

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

**Thursday 03 April 2025**

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

### **Present**

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

### **Guests**

- Mark Blundell (MB)
- Julian Phillips (JP)
- Fiona Monk (FM)

### **Apologies**

- Gabriella Bettiga (GB)

### **Minutes**

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

- 1.1. GB sent her apologies for not being able to attend the meeting.
- 1.2. JS welcomed ASC to her inaugural TPC meeting. ASC has been appointed as a TPC member by the Lord President of the Court of Session (specialising in Tax and Social Entitlement Chamber matters). Her term will run from 23 March 2025 to 22 March 2028.
- 1.3. JS informed the TPC that GB wished to temporarily step back from the Committee until July 2025 for personal reasons. The TPC approved GB's request, recognising her value to the committee, and decided that it would review the position in July 2025.

- 1.4. The TPC clarified that it considers it to be appropriate and important that where legal advice has been obtained as part of its decision-making process, the fact of obtaining such advice should be referred to in TPC minutes. JS asked AK to send her the approved February and March 2025 TPC meeting minutes so that she could review those documents in light of this decision before they are published on the TPC website. AK agreed to this request.

**AP/27/25: To send JS the approved February and March 2025 TPC meeting minutes for review before they are published on GOV.UK. – AK**

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

- 2.1. JS thanked PBS for the first version of the draft reply paper that he prepared on the topic of “Written Reasons”.
- 2.2. PBS explained the contents of the paper to the TPC, and the further work required, including amending parts of the document, prior to finalising the paper.
- 2.3. PBS said that the Written Reasons subgroup considered that a 14-day time limit concerning the provision of written reasons for decisions was appropriate.
- 2.4. The TPC discussed the observations/ conclusions in the draft paper in respect of hearings and also discussed the observations of the Transparency and Open Justice Board and agreed with PBS’ view regarding the 14-day limit. The TPC also agreed that it would be beneficial for the time limit to be consistent across the different tribunal chambers and jurisdictions.
- 2.5. The TPC also discussed topics such as the digitisation of tribunal chambers, the benefits of digital services and the length of written reasons.
- 2.6. PBS informed the TPC that he will be unable to attend the May 2025 TPC meeting and requested that another member of the Written Reasons subgroup update the TPC at that time. MJR volunteered to do this and PBS thanked him.
- 2.7. JS suggested that the subgroup aim to prepare a final version of the response document for the May 2025 TPC meeting, during which the TPC will aim to discuss any final miscellaneous comments and sign off on the response document during or shortly after the May 2025 meeting.
- 2.8. JS and the TPC asked RB about her legal drafting capacity and whether the proposed rules would be included in the planned October 2025 TPC Amendment statutory instrument (SI) legislative timetable for the Written Reasons matter. JS confirmed that these rule changes are considered by the SPT to be a priority.

- 2.9. RB informed the TPC that it has not been finally determined whether the rule changes can be incorporated into the October SI. RB stated that the dates in relation to the October SI cannot be changed due to the Renters' Rights Bill's rule changes which are due to be laid at that time.
- 2.10. SOR thanked RB for the update and stated that he would like to be informed if the Written Reasons rule changes cannot be implemented in the October SI.

**AP/28/25: To prepare a final draft version of the reply document for the May 2025 TPC meeting. – Written Reasons subgroup**

### **3. HSW Subgroup**

- 3.1. JS informed the TPC that AS had incorporated some suggested amendments into the draft SEND consultation reply document following the matter being discussed by the Committee at the April 2025 TPC meeting.
- 3.2. RB suggested a further amendment to the draft consultation reply document and AS agreed to this change.
- 3.3. JS asked the TPC Secretariat to publish the consultation reply document after this amendment had been included. The TPC Secretariat agreed to this request.

**AP/29/25: To incorporate RB's suggested amendment into the draft SEND consultation reply document. – AS**

**AP/30/25: To publish the SEND consultation reply document when finalised on GOV.UK. – TPC Secretariat**

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

- 4.1. MJR informed the TPC that the consultation regarding potential further changes to the Employment Tribunal Rules was now underway.
- 4.2. VP asked RB about potential laying dates for the rule changes. RB replied that October 2025 would be a realistic date although JS expressed concern that there may be future legal resourcing issues.
- 4.3. The TPC agreed to further consider potential laying dates at a later meeting.

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

- 5.1. The TPC discussed the position paper prepared by the Ministry of Justice (MoJ) Irregular Migration team. The MoJ paper sought a preliminary view as

to whether the legislative changes referred to in the paper are likely to require complementary rule changes.

- 5.2. JR informed the TPC that further information is needed in relation to the proposed reforms to the tribunal as a result of the Border Security, Asylum and Immigration Bill to determine if rule changes are required to facilitate the proposed reforms.
- 5.3. MB agreed with JR and stated that it is highly unlikely that no rule changes are necessary. MB also stated that the category of an individual case must be factored in when discussing the potential reforms.
- 5.4. Following a discussion, the TPC's initial view (which would be reported back to the MoJ Irregular Migration team by JS) was:
- i) that, on the information provided to date, it appears unlikely that there will be no requirement for rule changes;
  - ii) the TPC is particularly concerned as to how the First-tier Tribunal will know whether an appeal falls within the two groups of cases identified in the paper; and
  - iii) the TPC consider it probable that there will be a need for rules to deal with:
    - (a) how cases are to be identified as falling within the two groups of cases; and
    - (b) where the obligation to identify them as such lies.
- 5.5. The TPC noted the suggestion that the procedure envisaged is intended to be similar to the 26-week timeframe introduced for care and supervision proceedings in the Children and Families Act 2014. JS agreed to mention to the MoJ Irregular Migration team that it was likely that new rules had been required in respect of those legislative changes.
- 5.6. JS thanked the subgroup members for their contributions.

**AP/31/25: To relay the Immigration and Asylum Chamber subgroup's thoughts on the proposed reforms to the MoJ Irregular Migration team. – JS**

## **6. GTCL Subgroup**

### Provision of documents to other parties/ persons in tribunal proceedings

- 6.1. JS and PBS thanked SH for the first version of a draft consultation paper she had prepared in relation to 'Direction for Service by Parties' in the Property Chamber which concerned rule 7 of the Property Chamber Rules (Procedure for applying and giving directions).

- 6.2. The TPC discussed the draft consultation paper and the TPC members suggested some amendments to the document.
- 6.3. JS requested that the TPC members send their suggested amendments to SH by 07 April 2025 so that SH can incorporate them into the paper. The TPC members agreed to this request.
- 6.4. The TPC reaffirmed that the TPC Secretariat would publish the consultation document after the final amendments had been made and after Judge McGrath, the President of the Property Chamber, had been invited to review the document. In addition, the Committee reiterated that the consultation period would be 8 weeks.

#### Renters Rights' Bill

- 6.5. The TPC discussed issues about expanding the definition for residential property disputes to include the new 'Renters' Rights' jurisdiction and interrelation of the proposed rule changes with the charging of tribunal fees (by reference to the submitted paper prepared by the Ministry of Housing, Communities and Local Government that had been discussed by the TPC on 06 February 2025). The point arising was one of justification for proposed rule change aside from fee charging (since definitions from the PC Rules were deployed in the 'Fees SI').
- 6.6. PBS said he understood that a tribunal application fee would be introduced for these new categories of cases and that he would discuss the matter with Judge McGrath to establish her view before revisiting/ discussing the need for proposed rule changes with RB. The TPC noted that the MoJ was responsible for the 'tribunal fees' policy.
- 6.7. As PBS would be absent at the May 2025 TPC meeting, RB agreed to report the key issues arising from PBS' discussion with Judge McGrath to the TPC at the May meeting.

**AP/32/25: To send any suggested amendments to the draft consultation paper, regarding rule 7 of the Property Chamber Rules, to SH. – TPC members**

**AP/33/25: To incorporate any suggested amendments into the draft consultation paper. – SH**

**AP/34/25: To publish the draft consultation paper once it has been finalised. – TPC Secretariat**

**AP/35/25: To relay the details of his meeting with Judge McGrath to RB so that she can report back to the TPC at the May 2025 TPC meeting. – PBS**

**AP/36/25: To report the details of PBS' meeting with Judge McGrath to the TPC.  
– RB**

**7. Costs Subgroup**

- 7.1. JS thanked MJ for the first version of the draft consultation paper he had prepared concerning rule changes in respect of costs matters in the tribunals system.
- 7.2. MJ summarised the contents of the draft paper and highlighted (i) paragraph 9, which describes the jurisdiction under Section 194A of the Legal Services Act; and (ii) paragraph 19, which identifies the tribunal chambers where there is currently no power at all to make an order for costs, as areas which the TPC may wish to discuss further.
- 7.3. The TPC discussed these paragraphs and agreed that legal clarification was needed to resolve questions regarding the tribunal's authority/ jurisdiction to exercise the power to make the proposed costs orders.
- 7.4. JS requested that RB provide a short note to clarify the questions that the TPC had raised on the costs matters. RB agreed and asked MJ and DF to let her know their thoughts on the matter. Both MJ and DF agreed to assist RB.
- 7.5. JS asked RB to check the jurisdiction under Section 194A of the Legal Services Act. RB agreed to this request.
- 7.6. The TPC discussed other paragraphs of the consultation paper, including the sections on pro-bono costs in the tribunals system and the current position on costs in Scotland.
- 7.7. JS suggested that MJ make some minor amendments to the paper in the sections regarding the Employment Tribunals and the position on costs in Scotland.
- 7.8. MJ stated that he may be able to make the changes suggested by the TPC members before the May 2025 TPC meeting. The TPC then discussed the timetable for finalising the consultation document.
- 7.9. ASC informed the TPC that she will try to explore the position in Scotland and report back to the TPC in due course.
- 7.10. VP informed the TPC that he had a query from the Attorney General's Office (AGO) Pro Bono Committee regarding the making of new rules for pro bono

costs. VP stated that he will update the AGO about the latest developments in due course.

**AP/37/25: To provide a short note to clarify the questions that the TPC had about the costs in tribunals matters. – RB**

**AP/38/25: To offer their thoughts on the costs matters to RB. – DF and MJ**

**AP/39/25: To check the jurisdiction of Section 194A of the Legal Services Act. – RB**

**AP/40/25: To incorporate any suggested amendments made by JS and the other TPC members into the draft ‘Costs in Tribunals’ consultation paper. – MJ**

**AP/41/25: To determine the situation regarding the costs position in Scotland and report back to the Costs Subgroup/ TPC. – ASC**

**AP/42/25: To update the AGO about the latest developments on tribunal rules for pro bono costs. – VP**

## **8. The Tribunal Procedure (Amendments) Rules 2025 SI**

- 8.1. RB informed the TPC that she had circulated the draft TPC Amendment Rules SI and had made some minor changes to the document.
- 8.2. The TPC briefly discussed the SI before RB explained that further legal checks will be conducted on the SI before she provides (in mid-April) a final revised draft of the SI for their consideration.
- 8.3. RB informed the TPC that the TPC SI is on track to be laid before Parliament on time. RB added that the SI currently needed ministerial permission.
- 8.4. VP informed the TPC that the submission in principle for the SI to be laid had been sent to the MoJ Minister for her consideration and that he expected a ministerial reply shortly.

## **9. Overview Subgroup**

- 9.1. The TPC work programme has been updated as of 27 March 2025 and was circulated on 28 March 2025.
- 9.2. The TPC discussed future work streams.

## **10. AOB**

- 10.1. JS informed the TPC that AK is attending his last TPC meeting as he is moving to a new role at the Department of Work and Pensions. JS thanked AK for his work with the TPC.
- 10.2. AK thanked JS and the other TPC members for their support and advice during his time at the MoJ and wished everyone on the Committee the best for the future.
- 10.3. SH suggested it might be helpful to create a standard consultation document template, to be used when drafting new consultation documents. JS and the other TPC members agreed with SH.
- 10.4. The TPC discussed the potential formats that could be used for a consultation document template and a response document template and decided that it would be beneficial to have differing versions depending on the contents of the consultation. VP agreed to take forward developing appropriate templates.

**AP/43/25: To take forward and develop a template for a consultation document and a consultation response document. – VP**

**Next Meeting: Thursday 01 May 2025**