

Tribunal Procedure Committee (TPC) Meeting Minutes

Thursday 03 July 2025

Meeting (Hybrid) at 7 Rolls Building, London

Present

- Mrs Justice Joanna Smith (JS)
- Michael Reed (MJR)
- Mark Loveday (ML)
- Susan Humble (SH)
- Gillian Fleming (GF)
- Matt Jackson (MJ)
- David Franey (DF)
- Anne Scott (ASC)
- Mark Blundell (MB)
- Sean O'Brien (SOB)
- Catherine Gaskell (CG)
- Razana Begum (RB)
- Shane O'Reilly (SOR)
- Vijay Parkash (VP)
- Hanna Polanszky (HP)

Apologies

- Philip Brook Smith (PBS)
- Gabriella Bettiga (GB)
- Angela Shields (AS)
- Faridah Eden (FE)

Minutes

1. Introductory matters

- 1.1. GB, PBS, AS and FE sent their apologies as they were unable to attend the meeting.
- 1.2. JS congratulated MB for being formally appointed to the TPC in his capacity as a full-term member of the TPC (MB had previously attended the meetings in a capacity as an Upper Tribunal (UT) liaison judicial representative). MB was appointed by the Lady Chief Justice (in consultation with the Lord Chancellor). His 3-year term runs from 08 May 2025 to 07 May 2028.
- 1.3. JS added that MB has agreed to lead the TPC Immigration and Asylum Chamber Subgroup following Stephen Smith's resignation.

TPC Appointments

Lady Chief Justice Upper Tribunal Member appointment

- 1.4. JS also welcomed (UT) Judge Sean O'Brien (SOB) to his inaugural TPC meeting. SOB was appointed as a Tribunal Member by the Lady Chief Justice (in consultation with the Lord Chancellor). His 3-year term runs from 24 June 2025 to 23 June 2028.

Preliminary matters

- 1.5. JS confirmed that the minutes of the 01 May 2025 TPC meeting have been published on the TPC webpage on GOV.UK.
- 1.6. The draft minutes of the 05 June 2025 TPC meeting have been approved and will be published in due course.
- 1.7. JS referred to a request made by GB in April 2025 temporarily to step back from direct participation in the TPC until July 2025 for personal reasons. At that time the TPC had approved GB's request, recognising her significant value/contribution to the committee, pending review in July 2025. It was now necessary to review the position. JS said GB's personal circumstances were unchanged and proposed that this membership matter be revisited in October 2025. The TPC supported this approach.

AP/57/25: To publish the 05 June 2025 TPC meeting minutes – **TPC Secretariat**

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

- 2.1. In the absence of PBS (who was leading on the drafting exercise to prepare a response document), JS provided a comprehensive overview of the status of the drafting exercise. It was noted by the TPC that the latest version of the draft response document circulated had been updated by PBS to incorporate information on the topic of 'introduction of track allocation system in the General Regulatory Chamber (GRC) of the First-tier Tribunal (FtT), which was addressed during the preceding June TPC meeting. JS said she would seek clarification from PBS as to whether he would be making any additions to the draft response document in respect to this matter.
- 2.2. JS noted that the draft response document had not yet been disseminated to the broader TPC and added that a significant new matter has emerged regarding the proposed introduction of short form reasons in the Employment Tribunals (ET) requiring full consideration by the TPC. JS explained that the newly proposed short form reasons for the ET presents a complexity, as it establishes the existence of two distinct types of written reasons within the ET decisions framework, thereby generating ambiguity concerning the application

of the deadline for appeals in relation to the newly introduced short form decision reasons.

- 2.3. The TPC discussed the matter noting the consequential implications for the current Employment Appeals Tribunal Rules ("EAT Rules"). JS further noted that the TPC do not currently have the statutory power for the making of the EAT Rules and invited SOR to elaborate on a prior suggestion that the matter could potentially be dealt with by the Lord Chancellor in her constitutional capacity.
- 2.4. SOR said that the respondent 'Employment Law Bar Association' had identified the matter in its reply to the written reasons consultation, and he added that a proposed consequential amendment had been put forward by the Senior President of Tribunals (SPT) in his subsequent recommendations to the TPC. SOR agreed that the most practical approach to the matter would be to pursue a consequential amendment to the EAT Rules necessitated as a result of the proposed changes to the ET Rules.
- 2.5. JS asked SOR to consult with the EAT Chamber President to gain his view on a potential consequential amendment to the EAT Rules as a result of proposed changes to the ET Rules relating to the provision of written reasons.
- 2.6. RB said that due to the drafting, policy and the legislative timetable to meet deadlines for essential activities in order to lay the statutory instrument (SI) (earmarked in Autumn 2025), it was important in the first instance to establish the amendment to the ET Rules. RB added that as the power governing EAT Rules sits with the Lord Chancellor, she would need to liaise with the relevant Ministry of Justice (MoJ) policy team to determine the MoJ's viewpoint/ position on the potential proposed amendment to the current EAT Rules. This action would require the Lord Chancellor's agreement in the event that an amendment to the EAT Rules is deemed necessary.
- 2.7. RB noted that the inclusion of a consequential amendment to the EAT Rules in the proposed Autumn 2025 TPC Amendment No.2 Rules SI may inadvertently cause delay to the intended laying date of the TPC SI and recommended pursuing the proposed consequential amendments to the EAT Rules with the permission of the Lord Chancellor separately.
- 2.8. RB presented an overview of the legal resource implications involved in splitting up the SI and suggested that she return to the TPC with some options once she has been able to establish the legal and policy resource that can be offered to address the challenge presented by the consequential amendment required to the EAT Rules.
- 2.9. MJR noted the importance of ensuring that ET and EAT Chamber Presidents are in agreement with any potential proposed amendments to the respective ET and EAT Rules and suggested seeking their views before moving forward.

JS invited SOR to consult with the ET and EAT Chamber Presidents about this matter and subsequently return to the TPC with their judicial views/comments.

- 2.10. The TPC discussed how to resolve this new issue. Emphasis was placed on resolving the matter in a manner that would not impede the progress of the current ET Rules work in relation to progressing the other written reasons rule changes for other tribunal chambers as consulted upon by the TPC.
- 2.11. RB mentioned that she and a SI Hub colleague, had submitted a series of detailed questions to the GRC Chamber President concerning the proposed 'Open' and 'Standard' track allocation process to be operated within the GRC. In addition to these questions, they had also raised further, separate queries related to the Tax Chamber (FtT) with the Tax Chamber President. RB highlighted that the information to be gathered from the judicial responses to these fact-finding questions could have implications for the content of the draft written reasons response consultation document and in respect of drafting and ultimately settling the SI. RB noted that while the preliminary legal groundwork has been established, the finer details are still in the early stages of development. This has inevitably impacted on the legislative drafting timetable and could result in the laying date for the SI being deferred from the Autumn 2025 to a laying date slot in late 2025.
- 2.12. JS asked RB to keep the TPC updated on any developments and progress in the interim.

AP/58/25: To consult with the EAT Chamber President to gain his view on a potential consequential amendment to the EAT Rules– **SOR**

AP/59/25: To establish the legal and policy resource that can be offered to address the challenge presented by the consequential amendment to the EAT Rules - **RB**

AP/60/25 To incorporate the EAT Rules matter into the draft consultation response document and circulate the final draft to the TPC for approval out of committee – **PBS and MJR**

3. Employment Tribunals (ET) Subgroup

- 3.1. MJR provided an update on the progress of preparing an ET Rules draft consultation response document, outlining the key developments since the June meeting. MJR also reported on the outcome of a recent ET subgroup meeting, summarising the discussions held together with the preliminary conclusions reached in respect of the ongoing drafting exercise.
- 3.2. A first version of the draft response document had been circulated to TPC members in advance and was reviewed in detail by the committee during the meeting. MJR guided the TPC through each section of the draft, inviting comments and feedback on individual points from the attendees.

- 3.3. During the review, several matters of interest were identified as requiring further clarification or discussion. It was agreed that these specific issues would be taken forward for consultation with the TPC, prior to finalising the document, specifically: i) proposed amendments to rules 13 and 18 to clarify that both a claim form and a response form must contain the grounds on which the claim is respectively brought or defended and ii) an amendment to rule 26 which deals with replying to an employer's contract) so that the provisions of rule 22 (which deals with the consequences of not responding to a claim within the time for a response) will only apply to the extent that the ET considers it to be in the interests of justice.
- 3.4. In practice, this would allow the ET to waive the consequences that would normally arise under rule 22 by reason of a claimant not providing a reply to an employer's contract claim, allowing the claimant to defend the contract claim absent such a reply where that is in the interests of justice.
- 3.5. The Committee considered and deliberated on each of the points raised. Following a discussion, the Committee reached consensus on the views presented. The TPC confirmed agreement on the key issues and endorsed the proposed approach which will be outlined in the draft response consultation document.
- 3.6. It was agreed that MJR and the ET subgroup will incorporate the additions discussed and approved during the meeting and circulate the revised draft out of committee for review, with a view to final sign-off in due course.

AP/61/25 – To incorporate the agreed amendments into the draft consultation response and to circulate to ET subgroup and TPC for sign-off - MJR

4. Immigration and Asylum Chamber Subgroup

Immigration Asylum Chambers subgroup organisation

- 4.1. JS said that at the previous meeting, the committee had reviewed the IAC subgroup's capacity to manage forthcoming responsibilities/workload considering recent departures and MB's change of role to a full term TPC member. The committee agreed that a new (UT) IAC liaison Judge replacement was still required to ensure the IACSG's membership was sufficiently resourced to manage future legislative work that may impact on the Immigration and Asylum Chambers (IAC) and accordingly the UT Procedure Rules.

- 4.2. JS invited MB to provide an update on the status of the expression of interest (EOI) exercise to identify his successor. MB confirmed that he had communicated the TPC's request to the judicial office of the President of the IAC (UT) to request that it initiate an EOI exercise to appoint a new IAC (UT) liaison judge as soon as practically possible. MB added that the EOI vacancy notice was in the process of being drafted.

5. GTCL Subgroup

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

- 5.1. SH reported that the consultation document on 'Direction for Service by Parties' in the Property Chamber (FtT) concerning an amendment to rule 7 of the Property Chamber Procedure Rules was published on 14 May 2025 on GOV.UK. The public consultation runs for 8 weeks and closes on 09 July 2025.
- 5.2. VP said that he had notified the Secretary of the Transparency and Open Justice Board (TOJB) to the TPC consultation on Provision of documents to other parties/ persons in tribunal proceedings.

Renters Rights Bill 2025 Rule proposed amendments

- 5.3. With regards to the proposed rules changes to accommodate the Renters Rights Bill 2025, JS said that policy officials in the Ministry of Housing, Communities and Local Government (MHCLG) had advised that they are no longer seeking to update the Property Chamber Procedure Rules in the upcoming Autumn 2025 TPC Amendment Rules SI (as previously reported by MHCLG to the TPC). MHCLG have advised that commencement of Part 1, Chapter 1 of the Renter's Rights Bill 2025 will not take place by the end of September 2025 and nor is MHCLG likely to have an agreed plan in place for implementation.
- 5.4. MHCLG are now suggesting that rule changes will be needed for April 2026 and would like to align the commencement date of their Bill with the date of the following April 2026 commencement date for the Spring 2026 SI updating the Tribunal Procedure Rules. The TPC agreed to remove the proposed rule changes from the Autumn 2025 SI rules package and that they will review any proposed rule changes when the need arises.

Electronic Communications Code (Section 65 of the Product and Security and Telecommunications Infrastructure Act 2022 – proposed transfer of jurisdiction from the County Court to the First-Tier Tribunal)

- 5.5. JS said that the Department for Science, Innovation & Technology (DSIT) had prepared a note for the TPC's information, in respect of their policy intention to

make regulations that will transfer jurisdiction from the County Court to the FtT or the UT for certain tenancies under the Landlord and Tenant Act 1954 Act, following the conferral of the power to do so by Section 65 of the Product Security and Telecommunications Infrastructure Act 2022.

- 5.6. JS added that DSIT were aiming to provide a follow-up briefing paper after the summer break detailing their proposal for an amendment to the Property Chamber Procedure Rules to accommodate their planned legislative changes.

6. Costs Subgroup

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

- 6.1. ML and MJ provided a joint progress update on the drafting exercise to prepare a draft 'Costs in Tribunals' consultation paper. ML had circulated the latest version of the draft consultation document for the TPC to review. The TPC members were invited to share their views, feedback, and any final comments on the updated draft.
- 6.2. MB referred to a point related to permissive and presumptive powers in relation to the provision of payments on account and awarding costs. MJ and ML provided their views/ rationale for the approach taken to the proposed rule changes regarding levels of discretion and obligation that the tribunal chambers have in applying the rules. The committee discussed the matter and agreed on an approach that will be reflected in an updated version of the draft consultation document.
- 6.3. Committee members contributed their further views and proposed edits during the discussion. These inputs will be incorporated into the final version of the paper, which will be re-circulated to the TPC with a view to sign-off in due course.
- 6.4. MJ said that the publication of the consultation has been delayed as the committee are waiting to receive a policy response from the Department of Business and Trade, HM Treasury and the MoJ in respect to their position in relation to rules changes in the Employment Tribunals as previously set out.
- 6.5. RB said that she has sought to establish an agreed government position as to the intended effect of Section 14 of the Employment Tribunals Act 1996 considered against the rule making powers that have been transferred to the TPC. RB confirmed that the three aforementioned government departments had been consulted. The TPC now await an official position before proceeding with the finalisation and publication of the consultation on interest on costs, payments on account of costs & pro-bono costs awards & costs in the Lands Chamber (UT).

- 6.6. ML expressed regret that a government position has not yet been established as he had hoped that the draft consultation document would have been approved/signed off by the TPC at the July meeting with the document being published shortly after on GOV.UK.

Chair of the Costs Subgroup/ TPC Subgroups membership chart

- 6.7. JS acknowledged that ML wishes to relinquish his role. Considering the ongoing needs of the TPC and the Costs Subgroup; and to ensure a smooth transition, JS suggested that ML consider extending his TPC tenure slightly further, to the next TPC meeting scheduled on 02 October 2025, to allow adequate time for an EOI process to be undertaken by the MoJ public appointments team. This extension would enable continuity of leadership of the Cost Subgroup in the interim period. ML responded positively, expressing his willingness to remain in the TPC role until a suitable replacement is identified.
- 6.8. JS added that MJ has agreed to chair the Costs Subgroup following MLs departure. JS also invited TPC members to encourage individuals with relevant experience of the Property Chamber to consider putting their names forward when an EOI exercise is commenced.

Costs-shifting powers in Land Chamber (Upper Tribunal) cases

- 6.9. ML suggested that the Costs Subgroup should revisit the proposal in the Autumn made by the Lands Chamber Users Group for a potential rule change to rule 10 (Orders for costs) of the Lands Chamber Procedure Rules (in respect to costs in tribunals) due to the uncertainty about their application in some of the Tribunal's first instance jurisdictions. The matter was an existing entry on section 2 (non-legislative/'watching brief') of the TPC work programme). The TPC agreed to ML's suggestion and would revisit this matter in due course.

7. Contempt of Court Rules

- 7.1. The TPC discussed the paper that had been prepared by Lord Justice Edis seeking the TPC's view/co-operation on the matter of 'Contempt of Court and potential changes to the Tribunals Rules' in light of the Law Commission's 2024 consultation on contempt.
- 7.2. The judicial note provided information on a planned project to commence around mid-2025 and detailed the approach/plan for the setting up of a working group to consider the development of a single set of procedural rules for dealing with contempt of court in all courts and tribunals.
- 7.3. JS said that Lord Justice Edis would like the TPC to decide to support and assist this project, and to nominate potential representatives to take part in preparing draft rules.

- 7.4. The TPC discussed the note and agreed to support the initiative. MJ, DF, MB and SOB volunteered to join the new working group. SOR agreed to advise Lord Justice Edis.

AP/62/25: To provide Lord Justice Edis' private office with the names/ email contact details of the TPC members who have volunteered to join the working group - **SOR**

8. The Tribunal Procedure (Amendment No.2) Rules 2025 SI

- 8.1. The TPC discussed the proposed rule amendments that had been agreed in principle for inclusion in the Autumn 2025 TPC (Amendment No.2) Rules SI package. The proposed amendments to be included in the SI rules package were as following:
- Changes to certain procedure rules concerning the provision of 'written reasons' for decisions and other case management measures.
 - Further changes to the Employment Tribunals Procedure Rules 2024.
 - Amendments to the Health Education and Social Care Chamber Rules 2008 to permit Special Educational Needs appeals can be dealt with on the papers without the consent of both parties.
- 8.2. RB stated that, given the outstanding matters remaining in connection with the drafting instructions for the written reasons matter, it is presently not possible to confirm whether an October 2025 laying date can realistically be achieved. Accordingly, RB said she will provide a further update to the committee in August 2025 to assess and advise whether that objective remains feasible.
- 8.3. JS proposed the scheduling of an additional TPC meeting in September 2025 to specifically address the written reasons matter. In response, RB advised that she would provide feedback in August 2025, at which point she will determine whether recommending convening such a meeting will be necessary.

9. TPC Overview Subgroup

- 9.1. The TPC work programme has been updated and circulated as of 27th June 2025.

10. AOB

- 10.1. JS said that the Online Procedure Rule Committee (OPCR) is holding an event on the 16 July 2025 hosted by the Law society, to launch their first public engagement exercise. TPC members have received invitations to the

event and JS encouraged those who can, to attend and thanked committee members for their participation in advance.

- 10.2. JS advised the committee that she will not be able to attend the TPC meeting scheduled for Thursday 6 November 2025 as she will be sitting in Court. JS proposed moving the November 2025 TPC meeting date from Thursday 6 to Friday 7 November. The TPC agreed with the revised date for the November 2025 TPC meeting.

AP/63/25: To send out meeting invites to TPC member for Friday 7 November 2025-
TPC Secretariat

Next Meeting: Thursday 02 October 2025