

**Tribunal Procedure Committee (TPC) Meeting Minutes**  
**Thursday 06 June 2024**

**Meeting (Hybrid) at 7 Rolls Building, London**

**Present**

- Mrs Justice Smith (JS)
- Michael Reed (MJR)
- Stephen Smith (SS)
- David Franey (DF)
- Matt Jackson (MJ)
- Susan Humble (SH)
- Gabriella Bettiga (GB)
- Jeremy Rintoul (JR)
- Donald Ferguson (DWF)
- Angela Shields (AS)
- Gillian Fleming (GF)
- Mark Blundell (MB)
- Gareth Wilson (GW)
- Fiona Monk (FM)
- Alasdair Wallace (AW)
- Razana Begum (RB)
- Shane O'Reilly (SOR)
- Vijay Parkash (VP)
- Amir Khandoker (AK)

**Apologies**

- Philip Brook Smith (PBS)
- Christine Martin (CM)
- Mark Loveday (ML)
- Julian Phillips (JP)
- Joshua Gibson (JG)
- Hanna Polanszky (HP)

**Minutes**

**1. Introductory matters**

- 1.1. PBS, CM, ML, JP, JG, and HP sent their apologies for not being able to attend the meeting.
- 1.2. SOR attended the meeting, on behalf of JG, as the Senior President of Tribunals' (SPT) representative. GW attended the meeting on behalf of JP. JS thanked SOR and GW for their attendance.

## Matters Arising

- 1.3. JS asked MB and GW (on behalf of JP) if they wish to continue to attend future TPC meetings in their capacity as immigration liaison judges to the TPC as the subject of immigration, with which MB and JP are involved, is not expected to be discussed in the near future due to the recent announcement by the Government to call a general election on 04 July 2024.
- 1.4. MB stated that he is happy to continue to attend TPC meetings and JS welcomed his decision.
- 1.5. GW will forward the question regarding attending future TPC meetings to JP.
- 1.6. The draft minutes from the 02 May 2024 meeting were approved by the TPC subject to minor amendments.
- 1.7. The TPC discussed whether to change the date of the July meeting from 04 July to a later date due to the general election but decided that a change was not necessary.
- 1.8. RB notified the TPC that the updated consolidated set of tribunal procedural rules that apply to various chambers have been posted online on GOV.UK.

**AP/37/24: To ask JP whether he wishes to continue to attend the TPC meetings in the near future – GW.**

**AP/38/24: To publish the 02 May 2024 TPC meeting minutes on the TPC website – TPC Secretariat.**

## **2. HSW Subgroup**

### Mental Health Tribunal (MHT) - Rule 35 proposed change

- 2.1. The TPC discussed CM's draft response to the Rule 35 consultation and discussed comments provided by PBS in respect of the latest version of the draft response. Neither CM nor PBS was present to discuss the latest version.
- 2.2. SS provided some comments regarding paragraph 49 of the consultation. JS asked the TPC members to send any further comments about the draft response directly to CM.
- 2.3. JS suggested that, if CM is available, the TPC could sign off on the response outside of the monthly TPC meetings.
- 2.4. RB informed the TPC that she had discussed various additional changes with CM. DWF stated that he will email CM to clarify these changes and will create an updated version of the draft response with CM based on PBS' comments which will then be sent to the other TPC members to establish if they are content with the draft or if they want to suggest any further amendments.

- 2.5. It was agreed that, if it had not been signed off outside committee, the TPC would discuss the arrangements for finalising the draft response document at the next scheduled TPC meeting on 04 July 2024.

#### Health, Education and Social Care Chamber (HESC) proposed rule amendments

- 2.6. JS suggested that the draft consultation paper required amendments and invited AS to make the necessary amendments. AS stated that she will do this ahead of the next TPC meeting in July.
- 2.7. GF suggested that the draft questions 2 and 3 be rephrased so that they could be more easily understood by the public/interested parties. JR agreed with GF's suggestion.
- 2.8. VP stated that he would inform CM about the status of the draft consultation paper and that AS had agreed to assist her with the drafting exercise.

**AP/39/24: To provide CM with any comments and suggestions regarding the Rule 35 draft response document – TPC members.**

**AP/40/24: To clarify with CM any changes made to the Rule 35 draft response document – DWF.**

**AP/41/24: To create an updated version of the Rule 35 draft response document to be sent to the other TPC members – CM and DWF.**

**AP/42/24: To re-draft the proposed consultation document in relation to changes to HESC Rule 23 – AS.**

**AP/43/24: To inform CM about the status of the HESC Rule 23 consultation document – VP.**

### **3. Proposed Rule changes on 'Written Reasons in the First-tier Tribunal'**

- 3.1. JS thanked SS and the other members of the subgroup for their hard work in preparing the consultation paper on written reasons.
- 3.2. JS asked the TPC members for their comments on the draft consultation paper.
- 3.3. SH enquired whether the draft paper could be re-drafted to provide greater clarity in relation to the questions in order to increase accessibility. SS stated that the draft paper needs to address the background to the rule change and that it is not an opinionated draft paper, i.e., the paper does not express personal viewpoints.

- 3.4. The TPC discussed how the draft paper could be more clearly presented to help readers find their way through the document and locate important points requiring the reader's consideration. These discussions included whether to incorporate page breaks and an index and whether to divide parts of the draft paper into multiple, separate segments. The TPC discussed the fact that, while some people would only be interested in isolated parts of the consultation paper, other parties/stakeholders may be interested in all of it and that it may therefore be beneficial for the proposal to be seen as a whole and not to be broken up.
- 3.5. The TPC agreed that indexes and links will be included when the draft consultation document is finalised by the TPC Secretariat.
- 3.6. JS asked the TPC members to email SS if they had any suggested amendments regarding the draft consultation document.
- 3.7. JS asked SOR if the Practice Direction regarding the written reasons has been updated by the SPT/senior judiciary. SOR stated that is unlikely but that he will check and inform the TPC if there are any changes.
- 3.8. MJR informed the TPC that he had comments in relation to the Practice Direction and how it related to written reasons in the Employment Tribunal. JS asked MJR to pass these comments to SS. SS stated that he will include these comments in the draft consultation.
- 3.9. The TPC discussed the proposal for the time for parties involved in proceedings in the ET to request written reasons to be reduced from 14 days to 7 days.
- 3.10. JS asked SOR to check the reasoning behind this proposal for a reduction from 14 to 7 days with the SPT. SOR stated that he would inform the TPC about the SPT's reasoning/rationale in due course.
- 3.11. GF and JR suggested further amendments to SS regarding the structure and the clarity of the questions included in the consultation paper. SS agreed to make the questions more accessible within the draft document.
- 3.12. The TPC discussed whether to include reference to the judicial transparency and open justice board within the draft consultation and agreed that the paragraph drafted by JS to make clear that this body would be asked for its views on the proposals contained in the consultation should be retained.
- 3.13. In light of observations from stakeholders, the TPC discussed whether it was appropriate for the TPC to offer its opinion on proposals advanced by the SPT and, if so, how these opinions should be phrased. It agreed that it was essential that it do so in order to comply with its statutory mandate to apply its expertise in the context of its rule-making function.

- 3.14. SS stated that he is content to make changes to the draft to ensure that it is more accessible.
- 3.15. JS asked SS to make these changes for the next TPC meeting in July and to have these changes approved by the written reasons subgroup prior to the July TPC meeting. SS agreed to this request.
- 3.16. SS asked MJR for his assistance in testing the terminology used in the Employment Tribunal section of the draft consultation document. MJR agreed to help.
- 3.17. The TPC agreed that the consultation period for the written reasons rule change will be three months.

**AP/44/24: To amend the draft consultation document to include links and indexes to other relevant documents – TPC Secretariat.**

**AP/45/24: To provide SS with any comments and suggestions regarding the draft written reasons consultation document – TPC members.**

**AP/46/24: To check if the Practice Direction in relation to the written reasons in Tribunal Chambers has been updated – SOR.**

**AP/47/24: To pass on his comments about the Employment Tribunal, in relation to the Practice Direction regarding written reasons, to SS – MJR.**

**AP/48/24: To incorporate MJR's comments into the draft consultation paper – SS.**

**AP/49/24: To check with the SPT to confirm the reasoning behind the reduction in days in the ET rules – SOR.**

**AP/50/24: To incorporate the amendments suggested by the other TPC members into the draft consultation document and have these amendments approved by the written reasons subgroup in preparation for the July TPC meeting – SS.**

**AP/51/24: To check the terminology used in the Employment Tribunal section of the draft consultation document – MJR.**

#### **4. Employment Tribunals (ET) Subgroup**

- 4.1. MJR informed the TPC that work is continuing on the proposed rule changes currently being processed by the subgroup.
- 4.2. MJR informed the TPC that RB had created a draft rule change document for the first tranche of ET rule changes and aimed to have a second draft completed soon.

- 4.3. MJR informed the TPC that further work on the draft documents will be done following the subgroup's meeting on 19 June 2024. MJR stated that he hoped that the drafts of both documents would be ready for the July TPC meeting for the TPC's consideration.
- 4.4. RB stated that the anticipated laying date of the Statutory Instruments (SIs) related to these ET rules is October 2024 but that the impending general election may affect this legislative timetable. RB stated that this matter can be discussed at the next subgroup meeting.

**AP/52/24: To discuss the laying date/legislative timetable of the SIs related to the Employment Tribunal – Employment Tribunal subgroup.**

#### **5. Immigration Asylum Chambers Subgroup**

- 5.1. SS reported that there were no urgent issues that required the TPC's immediate attention.

#### **6. GTCL Subgroup**

- 6.1. As there were no members of the GTCL subgroup present at the meeting, the TPC determined that any issues would be adjourned to be dealt with at the next meeting.

#### **7. Costs Subgroup**

- 7.1. DF stated that the pro-bono costs had mistakenly been removed from the work programme and requested that it be placed back on the work programme. VP agreed to this request.

**AP/53/24: To add pro-bono costs back onto the work programme – VP.**

#### **8. Overview Subgroup**

- 8.1. The TPC work programme has been updated as of 30 May 2024 and was circulated on 31 May 2024.

#### **9. AOB**

##### **Infected Blood Inquiry**

- 9.1. JS informed the TPC that VP had advised her about potential new work that may be directed to the TPC because of the Infected Blood Inquiry. The Government has accepted the principal recommendation of the Inquiry, published on 21 May 2024, to establish a financial compensation scheme for the victims of the infected blood scandal.

- 9.2. The Government's response also establishes a right of appeal to the First-tier Tribunal for anyone dissatisfied with the compensation they are offered under the scheme, although they must first seek a review of the award by the Infected Blood Compensation Authority. The Victims and Prisoners Act 2024, which is the legislative vehicle for delivering these measures, places a duty on the Government to deliver regulations to establish a scheme within three months of royal assent (the Bill received royal assent on 24 May 2024). First payments are anticipated by the end of 2024.
- 9.3. JS said that the MoJ will provide the TPC with further advice in due course as the details of the scheme are developed.

#### Future Meetings

- 9.4. JS requested the TPC Secretariat to circulate the dates for future TPC meetings after the summer break. The Secretariat agreed.
- 9.5. JS informed the TPC that VP will not be attending the July TPC meeting.

**AP/54/24: To circulate the dates of the future TPC meetings – TPC Secretariat.**

**Next Meeting: Thursday 04 July 2024**