

## **Tribunal Procedure Committee (TPC) Meeting Minutes**

**Thursday 06 March 2025**

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

### **Present**

- Mrs Justice Joanna Smith (JS)
- Philip Brook Smith (PBS)
- Susan Humble (SH)
- Matt Jackson (MJ)
- Faridah Eden (FE)
- Gillian Fleming (GF)
- Angela Shields (AS)
- Mark Loveday (ML)
- Jeremy Rintoul (JR)
- David Franey (DF)
- Donald Ferguson (DWF)
- Razana Begum (RB)
- Shane O'Reilly (SOR)
- Vijay Parkash (VP)
- Amir Khandoker (AK)
- Hanna Polanszky (HP)

### **Apologies**

- Michael Reed (MJR)
- Gabriella Bettiga (GB)
- Mark Blundell (MB)
- Julian Phillips (JP)

### **Minutes**

#### **1. Introductory matters**

- 1.1. MJR, GB, MB, and JP sent their apologies for not being able to attend the meeting.
- 1.2. The TPC stated that, subject to some amendments and further discussions regarding the manner of recording legal advice in TPC meeting minutes, the 06 February 2025 TPC meeting minutes can be published on GOV.UK.
- 1.3. JS informed the attendees that on 25 February 2025, she had held an introductory meeting with Catherine Gaskell (CG), the Deputy Director in the Judicial & Legal Services Policy team at the Ministry of Justice (MoJ). The topics discussed at the meeting included potential plans to supplement the legal resource allocated to the TPC to manage their busy workload and effectively draft the TPC-related Statutory Instruments (SI).

- 1.4. JS stated to the TPC that she relayed to CG the TPC's main concerns in respect of rising work pressures and related necessary legal resourcing to draft the TPC SIs that now included the Employment Tribunal Rules and internal priorities (from within the TPC itself, proposals from judicial office directed to the TPC to consider/make rule amendments and previous requests from central government departments requiring their immediate attention on matters such as the Nationality and Borders Act 2022).

## **2. Rule changes on 'Written Reasons and Practice Directions in the First-tier Tribunal'**

- 2.1. PBS informed the TPC that the exercise to prepare a draft response paper to the Senior President of Tribunals' (SPT) proposals was on track and that he anticipated the draft document would be available for the April 2025 TPC meeting.

**AP/19/25: To prepare the draft response paper to the proposals for the April 2025 TPC meeting. – PBS**

## **3. HSW Subgroup**

- 3.1. JS thanked AS for her effort and dedication in preparing a preliminary version of the draft SEND consultation response document for the March meeting.
- 3.2. AS summarised the methodology she had followed in preparing the draft document and asked the TPC members for their views on this approach and whether they could recommend any further improvements to the draft document.
- 3.3. FE suggested some changes to the terminology that had been used in the segment detailing the appeal process. FE agreed to send over her observations to AS after the meeting.
- 3.4. After discussing the draft document, JS asked the TPC members to email AS regarding any further comments or amendments to the document.
- 3.5. JS suggested that the TPC will aim to sign-off the draft consultation response document shortly before the April 2025 TPC meeting.

**AP/20/25: To email AS regarding any comments or amendments to the draft SEND consultation response document. – TPC members**

**AP/21/25: To incorporate any further comments or amendments to the draft SEND consultation response document. – AS/HSW Subgroup**

#### **4. Employment Tribunals Subgroup**

- 4.1. DF informed the TPC that the Employment Tribunals (ET) subgroup had drafted a consultation paper regarding potential amendments to 'tranche one' of the current ET Rules.
- 4.2. DF summarised the contents of the draft document and how the subgroup had tailored the document to better explain the proposals for new and tweaked rule amendments. The TPC discussed the document and the wording for each proposal for a rule change.
- 4.3. The TPC discussed the duration period for the planned 'tranche one' consultation and determined that, due to the nature of the changes and the desired aim to introduce an SI in the Autumn, an 8-week consultation period would be appropriate.
- 4.4. JS asked the TPC members to email the ET subgroup regarding any further comments or amendments to the draft consultation paper by 10 March 2025 so that the final document could be published promptly on GOV.UK. The TPC members agreed to this request.
- 4.5. JS asked the TPC Secretariat to make the necessary arrangements to publish the final consultation document. The TPC Secretariat agreed to this request.

**AP/22/25: To email the ET subgroup by 10 March 2025 regarding any further comments or amendments to the draft consultation document. – TPC members**

**AP/23/25: To make the arrangements to publish the final consultation document on GOV.UK. – TPC Secretariat**

#### **5. Immigration and Asylum Chamber Subgroup**

- 5.1. JS notified the TPC that she had a discussion on 05 March 2025 with Jenny Pickrell (JP), the Deputy Director of the Irregular Migration Division at the MoJ, about the development of proposals in the immigration and asylum sphere, specifically in relation to the Borders, Security, Asylum and Immigration Bill that was presently being debated before Parliament and whether this legislation was likely to require rule changes to be made to the existing Immigration and Asylum Chamber tribunal rules in respect of the government's intention to strengthen the UK's wider immigration and asylum system to tackle irregular migration to the United Kingdom.

- 5.2. JS informed the TPC that JP had agreed to provide a note for the TPC's consideration outlining the Government's legal assessment regarding whether rule amendments were likely to be required for the Borders, Security, Asylum and Immigration Bill. JS notified the TPC that the note would be prepared and circulated for the April 2025 TPC meeting, at which point the TPC could discuss any further action that might need to be taken.
- 5.3. JS asked for a TPC member to become the new chair of the Immigration and Asylum Chamber subgroup following the resignation of Stephen Smith from the TPC membership. JR volunteered to become the chair of the subgroup. JS thanked him for taking on this role.

**AP/24/25: To update the TPC subgroup chart to reflect JR's position as the chair of the Immigration and Asylum Chamber Subgroup. – TPC Secretariat**

## **6. GTCL Subgroup**

- 6.1. JS thanked PBS for the note he had provided to the TPC regarding the case of *'Wyldecrest Parks Management'*. This case involved an appeal by Wyldecrest Parks Management Ltd against a procedural order from the Property Chamber of the First-tier Tribunal (FtT) regarding the service of directions in a park home fee dispute. The FtT issued directions requiring the applicant to serve these on the respondents, which Wyldecrest challenged.
- 6.2. PBS discussed the *'Wyldecrest'* case and its findings with the TPC. PBS said that Wyldecrest argued that the FtT's rules did not entitle it to delegate this responsibility to the applicant. The Upper Tribunal (UT) found that the FtT's rules did not permit the delegation of the power to serve directions on a party. The decision in *'Hyslop v 38/41 Residents Co Ltd'* was cited, emphasizing the FtT's responsibility to communicate its own decisions and directions to parties. The UT concluded that procedural fairness and the independence of the Tribunal required the FtT to serve its directions directly on parties to proceedings. The order requiring Wyldecrest to serve directions was set aside.
- 6.3. After discussing the potential rule changes as a result of the UT's ruling, the TPC determined that an 8-week consultation period would be appropriate.
- 6.4. PBS agreed to prepare a draft consultation document for the April 2025 TPC meeting. SH offered her assistance.
- 6.5. PBS and SH decided that SH will prepare the first draft of the consultation paper which she will then share with PBS/the GTCL subgroup.

**AP/25/25: To prepare the first draft of the consultation paper which she will then share with PBS. – SH**

**AP/26/25: To prepare a draft consultation paper for the April 2025 TPC meeting. – PBS and SH**

## **7. Costs Subgroup**

- 7.1. ML described the replies received from the Tribunal Chamber Presidents on a package of changes to rules for those chambers of the FtT and UT which have cost-shifting powers.
- 7.2. ML informed the TPC that he was considering legal advice and the answers he received from the Chamber Presidents on a query regarding interests on costs before the first draft of the consultation document was finalised by MJ.
- 7.3. ML informed the TPC that the subgroup was in the process of drafting the consultation document that would also cover the related topics of interest on costs, payments on account of costs & pro-bono costs awards. ML said he would aim to have a first version of the draft consultation document prepared/available for the April 2025 TPC meeting.

## **8. Overview Subgroup**

- 8.1. The TPC work programme has been updated as of 11 February 2025 and was circulated on 28 February 2025.
- 8.2. RB informed the TPC that she had noted the timelines of the papers discussed during the meeting and that she aimed to have the relevant processes finished by the end of June 2025 for the Autumn TPC Statutory Instrument.

## **9. AOB**

- 9.1. JS reiterated to the TPC that DWF had decided to stand down from his position as a member of the TPC after serving three consecutive terms. JS thanked DWF for his unwavering commitment to the TPC and commended his knowledge of, and expertise in, the Scottish legal system which had been invaluable to the work of the TPC.
- 9.2. PBS thanked DWF for the significant contributions DWF had made to the various TPC subgroups in which he was involved.
- 9.3. DWF thanked all past and present members of the TPC and both chairs that he had served with on the TPC for their help and support. In addition, DWF

thanked the guests, legal advisors, and civil servants that had attended the TPC meetings during his three terms on the Committee.

**Next Meeting: Thursday 03 April 2025**