

**Tribunal Procedure Committee (TPC): Emergency Meeting Minutes:
Thursday 23 February 2023**

Hybrid Meeting at the Rolls Building, London & via MS Teams

Present

(Mrs Justice) Joanna Smith (JS)
Philip Brook Smith (PBS)
Michael Reed (MJR)
Christine Martin (CM)
Mark Loveday (ML)
Susan Humble (SH)
Gabriella Bettiga (GB)
Donald Ferguson (DF)
Stephen Smith (SS)
Jeremy Rintoul (JKR)
Alasdair Wallace (AW)
Razana Begum (RB)
Shane O'Reilly (SOR)
Vijay Parkash (VP)
Cerys O'Keeffe (COK)
Hanna Polanszky (HP)

Guest(s)

Julian Phillips (JP) - (FtT IAC- Resident Judge)
Marcus Da-Costa (MDC)- (Ministry of Justice legal advisor/lawyer)

Apologies

No apologies offered.

Minutes

1. Introductory matters

- 1.1. JS thanked MJR and the members of the Immigration and Asylum Chamber Sub-group (IACSG) for their dedicated work and effort to progress the possible changes to the First-tier Tribunal (Immigration and Asylum Chamber) Rules and the Upper Tribunal Rules arising from the Nationality and Borders Act 2022 (NABA) consultation exercise (the 'IAC consultation').
- 1.2. JS also thanked MDC and RB for their dedicated legal work and contribution towards progressing this exercise and dealing with the TPC's request for clarification as to the interpretation of the primary legislation.

1.3. JS provided her observations on the progress of the draft consultation reply document and said she considered that the TPC's efforts meant that the document would be ready for publication by mid-March 2023, well within the required timetable imposed by government. Further, she said that the TPC would then be in a position to sign off the Tribunal Procedure (Immigration and Asylum Chamber) Amendment Rules 2023 statutory instrument (SI).

Matters Arising

1.4. JS raised the need to discuss one matter arising under agenda item 2 (IACSG) with members of the committee on a confidential basis, during which time, the secretariat would be asked to leave the room.

1.5. The TPC action log had been updated.

1.6. The TPC work programme had been updated.

1.7. JS handed over to MJR to summarise the key points of principle that require further consideration in the meeting.

- The IACSG met on the 21st February 2023 via MS Teams to continue discussing and reviewing the draft IAC Consultation reply document.

2. Immigration & Asylum Chambers Sub-group (IACSG)

New Plan for Immigration programme and IAC consultation exercise

2.1. MJR led a discussion regarding the draft IAC consultation reply document and raised the questions that had arisen from the IACSG meeting which required the whole TPC's discussion and approval.

2.2. These questions related to Expedited Appeals and Accelerated Detained Appeals.

- The TPC discussed these questions at length whilst maintaining a focus on the responses provided by the respondents, and the importance of access to justice.
- They were able to come to a conclusion on all matters presented and will provide details of this in the IAC Consultation Reply Document when published.

2.3. JS gave the members the opportunity to raise any substantive points which they wished to raise regarding the drafting of the IAC consultation reply or the related SI.

2.4. SS referred to the 'transfer out' rule of the ADA procedure in rule 22(c) paragraph 3 of the Upper Tribunal (UT) Rules and proposed an amendment for further consideration of the TPC. A detailed discussion took place between MJR and SS

(and then subsequently other members of the committee) in relation to the intention of section 27 of NABA.

2.5. In light of this discussion RB agreed to revert to Committee on this issue as soon as possible given the time constraints.

AP/83/23: Provide the TPC with legal advice regarding the intention of s27 NBA-RB

2.6. JS and MJR asked MDC to proceed with the drafting of the Immigration SI.

- JS sought RB's views on any potential impact to necessary deadlines that may be caused by reason of the issues raised by the attendees during the meeting, including expectations for the week ahead in respect of finalising the SI exercise.
- RB confirmed that MoJ Legal will continue to work towards the agreed timelines and relevant legal checks will be completed by Tuesday 28 February 2023 with a view to circulating the final immigration SI draft by 01 March 2023 so that it was ready for final scrutiny and sign-off by the TPC on the 02 March 2023 TPC meeting.
- JS asked RB to confirm the latest possible date on which the TPC could sign off on the IAC consultation reply in order for the document to be published in time to meet the legislative deadline.
- RB advised that the IAC consultation reply should be signed-off and published before the date on which the immigration SI was expected to be laid, namely the 16 March 2023.

2.7 JS invited the secretariat to leave the room so as to facilitate a private discussion of the Committee.

3. Property Chamber

3.1. ML provided an update on a potential development that may impact the Property Chamber of the First-tier Tribunal in light of the new Building Safety Act (2022). ML said the definition for 'interested parties' under Rule 1 of the Property Chamber procedural rules was different to the legislation. Due to time constraints, the TPC agreed that this matter would be added as an agenda item for a future TPC meeting.

4. AOB

4.1. JS informed the TPC that she would be unable to attend the scheduled TPC meeting on 06 April 2023 owing to the fact that this fell within her vacation. She suggested cancelling this meeting date. Owing to the amount of work that has

been undertaken by the TPC over the last few months, the TPC agreed that there was no pressing need for it to meet in April. The next meeting would be 04 May 2023.

4.2. The TPC agreed to cancel the TPC 06 April 2023 meeting.

Next Meeting: Thursday 02 March 2023, 10:30am