

Tribunal Procedure Committee (TPC) Meeting Minutes

Thursday 02 October 2025

Meeting (Hybrid) at 7 Rolls Building, London

Present

- Mrs Justice Joanna Smith (JS)
- Mr Justice Ian Dove (ID)
- Michael Reed (MJR)
- Mark Loveday (ML)
- Susan Humble (SH)
- Gillian Fleming (GF)
- David Franey (DF)
- Anne Scott (ASC)
- Mark Blundell (MB)
- Sean O'Brien (SOB)
- Angela Shields (AS)
- Faridah Eden (FE)
- Catherine Gaskell (CG)
- Razana Begum (RB)
- Shane O'Reilly (SOR)
- Vijay Parkash (VP)
- Hanna Polanszky (HP)

Apologies

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

Minutes

1. Introductory Matters

- 1.1. JS welcomed the members/attendees back following the summer recess. She announced that it would be her last meeting as Chair of the TPC. Her successor is Mr Justice Ian Dove.
- 1.2. JS introduced ID as the incoming Chair, who will assume chairing responsibility for meetings from November 2025 onwards and direct the TPC work programme going forward. JS confirmed that the transitional arrangements and a handover had taken place. The TPC expressed its appreciation to JS for her leadership and formally welcomed ID.

TPC Appointments

Expression of interest- First-tier Tribunal judicial member

- 1.3. JS reported that the expression of interest (Eoi) recruitment exercise for the First-tier Tribunal (FtT) Judge Member of the TPC had been launched on the judicial intranet. The campaign will close on Friday 10 October 2025.
- 1.4. JS said that instead of potential applicants being restricted to solely serving judges who sit in the Property Chamber (FtT) as earlier agreed, the Senior President of Tribunals (SPT) has requested that its eligibility criteria are open to all serving FtT Judges, including those who are also judges of the FtT by virtue of holding some other judicial office.
- 1.5. JS added that an Eoi advertisement to appoint a new Immigration and Asylum Chamber (Upper Tribunal) liaison judge to the Committee was being finalised and would be launched internally shortly.

Preliminary matters

- 1.6. JS confirmed that the minutes of the 05 June 2025 meeting had been published on the TPC webpage on GOV.UK.
- 1.7. The draft minutes of the 03 July 2025 TPC meeting had been formally approved by the TPC. The document would be published on the government website in due course.
- 1.8. JS reminded the attendees that in April 2025, GB requested to step back from direct involvement with the TPC until July 2025 for personal reasons. The TPC approved that request at the time, noting GB's significant service, and agreed to review the position in July 2025.
- 1.9. Having reviewed the matter, the TPC concluded that, given the TPC is extremely busy and has a very high workload, the TPC needs its members to be able fully to participate both in meetings of the full committee and in the designated subgroups. The TPC agreed to make the very difficult decision to ask GB to step down with immediate effect. JS would inform GB of the TPC's decision in due course.

AP/64/25: Publish the minutes of 03 July 2025 TPC meeting – **TPC Secretariat**

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

- 2.1. In the absence of PBS (who is leading on the drafting exercise to finalise the response document), JS reported that due to competing priorities PBS had been unable to provide an updated draft of the response document for the October meeting. To maintain momentum, JS invited MJR to assume interim responsibility for drafting/reviewing the draft document until PBS could resume the drafting work. The TPC endorsed this interim arrangement with the aim of circulating a working draft document ahead of the next meeting scheduled for November 2025.
- 2.2. MJR outlined the drafting progress to date, as he had been involved with the ongoing discussions with the Government Legal Department (GLD) statutory instrument (SI) hub lawyer and RB in respect of drafting instructions.
- 2.3. MJR highlighted the most technically complex issue, the proposed case-track allocation for the (FtT) General Regulatory Chamber (GRC). Further clarification will be sought from the GRC Chamber President (CP) before revisiting/finalising the ultimate version of the draft. Following these actions, the TPC agreed that the final draft could be approved out of committee, subject to the CP’s clarification on the matter being settled by MJR and PBS.
- 2.4. RB advised that, given the current stage of drafting progress on the written reasons rule changes and the lead-in time required to allow sufficient time for the SI to be drafted and associated legal checks to be carried out. The inclusion of these rule changes in the planned Tribunal Procedure (Amendments No.2) Rules 2025 SI package for a November laying date was not achievable. A laying date in December 2025 or January 2026 at the latest for the SI was now targeted.
- 2.5. JS invited RB to provide an update on the current position regarding the proposed introduction of short form reasons in the Employment Tribunals (ET) and the implications of the proposed written reasons rule change on the Employment Appeal Tribunal (EAT) rules. RB reported that the Ministry of Justice (MoJ) had indicated that it will provide the legal and

policy resource necessary to address the consequential amendment required to the EAT Rules, as the TPC does not currently hold the rule-making power for that jurisdiction.

AP/65/25: To consult with the GRC Chamber President to obtain views on the 'track allocation' issue – **MJR**

AP/66/25: To establish PBS's capacity for advancing the drafting exercise – **JS/MJR**

AP/67/25: Incorporate the EAT Rules matter into the draft consultation response and circulate to TPC members for their final comments/approval out of committee – **PBS and MJR**

3. Employment Tribunals (ET) Subgroup

- 3.1. MJR provided an update on the drafting progress of the ET Rules draft consultation response document exercise, outlining developments since the July meeting. He reported that the SI hub lawyer had raised several points for clarification and refinement. The majority of which are minor technical issues that will be addressed in the next updated draft. None of the matters raised by the SI hub were considered to require further discussion by the TPC at this stage/ present time.
- 3.2. MJR noted one procedural issue arising from the drafting work, relating to how certain rule provisions should operate within the case-handling process. The subgroup had considered the appropriate stage and level at which those decisions should be taken to ensure flexibility and alignment with established tribunal practice and procedure.
- 3.3. The TPC noted the subgroup's work and endorsed the proposed approach to move forward, including using 'summary reasons' in the relevant rules instead of 'short form reasons' as set out in the consultation document. MJR confirmed that the revised draft document will reflect these revisions and that the subgroup considers the document suitable for sign-off by correspondence (out of committee) once updated.

AP/68/25: To incorporate the agreed revisions and circulate the updated draft response document to: i) the ET Subgroup and ii) TPC for sign-off – **MJR**

4. Immigration and Asylum Chamber (IAC) Subgroup

- 4.1. No substantive matters were discussed.

5. GTCL Subgroup

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

- 5.1. SH reported that the consultation on 'Direction for Service by Parties' in the Property Chamber (FtT) closed on 09 July 2025, with two replies received.
- 5.2. SH presented the draft reply addressing both responses (from the Chartered Institute of Legal Executives and one individual respondent from the Park Homes Policy Forum). The TPC approved the draft response document subject to one minor drafting amendment.

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)

- 5.3. The TPC received a rule amendments proposal from the Department for Science, Innovation & Technology (DSIT). In respect to their proposed policy intention relating to the making of regulations that will transfer jurisdiction from the County Court to the FtT or the Upper Tribunal (UT) for certain tenancies under the Landlord and Tenant Act 1954, following the conferral of the power to do so by Section 65 of the Product Security and Telecommunications Infrastructure Act 2022.
- 5.4. The TPC discussed the proposed amendments in respect to: i) the inclusion of a reference to the Landlord and Tenant Act 1954 Act to enable a costs order to be made by the Tribunal in respect of these proceedings and ii) to add a definition of a 'telecoms case'. Having reviewed the proposal, the TPC agreed to include the proposal as a new strand in their work program.
- 5.5. The TPC assessed whether a narrow, cost-focused amendment might be achievable without a public consultation being conducted; however, noted that the transfer represents a significant shift (from long-standing business tenancy jurisdiction under the 1954 Act in the County Court) and is likely to attract sector and stakeholder interest.

- 5.6. ML advised that, beyond the costs matter, there may be consequential procedural issues (e.g. how evidence and case management practices map across) that stakeholders and potential tribunal users will expect to be considered during tribunal proceedings.
- 5.7. ML noted that the changes under Section 65 of the Product Security and Telecommunications Infrastructure Act 2022 are not yet in force, and that “switching on” these legislative measures without a costs regime could create practical difficulties.
- 5.8. The TPC discussed whether these changes requested were minor and technical in nature, warranted a public consultation and the appropriate duration of the consultation (if the TPC ultimately decided to consult). The TPC leaned towards the possible option of a condensed consultation period, given a relatively defined stakeholder set, and discussed whether a limited, immediate rule change could proceed alongside a broader consultation on any further adjustments.
- 5.9. GF queried the use of “telecoms case” terminology considering recent developments in the digital communications industry. The TPC discussed the matter and observed that much terminology is statute-driven but agreed this should be reviewed by RB in due course during the rule drafting exercise.
- 5.10. JS asked ML to prepare a short note outlining options and suggestions for the subgroup to be circulated for comment and brought back with recommendations at the next meeting on 21 November 2025. The subgroup will then advise on the scope and timing of consultation and on any phased approach.

FCA proposal to amend Upper Tribunal rules (FISMA consumer redress schemes)

- 5.11. The TPC received a proposal from the Financial Conduct Authority (FCA) requesting the TPC to amend the UT procedure rules applicable to challenges arising from consumer redress schemes made under the Financial Services and Markets Act 2000. JS noted that, in a recent case (involving the British Steel case), parties advanced competing views as to which procedural route applied; the UT did not resolve the point, instead issuing bespoke directions and observing that the position lacked clarity.

5.12. The TPC discussed the matter in depth, assessing the level of urgency to amend rules, while recognizing that such schemes have been used only rarely, however the TPC agreed that a rules clarification would be desirable.

5.13. The TPC agreed that the proposal for rule changes would require a public consultation (customarily twelve weeks) and that the proposal will be added to the TPC work programme and scheduled for further consideration in due course.

AP/69/25: To make the arrangements to publish the 'Provision of documents to other parties/ persons in tribunal proceedings' consultation response document – **TPC Secretariat**

AP/70/25: To inform the FCA that the TPC has agreed in principle a rule change is warranted and will be scheduled in due course – **VP**

AP/71/25: To prepare a note relating to the electronic communication code proposal outlining options and questions for the GTCLSG to be circulated for comment and brought back with recommendations at the November meeting - **ML**

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 provided a progress update on the exercise to prepare a draft 'Costs in Tribunals' consultation paper addressing three ancillary aspects of costs: i) pro bono costs, ii) interest on costs, and iii) payments of costs. ML added that the subgroup has been awaiting a response regarding an agreed government position on 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.
- 6.2. RB clarified the Government's position that the relevant powers currently sit with the Secretary of State for Business and Trade and will transfer to the Lord Chancellor when the enabling provisions are commenced. RB added that until that transfer takes effect, the Committee cannot consult

on ET-related changes concerning pre-judgment of interest. The TPC acknowledged that aspects of the ET related pre-interest rules sit outside its immediate statutory remit, which will constrain the scope of any near-term consultation on this costs matter.

- 6.3. ML suggested that the TPC defer final approval of the draft consultation paper until the November meeting, once the subgroup has considered the comments from RB arising from the current version of the draft consultation document.
- 6.4. ML re-emphasised that the Property and Lands Chambers working group is developing proposals on costs that will cut across existing cost provisions. This will form a separate piece of work to be considered by the TPC/ Costs subgroup when appropriate/at the proper time.

7. Tribunal Procedure (Amendment No. 2) Rules 2025 SI Exercise

- 7.1. The TPC reviewed the proposed amendments for inclusion in the Autumn 2025 TPC (Amendment No. 2) Rules SI package:
 - Written reasons for decisions and related case-management measures.
 - Further amendments to the Employment Tribunals Procedure Rules 2024.
 - Amendments to the Health, Education and Social Care Chamber Rules 2008 to permit Special Educational Needs appeals to be determined on the papers without the consent of both parties.
- 7.2. RB reiterated that, given the outstanding matters remaining in connection with the drafting instructions for the written reasons matter, a December laying date can more realistically be achieved although any further slippage would result in the SI being laid in January 2026. The TPC agreed to revisit the matter at the November meeting to agree a laying date for the SI and would be guided accordingly to advice to presented by RB/ the SI hub in respect to their capacity and necessary legal work/scrutiny.

8. TPC Subgroup Membership Review

- 8.1. Following discussion at the July meeting, the TPC reviewed the subgroup membership considering recent additions and departures of the membership. It was agreed that AS will join the GTCL Subgroup, FE will join the Costs Subgroup, and SOB will join the IAC Subgroup.

9. TPC Overview Subgroup

9.1. The updated TPC work program was circulated on 25 September 2025.

10. AOB

- 10.1. MJR noted the ongoing situation regarding the suitability of the current EAT Rules, which are considered to be significantly outdated and not reflective of current EAT practice and procedure. Reference was made to recent remarks by the EAT President at the Industrial Law Society Conference, where he indicated that potential revisions to the present EAT Rules, particularly concerning the procedure in respect of the permission-to-appeal process.
- 10.2. The TPC agreed that it would be beneficial to engage directly with the EAT President to gain clarity on his intentions, proposed scope, and anticipated timelines for any reforms to the EAT Rules.
- 10.3. MJR agreed to contact the EAT President in his capacity as Chair of the ET sub-group and to report back to the TPC at the November meeting.

AP/72/25: To contact the EAT President and report back on permission-to-appeal processes – **MJR**

Farewell to the Chair of the Tribunal Procedure Committee- Mrs Joanna Justice Smith

- 10.4. ML expressed on behalf of the TPC, their heartfelt thanks to Mrs Joanna Justice Smith, the Chair of the TPC for the substantial time and commitment she has devoted to the role.
- 10.5. ML highlighted her proactive leadership, engagement, and approachable, open manner, which fostered constructive discussion throughout the TPC's work. The attendees noted that her four-year tenure had been successful and expressed its collective appreciation and best wishes for the future to her.

Next Meeting: Friday 21 November 2025