (iii) Consent Order encompassing either (i) or (ii)
    (iv) Strike out of the appeal under GRC rule 8

12. GRC rule 17 is as follows.

    Withdrawal
    17.*—(1) Subject to paragraph (2), and, in the case of a withdrawal of a reference from an ethical standards officer, to the provisions of regulation 5 of the Case Tribunals (England) Regulations 2008, a party may give notice of the withdrawal of its case, or any part of it—*
    (a) by sending or delivering to the Tribunal a written notice of withdrawal; or
    (b) orally at a hearing.
    (2) Notice of withdrawal will not take effect unless the Tribunal consents to the withdrawal.
    (3) A party who has withdrawn their case may apply to the Tribunal for the case to be reinstated.
    (4) An application under paragraph (3) must be made in writing and be received by the Tribunal within 28 days after—
    (a) the date on which the Tribunal received the notice under paragraph (1)(a); or
    (b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b).
    (5) The Tribunal must notify each party in writing that a withdrawal has taken effect under this rule.

13. The Consultation noted that an appellant may however choose not to give notice under GRC rule 17(1) of withdrawal of the appeal, for whatever reason. An example given was the case of *A v The Pensions Regulator* (decision dated 16.4.19). The appellant had challenged a fixed penalty notice ("FPN") (for failure to comply with an Unpaid Contributions Notice – "UCN"). The FPN had been issued to an apparent entity which was not the legal name of the person to whom it was intended to be issued. Following the appellant referring the matter to the Tribunal, the regulator revoked the FPN and stated that a replacement UCN would be issued. The regulator invited the appellant to

withdraw his appeal, but he did not wish to do so. As a result, a hearing had to be listed. The appellant was entitled to insist on his 'day in court'. The outcome was a reasoned decision that if the FPN had still been in existence, it would have been quashed as it was addressed to a non-existent legal entity, and the appeal was allowed.

14. As that case illustrated, once a decision has been revoked/withdrawn, the appeal may still have to be the subject of a (reasoned) decision, and may even have to be listed for a hearing. This is so for non-opposed appeals: the case still has to be listed in front of a judge (or a full panel, in some cases) and formally decided.

15. It was considered that this is wasteful of resource, when common sense would suggest that in most cases the appeal should be disposed of, administratively, at minimal cost and inconvenience.

16. The Consultation proposed how that might be achieved. Proposed changes for GRC rule 17 (by indicative drafting) were as follows.

17.— (1) Subject to paragraph (2), [….][1] a party may give notice of the withdrawal of its case, or any part of it—
(a) by sending or delivering to the Tribunal a written notice of withdrawal; or
(b) orally at a hearing.
(2) Notice of withdrawal will not take effect unless the Tribunal consents to the withdrawal.
(3) A party who has withdrawn their case may apply to the Tribunal for the case to be reinstated.
(4) An application under paragraph (3) must be made in writing and be received by the Tribunal within 28 days after—
(a) the date on which the Tribunal received the notice under paragraph (1)(a); or
(b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b).
(5) The Tribunal must notify each party in writing that a withdrawal has taken effect under ***[…[2]] paragraph (2).***

[1] Deleting the content concerned with withdrawal of a reference from an ethical standards officer, and the 2008 Regulations

[2] Deleting 'this rule'.

(6) The Tribunal must (save for good reason) treat the proceedings as withdrawn if the respondent provides notification in writing to the Tribunal and each other party that the decision or act to which the proceedings relate has been withdrawn or revoked [and specifies the reasons for the withdrawal or revocation][3], or that the respondent otherwise does not rely upon the decision or act.

(7) For the purposes of paragraph (6) "decision or act" includes a direction or order, and means, where the proceedings relate to more than one decision or act, all of the decisions or acts.

(8) The Tribunal must notify each party in writing that the proceedings have been treated as withdrawn under paragraph (6).

(9) A party may apply to the Tribunal for proceedings which have been treated as withdrawn under paragraph (6) to be reinstated.

(10) An application under paragraph (9) must be made in writing and be received by the Tribunal within 28 days after the date on which the Tribunal sent the notice under paragraph (8).

Reasons to be specified?

17. The indicative drafting had highlighted (in proposed rule 17(6)) the potential role of reasons for the withdrawal/revocation being specified. Reference was made to rule 17(2) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 ('IAC rule 17(2)') and the reasoning behind its drafting, by reference to the 'IAC Consultation Reply' which followed a TPC Consultation in 2013.

18. The Consultation had observed (paragraph 51) that it may be thought unnecessary in the GRC Rules for the decision-maker to be required (as in IAC rule 17(2)) to provide reasons for the revocation/withdrawal of its decision.

    (i) There is no obligation on an appellant to provide reasons for a withdrawal of the appeal, as that is considered unnecessary in the GRC and all other Chambers save for the IAC.

    (ii) There is no element of compliance with any 'policy', across numerous regulators, which needs to be encouraged (by provision of reasons for revocation/withdrawal of a decision).

[3] See below

(iii) The TPC would have no plan to monitor the nature of revocations/withdrawals of decisions, as regards any regulator in particular or generally.

(iv) If there is, in the GRC, to be a right to apply for reinstatement of an appeal which is treated as withdrawn, this removes a justification for the specified need for reasons in IAC rule 17(2), as discussed in the IAC Consultation Reply.

19. It was noted (paragraph 52) that in the IAC there are usually only two types of respondent, the Home Office and Entry Clearance Officers. These may be termed 'Civil Service' operations, with the ability to generate standard forms which are required to be used, therefore encouraging staff to provide all the information required by the Rules. With the GRC however, there are very many different regulators, varying in resources and in experience of working with the GRC Rules.

20. It was stated (paragraph 53) that it would be expected that, usually, the GRC would receive reasons, but it might be considered preferable not to make provision of reasons a potential barrier to efficient disposal of an appeal which is, ultimately, a waste of public resources because the parties will be agreed on the outcome – the decision appealed against will be of no effect. If reasons were a stipulated requirement, and were not initially provided by a regulator, an additional GRC resource would be spent on requiring the regulator to provide them, which may be a pointless and wasteful exercise.

'Save for good reason'

21. It was noted (paragraph 54) that for the GRC, "*save for good reason"*, as used in IAC rule 17(2), might be regarded as sufficient to achieve the purpose of seeking to dispose of appeals in these cases with efficiency. A simple notification by a respondent that a decision has been revoked/withdrawn in most cases would lead to the appeal being treated as withdrawn. However, there would remain a discretion not to do so, if there appeared to be a good reason not to take that course. Further, the appellant would have the right to apply to have the appeal reinstated, if it was treated as withdrawn.

22. As the Consultation stated however (paragraph 55), there may be a counter view. If reasons had to be provided, the Tribunal might be informed of a statutorily based revisiting of the decision, as opposed to there simply having been a 'reconsideration'. Or it might, for example in the Charities jurisdiction, be explained that there had been a discharge of a freezing order. It should not be difficult for a regulator to provide reasons,

and if there was an application to reinstate an appeal then the reasons earlier provided might be of value at that stage too.

23. Further (paragraph 56), if the words '*save for good reason*' are used, that might suggest that there ought in theory to be something in the notification that might possibly provide a 'good reason' not to deem the appeal withdrawn. That 'something' might be found in reasons required to be provided.

Information Commissioner's Office

24. The Consultation also dealt with the Information Commissioner's Office (in paragraphs 72 to 76), drawing attention to the Information Rights jurisdiction in the GRC. There, section 57 of the Freedom of Information Act 2000 provides for appeals against notices served by the Information Commissioner ("the Commissioner") under Part IV of that Act. These are Decision Notices ("DNs"). Under section 58, the Tribunal may make a substituted DN if it allows the appeal.

58 **Determination of appeals**.

(1) If on an appeal under section 57 the Tribunal considers—
(a) that the notice against which the appeal is brought is not in accordance with the law, or
(b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,
the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
(2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

25. It was stated (paragraph 73) that the work of the Commissioner is, in general, undertaken by the Information Commissioner's Office (the "ICO"). If the ICO does not wish to resist the appeal, it usually suggests the terms of a substituted DN and the Tribunal considers that suggestion: the ICO does not 'revoke' or 'withdraw' the DN as such, as it is considered there is no legal power so to do. A proposed substituted DN

may not be determinative however, as the public authority and the appellant may take a different view.

26. As noted in paragraph 74 of the Consultation, the appeal has however to be allowed in order for there to be the substituted DN. That is the only way the tribunal has jurisdiction to give its own substituted DN (see *IC v Malnick and ACOBA* [2018] UKUT 72 (AAC)[4], para 104). The analysis below was approved.

"We can only make sense of s 58(1) by interpreting the word "or" disjunctively in the context of appeals by public authorities and conjunctively in the context of appeals by applicants for information. In other words, we construe the subsection as if it read: "the Tribunal shall allow the appeal and/or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal."

27. Hence (paragraph 75), although the phrase "*or that the respondent otherwise does not rely upon the decision or act*" in the suggested new GRC rule 17(6) might be supposed to be engaged if the ICO proposes a suggested substituted DN (in the sense that the ICO does not 'rely' on its own DN), in these cases, the Tribunal would not treat the appeal as withdrawn, since it would have (very) "*good reason*" not to: it would have to proceed to allow the appeal since only upon so doing could the Tribunal substitute the DN.

28. Paragraph 76 of the Consultation noted that if all parties agree on the outcome (i.e. a fully substituted DN), then it would be anticipated that the ICO would be proactive in sending terms of consent to the other parties and thereafter enabling the appeal to be dealt with by a consent order.

[4] This case also dealt with the particular role of the ICO under section 50 of the Act. When a DN was issued, the ICO then became *functus officio*. There was no statutory power to withdraw or amend the DN. There could be no 'revocation' of the DN (see paras 81, 85).

Responses to specific consultation questions, and Conclusions

29. There were 4 responses to the Consultation – see Annex A.

30. The Questions raised are listed below, with the responses then set out, followed by the conclusions of the TPC (in light of the responses).

Question 1: Do you agree that it is appropriate to amend GRC rule 17 in the way proposed? If not, why not?

31. Two respondents agreed that it was so appropriate.

32. The remaining respondent (the Pensions Regulator) welcomed the proposal for the Rules to provide a streamlined process to dispose of appeals automatically where the decision maker has withdrawn/revoked the decision. Whilst agreeing in principle to the proposal, this respondent commented on the provision allowing the GRC to 'extend' cases (understood as under the 'save for good reason' provision) and the power of reinstatement (Question 2) and the possible requirement to give reasons for revoking/withdrawing a decision (Question 3).

33. This respondent noted that where it had revoked a penalty after an appeal had been lodged (using its powers under section 43(1)(b) of the Pensions Act 2008) both this respondent and the GRC invite the appellant to withdraw the appeal, but not all appellants do so. In 2019, this respondent had revoked 302 penalties that had been appealed, and four appellants did not withdraw their appeal. It was noted that although these numbers are relatively low, if an appeal was considered automatically withdrawn where a penalty was revoked it would not be necessary for both the GRC and the respondent to contact an appellant to invite them to withdraw the appeal. One of the reasons an appellant may give for not withdrawing included wanting their "day in court" (see the case of *A v The Pensions Regulator* (referred to in paragraph 17 of the Consultation). This was considered, by this respondent, to be of limited use as the decision appealed against no longer existed. The conclusion was that these unnecessary appeals were a waste of public funds and resources for the GRC, the respondent and the appellant. Appellants had also given 'seeking costs' as a reason not to withdraw an appeal. It was considered that there was no 'value' in this as it was highly

unlikely that the appellant would have incurred any costs at the point the decision was revoked.

Conclusion

34. The TPC considered that the reasons for making the change were made out in principle, subject to other points by respondents, as discussed below.

35. In reaching that conclusion, the TPC noted that the decision in the case of *C v Food Standards Agency* (referred to in paragraph 33 of the Consultation) had been appealed to the Upper Tribunal (the "UT"). By a decision dated 8.7.20, the UT had concluded that since the enforcement notice had been totally withdrawn (as opposed to being amended, varied or replaced), the GRC had no jurisdiction to hear the appeal. The UT stated that the starting point for interpreting legislation was the construction of the provisions which are in issue; and that in the context of the case the appeal had 'lapsed', leaving the tribunal with no jurisdiction as regards the appeal lodged. Reliance was placed on the reasoning of a 3 judge panel of the UT in *LS and RS v HMRC* [2017] UKUT (AAC).

36. The case of *C v Food Standards Agency*, and any application of the principle of 'lapsing', does not suggest to the TPC that the proposal to amend GRC rule 17 has lost any utility. The following points may be made.

    (i) It is not currently known whether the case of *C v Food Standards Agency* will be the subject of an appeal to the Court of Appeal.

    (ii) It is understood that the GRC has already seen a number of cases in which extensive written submissions have been received as to the 'reach' of the UT decision in *C v Food Standards Agency,* in appeals challenging decisions of that Agency in which the Agency has withdrawn the relevant decision. The GRC has not (as yet) had occasion to consider those submissions.

    (iii) The GRC has 16 jurisdictions, incorporating approximately 100 rights of appeal (and which are increasing as a consequence of EU Exit amendments to legislation). The 'reach' of the UT decisions in *C v Food Standards Agency* and *LS and RS v HMRC* has yet to be tested and, in at least some jurisdictions, will likely be contested.

37. If, on analysis of the particular jurisdiction giving rise to the appeal, it appears that the tribunal has lost jurisdiction as a result of revocation/withdrawal of a particular decision, then the tribunal must strike out the appeal under GRC rule 8(2): "*The Tribunal must strike out the whole or a part of the proceedings if the Tribunal (a) does not have jurisdiction in relation to the proceedings or that part of them ….*". However, by GRC rule 8(4): "*The Tribunal may not strike out the whole or a part of the proceedings under paragraph (2) … without first giving the appellant an opportunity to make representations in relation to the proposed striking out*."

38. It will be for the GRC, in any particular case, to consider whether proceedings should be struck out, or treated as withdrawn under GRC rule 17 (as proposed to be amended). Either way, an appellant will have the opportunity to be heard.

Question 2: Do you have any comments on the indicative drafting proposal?

39. One respondent stated that the proposed wording should explicitly exclude Information Rights appeals: that was because the ICO does not have a power to vary or substitute an FOI or 'RPSI' DN, and there are no circumstances where the tribunal could ever treat the appeal as withdrawn, because the tribunal must formally allow the appeal in order to substitute its own decision for the original decision. (The reference to an 'RPSI' DN is to a DN under the Reuse of Public Sector Information Regulations 2015.) It was stated that as such, leaving an ICO withdrawal of a DN as a hypothetical possibility (within the context of the proposed amendment to GRC rule 17) that is 'never actually used' serves no useful purpose and simply creates scope for confusion, especially in jurisdictions where appellants are usually not represented.

40. Another respondent also raised a question concerning the application of the proposed amendment to GRC rule 17 to the Information Rights jurisdictions. The Consultation (paragraphs 72 to 80) had referred to this context and its application to the ICO as the regulator. However, the explicit reference in the Consultation had only been to appeals under section 57 of the FOIA 2000. It was stated that the ICO also issues DNs relating to the Environmental Information Regulations ("EIR") and the Data Protection Act, and that in some circumstances a single multi-part information request may give rise to a DN which addresses both FOI and the EIR. All such DNs can be the subject of an appeal to the GRC. It was stated that it was not clear whether the intention was that the proposed amended GRC rule 17 will apply to all jurisdictions relevant to the Information Rights; 'it would be desirable that it does'.

41. A third respondent (the Pensions Regulator) stated the following. As to the power to '*extend cases'*, it was considered that the proposed clause "*save for [where it has] good reason [not to]*", which provides the GRC with the power to '*extend cases'*, goes against the principle of finality. It would require the judicial scrutiny which the GRC seeks to minimise through these proposals and detract from the concept of disposing of appeals administratively. It was not considered that the Rules need to have both (i) a "*save for good reason*" caveat (for not automatically withdrawing the appeal), and (ii) a right to reinstatement. If the GRC automatically withdraws the case, the appellant can apply to reinstate, and due process can be ensured. This will keep costs and resources to a minimum.

42. For the purposes of this respondent, when a penalty is withdrawn there is nothing for the GRC to determine. Arguably, it can consider whether a penalty notice under section 40 or section 41 of the Pensions Act 2008 was issued correctly in the first place but again, this would be a poor use of resources as the remedy the appellant seeks (the penalty being quashed) is achieved through this respondent's revocation/withdrawal. However, as stated, if the appellant wants to be heard in court those reasons can be set out in a reinstatement application and considered by the tribunal.

43. As for reinstatement, this respondent did not see the necessity for the power of reinstatement to remain, as once a penalty was revoked no further action is taken in relation to that penalty. If the reinstatement provision is to be retained for principles, for example, of access to fairness and justice, the GRC Rules should require the appellant to inform the respondent at the same time that they apply to the GRC for reinstatement, and the respondent should have the right to respond to the application before the GRC makes a decision. This early input may prevent appeals being reinstated unnecessarily.

Conclusion

44. There are several issues to consider.

Information rights

45. Generally, appeals against decisions by the ICO cannot be rendered nugatory by withdrawal/revocation of a DN, so the proposed amendment to GRC rule 17 will not affect them. The ICO knows this and will propose a substituted DN: all this should be apparent in its communications with the GRC and the other party/parties. The GRC will <u>not</u> notify the parties that the proceedings have been treated as withdrawn.

46. It did not seem necessary to the TPC for there to be an express exclusion for Information Rights jurisdictions, with the need to spell out what those jurisdictions were

(and the potential need to again amend the Rules were any new, similar, jurisdictions added).

47. It was appreciated that appellants were not usually represented, but they will become aware of a proposed 'substituted' DN, and they may offer representations on its terms. It is not anticipated that they will be confused into believing that their appeal has fallen by the wayside.

48. The point made about other DNs was accepted. The same principles apply. There will be no treatment of proceedings as withdrawn if there is the need for the tribunal to exercise its power to make a new DN.

Save for good reason

49. It is considered to be a useful safeguard to include these words, quite apart from the need to deal (impliedly) with Information Rights cases: a justification in itself.

50. The reference to the 'principle of finality' is noted. This is taken to be a reference to the principle of finality of litigation: the need for an appellant to put their whole case forward so that it may be resolved once and for all. It was not clear to the TPC how this was engaged. There may be something apparent from the communication from the regulator that needs consideration. Not all cases may fit into a discrete and obvious box. It is not so much the need for 'judicial scrutiny' that is sought to be minimised, but the need not to waste judicial resource on cases that do not objectively deserve it.

51. There is no difficulty – it seems to the TPC – in retaining a right to apply to reinstate alongside the provision of 'save for good reason'. The former entitles the appellant to raise whatever points <u>they</u> wish; the latter deals with points that may appear to the tribunal before it accepts that the appeal should be treated as withdrawn.

Applications for reinstatement

52. The TPC is content for there to be a right to apply for reinstatement, as this is considered fair. For one thing, the proposed amendment to GRC rule 17 is engaged not only where a decision or act is withdrawn or revoked; it also applies where the respondent 'otherwise does not rely on the decision or act'. In those latter circumstances, the decision/act will still exist. Any application to the GRC for reinstatement would be communicated to the respondent, and, it would be assumed,

representations invited. It is difficult to see the tribunal making a decision on an application to reinstate without that step being taken.

Question 3: In particular, do you have a view as to whether or not reasons should be required to be provided by the respondent for its revocation/withdrawal of a decision?

53. One respondent stated that requiring the respondent to give reasons was likely to reduce the number of applications for reinstatement. While it would be open to the tribunal to refuse such an application, the consideration of such applications would still be a waste of resources that could easily be mitigated by the relevant regulator simply stating its reasons for withdrawing its decision.

54. Another respondent stated that no reasons should be required – the arguments and reasoning in paragraph 53 of the Consultation were considered persuasive, and requiring reasons to be provided raised the possibility that resource might have to be committed to obtaining such reasons: "*a pointless and wasteful exercise*".

55. A third respondent (the Pensions Regulator) stated that as a matter of principle, there should be no statutory requirement in the Rules to give reasons for revoking a penalty. This respondent stated that whilst it gave brief reasons when revoking a penalty if required, this provision would provide the GRC with the power to consider the adequacy of these reasons, which is *'more a public law matter'*. A requirement to give reasons would only be for the GRC to consider whether to '*extend the case'*. As set out in the response to Question 2, this should not be a necessary caveat if there is a power to reinstate. If there is an application to reinstate, due consideration can be given to relevant matters.

56. It was also stated by this respondent that a requirement to give reasons appeared to contradict the purpose of the proposed changes, which is to '*simply and quickly dispose of unmeritorious proceedings*' at an administrative level. This requirement, if introduced, will again require a level of judicial scrutiny. While this respondent did not agree with the inclusion of the "*save for good reasons*" proposal (see Question 2), if reasons for withdrawal are required, these should only lead the GRC to '*extend the case*' for the purposes of Rule 10 (i.e. the conduct of the respondent might or should be sanctioned in costs).

57. A fourth respondent stated that reasons should be required as it was believed "*good to have as much information as possible to support decisions*".

Conclusion

58. The TPC does not consider that reasons need be specified. In many instances it supposed that the appellant would simply be pleased that a decision has been revoked/withdrawn and would be unconcerned with a statement of reasons. Other times, a regulator may consider it appropriate to offer reasons for revocation/withdrawal of a decision. That will be a matter for the regulator. What 'support' there may be for the making of a decision by a regulator to revoke or withdraw a decision is not a matter independently to be required by Rules.

Question 4: Do you have any further comments?

59. No additional comments were received by reference to the subject matter of the Consultation, beyond those set out above.

60. The TPC has had due regard to the public sector equality duty in reaching all its conclusions as set out above.

Keeping the Rules under review

61. The TPC wishes to thank those who contributed to the Consultation process. The TPC has benefited from the responses.

62. The remit of the TPC is to keep rules under review.

Contact details

Please send any suggestions for further amendments to Rules to:

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Email: **tpcsecretariat@justice.gsi.gov.uk**

Further copies of this Reply can be obtained from the Secretariat. The Consultation paper, this Reply and the Rules are available on the Secretariat's website:
http://www.justice.gov.uk/about/moj/advisory-groups/tribunal-procedure-committee.htm

Annex A – List of respondents to Consultation

1. Ivan Murray-Smith
2. Suzanne Cosgrave, Lay member – GRC – Information Rights
3. Anthony Raymond, Pensions Regulator - Director of Legal Services
4. Debbie Bryce