

Tribunal Procedure Committee (TPC) Guidance Document

Background: What is the Tribunal Procedure Committee?

The Tribunal Procedure Committee (the “TPC”) is an advisory Non-Departmental Public Body and is sponsored by the Ministry of Justice.

It was established in May 2008 to make rules of procedure for the First-tier Tribunal and the Upper Tribunal. It was set up in accordance with Section 22 of the Tribunals, Courts and Enforcement Act 2007 (“TCEA”). A key part of the TPC’s work is to consider the many new appeal rights and consequential technical amendments, such as nomenclature, brought about by policy and legislative change.

The introduction of the Judicial Review and Courts Act 2022 transferred responsibility for Employment Tribunal and Employment Appeal Tribunal (EAT) procedure rules to the TPC. The provisions relating to the transfer of responsibility have not yet been brought into force. The TPC has been told, however, that the government intends to bring them into force in due course.

The TPC’s Purpose and Terms of Reference

The TPC has ten sets of Tribunal Procedural Rules that it keeps constantly under review.

Paragraph 22(4) of Schedule 5 to the TCEA states that power to make Tribunal Procedure Rules is to be exercised with a view to securing that:

- in proceedings before the First-tier Tribunal and Upper Tribunal, justice is done;
- the tribunal system is accessible and fair;
- proceedings before the First-tier Tribunal or Upper Tribunal are handled quickly and efficiently;
- the rules are both simple and simply expressed; and
- 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.

Paragraph 28(1) of Schedule 5 to the TCEA states that before the TPC makes Rules, the Committee must:

- consult such persons (including such of the Chamber Presidents) as it considers appropriate;
- consult the Lord President of the Court of Session if the Rules contain provision relating to proceedings in Scotland; and
- meet (unless it is inexpedient to do so).

Paragraph 28(2) of Schedule 5 to the TCEA states that rules made by the TPC must be:

- signed by a majority of the members of the Committee; and
- submitted to the Lord Chancellor, who may allow or disallow the rules.

Membership

The membership of the TPC is governed by Schedule 5 to the 2007 Act. It states that the TPC shall consist of the following members:

- The Senior President of Tribunals or a person nominated by him;
- Four members appointed by the Lord Chancellor;
- Three members appointed by the Lord/Lady Chief Justice of England and Wales;
- One member appointed by the Lord President of the Court of Session; and
- Up to four additional members, appointed by an appropriate senior judge at the request of the Senior President of Tribunals, with relevant experience in and knowledge of a particular issue or subject area.

Details for the TPC membership can be found here:

<https://www.gov.uk/government/organisations/tribunal-procedure-committee/about#membership>

The Work of the TPC

The TPC is responsible for the following sets of rules:

1. The Tribunal Procedure (Upper Tribunal) Rules 2008
2. The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010
3. The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008
4. The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008
5. The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008
6. The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009
7. The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009
8. Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013
9. Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.
10. The Employment Tribunals Procedure Rules 2024

TPC Consultations

Consultation is a fundamental part of the rule-making process and the TPC is required to consult by the TCEA. Those involved in the day-to-day work of particular tribunals are often best placed to assess the potential impact of rule changes. The TPC has benefited considerably from the responses to its consultations; they have helped eradicate errors, identify problems in the initial drafts, and suggested improvements. Even where proposed amendments have not been adopted, they have frequently generated important debates in the TPC which have helped sharpen the drafting process.

Specific subject areas may be discussed at sub-group meetings in the periods between full meetings. Matters such as deciding to consult on a proposal, agreeing a consultation

document, agreeing a consultation response, and agreeing to make rules are all usually dealt with at full meetings. It is not unusual for any one of those matters to be discussed over the course of multiple meetings. The result of this is that the whole process from receipt of a proposal to Rules being made can take several additional months both before and after the consultation.

TPC Process and Procedures

The TPC usually meet 9 times a year (i.e., monthly except in January, August, or September) and meetings take place on the first Thursday of each month. For rule change proposals to be considered a briefing note should be submitted to the TPC secretariat a minimum of 10 days before the next scheduled TPC meeting

There are TPC procedures and timeframes that apply for rule changes (a maximum of 12 months from start to finish of receipt of a briefing paper), but this timeframe does vary depending on TPC work priorities. During the initial investigatory period the TPC may ask for further information about the drivers and likely impacts of a proposal and scrutinises all evidence including statistical data before deciding whether it will proceed to consult on making rule changes.

A public consultation exercise can take up to 12 weeks and all respondent responses are scrutinised to inform the progress of the rulemaking exercise.

SI Process

The TPC endeavours to follow the standard Government practice of a biannual Statutory Instrument (SI) process for legislative changes to come into effect, i.e., April and October. However, the nature of the work is such that this is not always practicable. SIs drafted by the TPC are subject to the negative resolution process.

Contacting the TPC

The Secretariat is responsible for supporting the work of the TPC and acting as the interface between the TPC and officials. The current secretariat staff are Vijay Parkash and Hanna Polanszky.

Vijay Parkash (TPC Secretary), email: Vijay.Parkash@justice.gov.uk can be contacted in the first instance with any queries regarding the TPC.