

**May 2025**

## **Tribunal Procedure Committee**

### **Consultation on possible changes to Rule 7(6) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (Service of Directions)**

#### **Introduction**

1. The Tribunal Procedure Committee (“the TPC”) is the body that makes Rules that govern practice and procedure in the First-tier Tribunal (“the FTT”) and in the Upper Tribunal (“the UT”). The TPC is established under section 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007 (“the TCEA”). The Employment Tribunals fall outside the FTT and UT Chambers. Responsibility for their rules, however, was transferred to the TPC (and for national security rules, to the Lord Chancellor) by the Judicial Review and Courts Act 2022 from 25 April 2024.
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. When making rules, 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 where appropriate.
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.

5. Further information on the TPC can be found at our website:  
<https://www.gov.uk/government/organisations/tribunal-procedure-committee>

### **Procedural Rules relevant to the Consultation**

6. The TPC is consulting on possible changes to Rule 7 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”) to provide for service of the Tribunal’s directions by a party on the other party or parties. The link to the Rules can be found: [Property Chamber tribunal procedure rules - GOV.UK](#).
7. Consideration of the current effect of Rule 7 has been prompted by the UTT’s decision in *Wyldecrest Parks Management Limited* [2024] UKUT 402 (LC)<sup>1</sup>, namely that Rule 7(6) required the FTT itself to send out its directions to the parties. The UTT concluded that, under the current Rules, the FTT did not have power to direct a party to send out the FTT’s directions to the other parties. The UTT considered the decision (also of the UTT) in *Iris Hyslop v 38/41 CHG Residents Co Limited* [2017] UKUT 0398 (LC)<sup>2</sup>. *Hyslop* concerned directions made by the FTT to one party to deliver to the other parties: (a) the notice of application which included directions; (b) the Tribunal’s final decision. *Hyslop* did not concern a direction by the FTT to one party to deliver to the other parties the FTT’s directions as a standalone document.
8. The procedural rules relevant to the Property Chamber are set out below for ease of reference.

### **Rule 5 - Delegation to staff**

- 5.—(1) Staff appointed under section 40(1) of the 2007 Act (tribunal staff and services) or section 2(1) of the Courts Act 2003 (court officers, staff and services) may, if authorised by the Senior President of Tribunals under paragraph 3(3) of Schedule 5 to the 2007 Act, carry out functions of a judicial nature permitted or required to be done by the Tribunal.
- (2) [...]
- (3) Within 14 days after the date that the Tribunal sends notice of a decision made by a member of staff under paragraph (1) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

### **Rule 6 - Case management powers**

- 6.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.
- (2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

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<sup>1</sup> [LC-2024-727 WRs remade.docx](#)

<sup>2</sup> <https://landschamber.decisions.tribunals.gov.uk/judgmentfiles/j1369/LRX-125-2016.pdf>

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may—

- (a) – (c) ...;
- (d) permit or require a party or another person to provide or produce documents, information or submissions to any or all of the following—
  - (i) the Tribunal;
  - (ii) a party;
  - (iii) in land registration cases, the registrar;
- (e) – (o) ...

#### **Rule 7 - Procedure for applying for and giving directions**

7.—(1) The Tribunal may give a direction on the application of one or more of the parties or on its own initiative.

(2) An application for a direction may be made—

- (a) by sending or delivering a written application to the Tribunal; or
- (b) orally during the course of a hearing.

(3) An application for a direction must include the reason for making that application.

(4) Except with the permission of the Tribunal, if a written application for a direction is made without the consent of every party the applicant must provide—

- (a) a copy of the proposed application to every other party before it is made; and
- (b) confirmation to the Tribunal that the other parties have been notified that any objection they wish to make to the application must be provided in accordance with paragraph (5).

(5) A party who wishes to object to a written application that has been made to the Tribunal for a direction must send written notice of the objection to the Tribunal and the applicant for the direction.

(6) Unless the Tribunal considers that there is good reason not to do so, the Tribunal must send written notice of any direction made by the Tribunal to every party and to any other person affected by the direction.

(7) If a party or any other person sent notice under paragraph (6) of the direction made by the Tribunal wishes to challenge that direction, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

#### **Rule 16 - Provision of documents**

16.—(1) ...

(2) The Tribunal may provide any document (including any notice or summons or other information) under these Rules by—

- (a) itself sending or delivering the document; or
  - (b) requiring a party to do so.
- (3) – (11) ...;

(12) Where an enactment requires evidence that a party has supplied any person with a document, that party may satisfy the requirement by providing a certificate signed by the party confirming that the document was provided in accordance with the requirements of this rule.

#### **Rule 29 - Notice to respondents, interested persons and other persons**

29.—(1) When the Tribunal receives a notice of application in accordance with rule 26(1) or a statement of case in accordance with rule 28(4), the Tribunal must provide a copy of the application and any accompanying documents to the respondent.

(2) The Tribunal must also provide to the respondent a written notice informing the respondent of the requirements of rule 30.

(3) On being notified of the name and address of an interested person, the Tribunal must provide that person with a copy of the application and any accompanying documents.

(4) On receipt of an application relating to service charges, administration charges or estate charges the Tribunal must provide notice of the application to—

(a) the secretary of any recognised tenants' association within the meaning of section 29 of the Landlord and Tenant Act 1985 identified in the application; and

(b) any person whose name and address is known to the Tribunal whom the Tribunal considers is likely to be significantly affected by the application.

(5) – (10) ...

#### **Rule 52 - Application for permission to appeal**

52.—(1) A person seeking permission to appeal must make a written application to the Tribunal for permission to appeal.

(2) An application under paragraph (1) must be sent or delivered to the Tribunal so that it is received within 28 days after the latest of the dates that the Tribunal sends to the person making the application—

(a) written reasons for the decision;

(b) notification of amended reasons for, or correction of, the decision following a review; or

(c) notification that an application for the decision to be set aside has been unsuccessful.

(3)-(5) ...

#### **This Consultation**

9. This consultation arises from the decision in *Wyldcrest* that the FTT does not have power under the Rules, and specifically under Rule 7 (6), to direct a party to send out

FTT directions to the other parties. The effect of Rule 7(6) is positively to require the FTT itself to send out its own directions to the parties.

10. In *Hyslop*, the UTT considered whether the FTT was entitled to rely on an applicant to send (a) the application, and (b) its subsequent decision on the application, to each of the respondents. *Hyslop* did not involve consideration of the sending of the FTT's standalone directions under Rule 7(6).

11. The leaseholders of a property subject to service charges, including Ms Hyslop, were intended respondents to proceedings brought by the landlord CHG. The FTT issued a direction to the landlord as follows:

*"The landlord must by 30 October 2015 serve a copy of the application and these directions on each of the leasehold respondents and shall confirm to the tribunal that it has done so."*

12. CHG informed the FTT in writing that the application and directions had been duly served. The leaseholders did not respond to the FTT, and the application was determined on the papers without a hearing. The FTT sent the decision to CHG with a letter in which it requested CHG to *"provide a copy to the respondents"*. The letter included instructions on how to appeal against the decision. Ms Hyslop said that she did not receive the application and was therefore unable to participate in the proceedings, nor did she receive the FTT's decision, so she did not seek permission to appeal in time. Her application was refused by the FTT as being out of time.

13. On appeal, the UTT decided that Rule 6(3)(d) provided express power enabling the FTT to require a party to provide documents, information or submissions to another party. The UTT was therefore satisfied that the FTT may properly require an applicant to provide intended respondents with copies of the application commencing proceedings and there was nothing irregular in the FTT's direction to CHG to serve the notice of application on each of the leaseholders.

14. The UTT further concluded that Rule 36(2) required the FTT to provide the decision on the application to each party. It did not follow that case management powers under Rule 16(2) were intended to modify the FTT's fundamental obligation to make its decisions available to all the parties. Rule 36(2) required the documents to be provided *"to each party"*. Rule 52(2), relating to the time limits for seeking permission to appeal, specified that time started to run after *"the Tribunal sends to the person making the application ... written reasons for the decision"*. Due to lack of clarity as to when the decision had been *"sent"*, time for the first party would never begin to run if responsibility for sending the decision was capable of being entrusted to the other party. *"Sends"* did not mean the same as *"provides"*. Rule 36(2) must be interpreted as requiring that the FTT should discharge the obligation itself.

15. The appeal in *Wyldecrest* related to an order by the FTT that the appellant serve the FTT's directions (originally made by a legal officer but reviewed and confirmed by a Judge) on the other parties. The proceedings concerned the review of the pitch fees of 13 occupiers of a mobile home site. Direction 11 stated that:

*“By 30 September 2024 the Applicant shall send a copy of these Directions and a copy of the Tribunal’s Statement of Rules and Procedure to each of the Respondents. The Applicant shall confirm to the Tribunal that they have served these documents by 2 October 2024. In default of compliance the application shall be struck out without any further notice being given.”*

16. The appellant site owner appealed to the FTT, including on the ground that the FTT was not entitled to require it to serve the FTT’s directions on the intended respondents without a “good reason” as required by Rule 7(6). The appeal succeeded. Rule 6(3)(d) and Rule 16(2) were considered. It was noted that *Hyslop* did not concern directions made by the FTT but only the application (under cover of which the directions were sent) and the final decision. The UTT asked itself whether the combined effect of Rules 6(3), 16(2) and 7(6) enabled the FTT to require an applicant to send its directions to the respondent instead of sending them itself. The UTT decided that the Rules did not allow the FTT to do so.
17. Rationale for the UTT’s decision is as follows. Directions required actions from the parties with serious consequences for non-compliance. There was an “*obvious risk*” of dispute as to when delivery of directions happened if left to one of the parties. Further, the UTT identified the risk of compromise to the perception of the FTT’s independence if it used a party as its own messenger. Finally, directions could be appealed. Rule 52(2) specified the starting point for making an application for permission to appeal directions by reference to the date on which the Tribunal sent the directions to the parties. That provision would not work and the time for applying for permission to appeal would never start to run if the task of sending the directions was delegated by the FTT to a party.
18. The UTT considered the meaning of these words in Rule 7(6): “*Unless the Tribunal considers there is good reason not to do so, ...*” It concluded that those words related to whether the directions should be sent by the FTT at all. They did not relate to whether the directions should be sent by a party instead of the Tribunal. Cases where the directions should not be sent at all would be rare in the UTT’s view. The FTT was required to send its own directions itself.

### **Consideration Of Rule 7**

19. Concern has been expressed by the Chamber President of the Property Chamber that the practicalities and resource effect of the decision in *Wyldecrest* will be far-reaching, affecting as it does what has been a long-standing practice. The TPC recognises and shares that concern. The procedure is used in numerous cases, including: pitch fee applications under the Mobile Homes Act 1983; complex section 27A(1) applications, section 27A(3) service charge applications and section 20ZA applications under the Landlord and Tenant Act 1985; section 24 applications under the Landlord and Tenant Act 1987; and some Building Safety Act applications and applications under the Land Registration Act 2002 . The impact of the decision is wide-ranging. As was recognised by the UTT in *Hyslop*, there may be hundreds or even thousands of respondents, usually in cases involving housing associations and local authorities. As the UTT in *Hyslop* observed [54]:

*“It is not difficult to understand why it was thought appropriate to deal with the mechanics of “service” (as it would be called in the context of court procedure) by allowing the FTT to discharge its own primary responsibility in this way. In this case there were 36 respondents to the application before the FTT, but other applications, whether in relation to service charges, the appointment of a manager, or the variation of defective leases, can involve hundreds or even thousands of parties. Informing interested parties that proceedings which concern them have been commenced could often be an onerous and expensive task for a tribunal, but it is one which a landlord (the most likely applicant) will often be well equipped to perform since they will usually already have systems in place for communicating with their leaseholders.”*

20. The concern is that in the Property Chamber resources to comply with Rule 7(6) as decided in *Wyldecrest* may not be available, or if available they may not be applied to this purpose. The concern is that this will result in potentially severe and damaging delay to both applicants and respondents whilst the FTT issues and serves its directions, particularly in the types of case with multiple respondents identified at paragraph 19 above. Delay will extend the time it takes for the hearing and would, it is said, cause disproportionate difficulty for parties. Additional resource and difficulty will arise if it is also suggested that the Tribunal must include reasons for and notice of the right to appeal in all its case management orders.
21. Being mindful of the TPC’s responsibility to make rules with the aim of ensuring that cases are dealt with quickly and efficiently and that rules are simple and clear, the TPC is now consulting on a proposed change to Rule 7, to seek to address concerns.

### **Discussion Of Considerations**

22. One possible solution is to amend rule 16(2) to expressly refer to “*directions*”, in addition to other types of documents listed there. The perceived difficulty with that approach is caused by the difference between Rules 7 and 16 in use of the words “*send*” and “*provide*”. Rule 7(6) requires the Tribunal to “*send*” written notice of every direction to the parties. Rule 16(2) empowers the Tribunal to “*provide*” documents by means of either itself sending or delivering the document or requiring a party to do so. The word “*provide*” is also used in Rule 29 (1) in relation to the notice of application. In *Hyslop*, the UTT applied the Rule 16(2) approach to provision of the application by requiring the landlord to send it to the intended respondents. Adjustment to Rules in addition to Rule 7, to replace “*send*” with “*provide*”, would therefore be required to implement the intended effect of an amendment to Rule 16(2). This may result in over-complication with the potential to cause other serious consequences.
23. An alternative approach, which appears to the TPC to be consistent with the decisions in both *Hyslop* and *Wyldecrest*, is to make Rule 7(6) expressly subject to a new Rule 7(6A), to read as follows:

*“(6A) The Tribunal may direct that a party to proceedings must send any notice given under paragraph (6) to every party and to any other person affected by the direction, and the date that a party sends notice under this paragraph is deemed to be the date that the*

*Tribunal sent notice under paragraph (6) to that party or as otherwise determined by the Tribunal.”*

24. The notice referred to in the italics above is the notice of any direction made by the Tribunal under Rule 7(1). The TPC considers that this addition to rule 7 would preserve the ‘*sending*’ aspect contained in other Rules, removing the need for multiple amendments to deal with what is a discrete practical point, whilst addressing resource concerns.
25. The proposed addition of a new Rule 7(6A) does not fully deal with the remaining significant potential for dispute as to the date on which the notice of direction was “*sent*”. The TPC anticipates that this risk would be dealt with by a further direction (as occurred in *Wyldecrest*) requiring confirmation of the date of sending to be given to the Tribunal. For example, a direction in similar terms to that described in Rule 16(12): a party may satisfy the requirement under an enactment to provide evidence that they have supplied a document by providing a certificate signed by the party confirming that the document was provided in accordance with the requirements of this rule.
26. The TPC anticipates that the notice of direction could be further extended on a case-by-case basis at the FTT’s discretion and/or on application by one or more parties to include, for example:
  - Stipulation as to the method for sending the notice of direction by one party to the other
  - A requirement to describe the method of sending the notice of direction in the confirmation of it having been sent provided to the Tribunal
  - Specifying the deemed date of sending as other than the date on which the Tribunal sent the notice to the party
27. One important consideration, identified in *Wyldecrest*, is the actual or perceived risk of the FTT’s independence being compromised, or justifiably seen to be compromised, by being explicitly given the power under proposed new Rule 7(6A) to direct one party to send out notice of direction to the other party. In short, is there a risk that a direction to one party to send out the notice to the other party may be viewed as the Tribunal using that party as its “*messenger*” (per *Wyldecrest*). Notice of directions is not a final decision but rather a significant but intermediate step towards the final decision. The proposed new Rule 7(6A) also appears to be consistent with the UTT’s decision in *Hyslop* which drew a boundary between the delivery of an application with directions sent under cover of that application and the final decision of the Tribunal on the subject matter of the application. The TPC invites views on this aspect.

*Question 1: Do you agree that change to the Rules is desirable because of the effect of the decision in Wyldecrest? If not, why not?*

*Question 2: Do you agree with the proposed change to Rule 7 by the addition of new Rule 7(6A) set out in paragraph 23 above? If not, why not?*



*Question 3: Do you have suggestions for alternative drafting of new Rule 7(6A)? Please explain your reasons.*

*Question 4: Do you consider that there is a risk that the Tribunal's independence will be compromised, or justifiably seen to be compromised by the addition of new Rule 7(6A)? Is there an alternative approach that would reduce that risk?*

*Question 5: Do you have any other comments?*

**Response**

28. Please reply using the response questionnaire template.

29. Please send your response by 09 July 2025 to one of the following:

a. Email: [tpcsecretariat@justice.gov.uk](mailto:tpcsecretariat@justice.gov.uk)

b. Post: Tribunal Procedure Committee  
Administration of Justice Directorate  
Policy, Communications and Analysis Group  
Ministry of Justice  
Post Point: Area 5.71  
102, Petty France  
London  
SW1H 9AJ

30. Extra copies of this consultation document can be obtained using the above contact details or online at: <http://www.justice.gov.uk/about/moj/advisory-groups/tribunal-procedure-committee/ts-committee-open-consultations>