

Tribunal Procedure Committee (TPC) Meeting Minutes

Thursday 01 May 2025

Meeting (Hybrid) at 7 Rolls Building, London

Present

- Mrs Justice Joanna Smith (JS)
- Susan Humble (SH)
- Michael Reed (MJR)
- 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)
- Hanna Polanszky (HP)

Guests

- Mark Blundell (MB)
- Julian Phillips (JP)
- Gareth Wilson (GW)

Apologies

- Gabriella Bettiga (GB)
- Philip Brook Smith (PBS)
- Matt Jackson (MJ)

Minutes

1. Introductory matters

- 1.1. GB, PBS and MJ sent their apologies as they were unable to attend the meeting.
- 1.2. JS welcomed Catherine Gaskell to her inaugural TPC meeting. CG is the Deputy Director of the Civil, Family, Courts and Tribunals Team in Ministry of Justice (MOJ) Legal Advisers, part of the Government Legal Department (GLD).

Legal resourcing

- 1.3. JS invited CG to outline her role on the committee and to clarify how MoJ intend to address legal resourcing challenges in relation to the TPC moving forward.
- 1.4. CG delivered an overview of the wide range of issues covered by the Civil Family Courts and Tribunals Team, including RB's other portfolios within the team beyond TPC work. CG also outlined the resourcing landscape, underscoring the limits on current MoJ legal resource capacity in relation to the current and future TPC work programme. To mitigate this legal resource constraint, CG noted an increased reliance on the Statutory Instrument (SI) Hub, which is the GLD's specialist SI drafting service and Centre of Excellence for secondary legislation. The Hub consists of approximately 30 lawyers that draft secondary legislation for all GLD's client departments. RB will retain primary responsibility for overseeing the TPC drafting function and will facilitate the alignment of workflows between the TPC, the Secretariat and the SI Hub to promote legal resource efficiency and to consider any legal implications that arise.
- 1.5. JS expressed appreciation to CG and emphasised the importance of ongoing monitoring in respect of this new approach with a view to assessing its effectiveness over time.

TPC Appointments

Lady Chief Justice Upper Tribunal Member appointment

- 1.6. An expression of interest campaign was launched and closed on the 7 March, and three applications were received. This matter now sits with the Judicial Office (JO) who will provide an update in due course.
- 1.7. The draft TPC April 2025 minutes are under review for approval and have been referred to committee members for further consideration to ensure factual accuracy. JS requested that the committee review the draft April 2025 meeting minutes and submit any comments or approvals at their earliest convenience to the Secretariat.
- 1.8. In relation to the draft TPC meeting minutes of February and March 2025, regarding the matter of the inclusion of references to legal advice, the TPC agreed that, in line with the principle of transparency, it is content for the minutes to make appropriate references to the taking of legal advice by the committee. On this basis the TPC approved the TPC February and March 2025 meeting minutes for publication.

AP/44/25: To provide clarification on a question on the draft minutes of April 2025 - PBS and ML.

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

- 2.1. In the absence of PBS, MJR presented an overview of the current position on the drafting exercise to prepare a ‘Written Reasons’ response draft document. The subgroup members subsequently provided their feedback/observations, which were discussed and clarified together with the wider committee. These comments were recorded for further consideration and will be addressed in a planned updated iteration of the draft paper to ensure alignment with the agreed objectives as discussed and agreed by the TPC. The intention is to obtain sign-off out of committee before the next scheduled meeting on 05 June 2025.
- 2.2. In order to address the high priority of the Written Reasons rule change, RB informed the TPC that this drafting work has been passed on to the SI Hub with a view to including the rule change in the Autumn 2025 Rules SI package if possible.
- 2.3. JS reiterated that the Senior President of Tribunals has always regarded the ‘Written Reasons’ rules changes as taking priority over other work streams and she asked CG and RB to pass on this message to the SI Hub so as to ensure that they also accord it priority.

AP/45/25: To prepare a final draft version of the response document to be shared with JS prior to the June 2025 TPC meeting. – Written Reasons subgroup

3. HSW Subgroup

- 3.1. The TPC consultation response document on ‘possible amendments to the Health Education and Social Care Chamber Rules 2008’ (regarding proposed changes to the rules to address the potential for special educational needs disability appeals to be dealt with on the papers without the consent of both parties) was published on the TPC website on 10 April 2025.

4. Employment Tribunals Subgroup

- 4.1. MJR reported that the Employment Tribunals consultation document seeking views on a number of potential further changes to the Employment Tribunal Procedure Rules 2024 was published on 24 March 2025. The consultation is due to close on 19 May 2025.

5. Immigration and Asylum Chamber Subgroup

JS said she had received an update paper from the MoJ Irregular Migration team ("MOJ Policy") regarding proposed clauses in the Border Security, Asylum and Immigration Bill to provide a 24-week statutory timeframe for determination of two groups of cases lodged with the Immigration and Asylum Chamber of the First-tier Tribunal (FtT-IAC). The MoJ policy paper was submitted at the TPC's request to provide further information and to address specific matters identified by the IAC subgroup in relation to the proposed legislative changes. MoJ Policy sought a preliminary view from the TPC as to whether the legislative clauses as tabled before Parliament were likely to require associated rule changes once the measures came into force.

- 5.1. The TPC noted that the amendments made to the supported appeals cohort and foreign national offenders' appeals timeframes do not impact existing rules regarding case management and do not displace deadlines and timings provided under the existing FtT-IAC Rules.
- 5.2. The Committee discussed issues around the identification of cases which fall under the current timeframes in the IAC Procedure Rules. The TPC understood that it will be the responsibility of the Secretary of State for the Home Department to identify and triage the relevant cases and to inform the Tribunal when an appeal is subject to the timeframe so that the relevant time periods for appeals are automatically recognised and applied by the Tribunal, without requiring additional intervention by the Tribunal to identify applicable cases.
- 5.3. In light of the additional information that MOJ Policy has now provided to the TPC, its view is that it is unlikely that additional rule changes will be required in the immediate future. However, the TPC agreed to keep this matter under review. JS agreed to inform MoJ Policy of the TPCs decision.

AP/46/25 - To inform MoJ Policy of the TPC's current view (in light of information received) that new rule changes or rule amendments are unlikely to be required at present for the proposed immigration legislative changes - JS

6. GTCL Subgroup

Provision of documents to other parties/ persons in tribunal proceedings (paper)

- 6.1. SH provided a comprehensive update on the progress of the draft consultation paper 'Direction for Service by Parties' in the Property Chamber (FtT) concerning rule 7 of the Property Chamber Procedure Rules (Procedure for applying and giving directions). SH reported that the paper had been revised to incorporate judicial and TPC feedback including suggestions offered during previous TPC meetings.
- 6.2. SH reported that the subgroup had consulted with Judge McGrath, the President of the Property Chamber, as part of its preparatory pre-consultation work. Judge McGrath had proposed an extension to the consultation to include reference to the Upper Tribunal's decision in *Hyslop* on service of final decisions.
- 6.3. The committee discussed this proposal but after thorough discussion, the TPC decided that there was insufficient justification to extend the scope of the consultation.
- 6.4. The committee approved the draft consultation for publication which will run for a period of 8 weeks.

AP/47/25: To make the necessary arrangements to publish the consultation document 'Direction for Service by Parties' in the Property Chamber concerning rule 7 of the Property Chamber Rules (Procedure for applying and giving directions) – TPC Secretariat.

AP/48/25: To relay the details of the TPC's discussion on possible changes to Rule 7 of the Property Chamber Rules to Judge McGrath - SH

7. Costs Subgroup

Interest on costs, payments on account of costs & pro-bono costs awards & costs in the Lands Chamber of the Upper Tribunal

- 7.1. In MJ's absence ML presented an update on the progress of the drafting exercise to prepare a consultation paper. ML raised an issue which had arisen at the last TPC meeting, namely the question of whether a need exists to make specific costs rules for Scotland, in relation to payments on account and interest on costs. The committee discussed the scope of the jurisdiction in Scotland together with the practice and procedure within Scottish Courts and Tribunals in relation to the making of costs orders.
- 7.2. The Committee decided that consistency of approach across all UK tribunals was desirable. The subgroup agreed to proceed in principle on this basis.

Pro-bono costs and Interest on costs in the Employment Tribunals (ET)

- 7.3. At the previous meeting in April, the TPC queried whether section 194A of the Legal Services Act 2007 extends to Scotland in relation to pro-bono costs and whether the ET (Scotland) was empowered to award interest on costs. RB confirmed that in her view the power under the 2007 Act extends to the whole of the UK.
- 7.4. In respect of the power of the ET to award interest on costs, RB reported that the Department for Business and Trade had been consulted in its capacity as the policy leading department in this area. RB said that work is still ongoing on this subject and suggested that it be revisited at the TPC meeting in June.
- 7.5. CG suggested that the committee consult HM Treasury to obtain its view as a stakeholder in relation to interest on costs powers in the ET. JS asked CG to follow up on this matter and update the committee at the June meeting.

AP/49/25: To provide an updated and revised draft consultation prior to the June 2025 meeting - Costs Subgroup

AP/50/25: To consult HM Treasury regarding the jurisdiction to award interest on costs in the Employment Tribunals - MOJ

8. The Tribunal Procedure (Amendments) Rules 2025 SI

- 8.1. RB circulated a paper copy of the Tribunal Procedure (Amendments) Rules 2025 SI. The Committee members approved and signed the SI.
- 8.2. The SI is due to be laid before Parliament on 09 May 2025 and is expected to come into force on 30 May 2025.

9. Overview Subgroup

- 9.1. The TPC work programme has been updated and circulated as of 22 April 2025.

10. AOB

- 10.1. ML noted that the Online Procedure Rules (Specified Proceedings) Regulations 2025 had come into force on 29 April 2025 and asked JS if there were any implications for the TPC in making rules in the Tribunal jurisdictions.
- 10.2. JS said that the Online Procedure Rule Committee (OPRC) is a cross-jurisdictional rule committee with the power to make rules for online proceedings in the Civil, Family and Tribunal jurisdictions. JS said the

existence of the OPRC will not affect the powers of the TPC to make rules for tribunal proceedings, but she anticipated that the OPRC would consider online rules for proceedings in the FtT and Upper Tribunal in connection with property disputes.

- 10.3. VP reported that policy officials in the Department for Science, Innovation and Technology (DSIT) had been in contact with him to discuss the commencement of measures provided for in the Product Security and Telecommunications Infrastructure Act 2022. DSIT required the TPC's assistance to determine whether potential rule changes would be needed to accommodate this new policy work. VP said he expected a policy paper from DSIT in due course detailing their proposal for rule changes to be considered by the TPC. He would circulate the paper initially to the GTCL subgroup when made available by DSIT.

Next Meeting: Thursday 5 June 2025