February 2026

Tribunal Procedure Committee

Reply to Consultation on possible changes to the Employment Tribunal Procedure Rules 2024

Introduction

1. The Tribunal Procedure Committee ("the TPC") is the body that makes Rules that govern practice and procedure in the First-tier Tribunal and in the Upper Tribunal. The TPC is established under section 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007 ("the TCEA").

2. In addition to the First-tier and Upper Tribunal rules, responsibility for making procedural rules in the Employment Tribunals was transferred to the TPC from 25th April 2024 by the Judicial Review and Courts Act 2022 and the Judicial Review and Courts Act 2022 (Commencement No. 6) Regulations 2024[1].

3. Further information on the TPC can be found at: https://www.gov.uk/government/organisations/tribunal-procedure-committee

4. The Employment Tribunals are the main judicial forum for deciding disputes between workers and employers, including claims for unauthorised deductions from wages, unfair dismissal, discrimination, whistleblowing, redundancy and equal pay. Employment Tribunals also have jurisdiction over certain types of statutory appeal, such as appeals against health and safety improvement and prohibition notices. There are two different territorial jurisdictions: England & Wales, and Scotland. Northern Ireland is a separate jurisdiction with its own procedural rules for which the TPC has no responsibility.

5. More information about the Employment Tribunals is available at:

   https://www.gov.uk/courts-tribunals/employment-tribunal

6. Paragraph 1 of Schedule A1 to the Employment Tribunals Act 1996 requires that the TPC must exercise its power to make Procedure Rules for the Employment Tribunals with a view to securing–

   a. that justice is done in proceedings before the tribunal,

[1] S.I. 2024/568.

b. that the tribunal system is accessible and fair,

c. that proceedings are handled quickly and efficiently,

d. that Procedure Rules are both simple and simply expressed, and

e. that Procedure Rules, where appropriate, confer responsibility on members of the tribunal for ensuring that proceedings before the tribunal are handled quickly and efficiently.

7. When making rules, the TPC seeks, among other things, to:

   a. make the rules as simple and streamlined as possible;

   b. avoid unnecessarily technical language;

   c. enable tribunals to continue to operate tried and tested procedures which have been shown to work well; and

   d. adopt common rules across tribunals where appropriate.

8. The TPC also has due regard to the public sector equality duty contained in section 149 of the Equality Act 2010 when making rules.

9. Further information on the TPC can be found at our website: https://www.gov.uk/government/organisations/tribunal-procedure-committee

Employment Tribunal Rules

10. Following the transfer of responsibility for the Employment Tribunal Rules, the rules were re-made by the TPC and the Lord Chancellor. The Employment Tribunal Procedure Rules 2024[2] came into force on 6 January 2025 and can be found here:

    https://www.legislation.gov.uk/uksi/2024/1155/made

The consultation

11. The TPC launched a consultation on further changes to the Employment Tribunal Procedure Rules, which ran between 24th March 2025 and 19th May 2025. That consultation can be found here:

    https://www.gov.uk/government/consultations/potential-further-changes-to-the-employment-tribunal-rules

Response to the consultation and conclusions

12. There were 12 respondents to the consultation, set out in annex A. The TPC wishes to thank all of those who contributed to the consultation process.

[2] S.I. 2024/1155

13. The questions raised in the consultation are listed below, with a summary of the responses, followed by the TPC's conclusions.

Question 1: Do you agree with the proposed changes to rule 4 and the proposed rule 52(1)f)? If not, why not?

14. The TPC proposed changes to rules 4 and 52 to formalise the practice of the Employment Tribunals in England and Wales conducting Dispute Resolution Appointments, in accordance with the Presidential Guidance.[3]

15. Nine respondents supported the proposal.

16. One respondent opposed the proposal on the grounds that DRAs do not occur in Scotland. They suggested that a) the proposed rule change raised a concern that Scottish Judges might be empowered to conduct DRAs without presidential guidance and b) that the rules should not codify changes that do not apply in both jurisdictions.

17. The TPC disagreed with these arguments. The TPC did not believe that DRAs were likely to occur in Scotland without approval from the President of Employment Tribunals (Scotland) in the form of appropriate presidential guidance. The TPC also did not agree that, in principle, procedural rules should only exist if they apply to both jurisdictions. This is a matter to consider in relation to any individual situation. Here, the TPC believes that the formalisation of DRAs is sufficiently beneficial and the risk of confusion in Scottish proceedings sufficiently small, that it was not a significant factor against the proposal.

18. The TPC also raised these arguments with the President of Employment Tribunals (Scotland), who confirmed that she was content with the TPC's intended approach and did not believe it would cause difficulty in Scotland.

19. One respondent did not support or disagree with the proposal, describing it as 'largely cosmetic'. The TPC agreed that this is not a major change of substance. But a minor change that clarifies the existing practice is nonetheless beneficial.

20. One respondent suggested that the rules should explicitly provide that a DRA is confidential to the parties and should not be publicly referred to. The TPC concluded that this was unnecessary. The Presidential Guidance confirms that DRAs are confidential. An explicit reference in the rules is unnecessary.

21. Overall, the TPC concluded that it was appropriate to make the proposed change. On further consideration, however, it concluded that it was appropriate to make the change to rule 52 by adding both judicial assessment and DRAs to rule 52(1)(e), rather than adding a new rule 52(1)(f). The TPC recognised that rule 52(1)(e) is already relied upon to allow the Tribunal to conduct ADR hearings. An express reference to both judicial assessments and DRA, alongside judicial mediation, is appropriate in order to make clear within the rules how the Employment Tribunals operate these hearings in practice. The TPC concluded it would be anomalous to refer to both judicial mediation and DRAs in the rule,

[3] https://www.judiciary.uk/wp-content/uploads/2013/08/PG-ADR-July-2023-final1.pdf

without mention of judicial assessments, which are the other common form of dispute resolution hearing. The TPC also concluded that it was appropriate to make minor changes to the wording of the rule. The rule therefore includes a specific definition of judicial assessment and the wording makes clearer the distinction between the two types of hearings (i.e. that a judicial assessment requires the consent of the parties, while a DRA may be listed at the discretion of the Employment Tribunals.

Question 2: Do you agree with the proposed changes to rule 13(1)(b) and rule 18(1)? If not why, not?

22. The consultation proposed changes to rules 13 and 18.

23. Rule 13 sets out circumstances in which a claim form may be rejected by an Employment Tribunal. The consultation proposed a change to the formulation in rule 13(1)(b) which referred to a claim in a form 'which cannot sensibly be responded to'. It was proposed to amend this to in a form which 'contains no grounds for the claim'.

24. Six respondents supported the proposal.

25. One respondent suggested that the wording 'no grounds' would be artificial, given the 'tick box nature of the ET1'. They argued ticking a box to indicate a particular claim was being brought would amount to 'at least some "ground"' for the claim. This would mean that, even if this was the only information provided, a claim form could not be rejected as including 'no grounds'. This respondent therefore argued that the change would reduce the level of responsibility placed on a claimant when bringing a claim.

26. One respondent suggested that 'no reasonable grounds' would be a more appropriate formulation than 'no grounds'. They argued that 'no reasonable grounds' is a well-defined and understood phrase that captures the essence of the aim of the rule – filtering out unreasonable claims at an early stage. They noted that it is the formulation used in the Civil Procedure Rules at CPR 3.4, which deals with the power to strike out a statement of case.

27. The TPC considered these arguments. It concluded that 'no reasonable grounds' would create too high a hurdle to the presentation of a claim to the Employment Tribunals.

28. It is important to recognise that rule 13 deals only with the initial acceptance of the claim. It is then followed by the initial consideration process, set out in rules 27-29. At the initial consideration stage, a claim may be dismissed on the basis that it has no reasonable prospect of success. A claim which set out its grounds, but those grounds did not amount to reasonable grounds for the claim would not have a reasonable prospect of success and could be dismissed under rule 28. Given that the rules contained a two-stage process of this nature, the tests at each stage should be distinct.

29. It is also important to note that the rule 13 stage is intended to deal with fundamental flaws with a potential claim that can be recognised by Tribunal staff

for referral to a judge as soon as the claim is lodged. In practice, it is unlikely that staff making this very early assessment would be able to identify claims which included some grounds for a claim, but these did not amount to reasonable grounds.

30. One Respondent opposed the proposal on the basis that it was likely to create barriers for unrepresented litigants in person. This respondent argued that most litigants in person generally lacked understanding of the issues in their claim and were likely to produce an unordered statement of what they perceived to be important. This respondent argued that such claims should not be rejected because the litigant had not met the standards that would be expected of a qualified lawyer.

31. The TPC agreed that many litigants in person experience difficulties in providing all the information that should be included in a claim form with the precision and detail that would be desirable. The TPC concluded, however, that it was not excessively burdensome to require all litigants to explain the grounds on which they brought their claim. The TPC considered that a claim form that did not contain grounds for the claim would not be one that could sensibly be responded to and so the addition of the 'no grounds' element did not create any additional barrier to claims being lodged but did provide some greater clarity to the rule.

32. Three respondents argued that the power to reject a claim on the basis that it could not sensibly be responded to should be retained. They argued that it represented a useful case management tool to deal with claims that are manifestly too long or otherwise in a form that cannot be dealt with in a proportionate matter. They noted that, in replacing this test with 'no grounds' such claims could not be rejected under rule 13, since they would almost invariably contain some grounds for the claim.

33. The TPC concluded that the 'cannot sensibly be responded to' element of rule 13 should be retained. There are a small number of claims that are brought where the pleadings are much too voluminous or in a manner that makes them extremely difficult to understand. The TPC is aware of examples where claimants have sought to rely on PowerPoint presentations or where the narrative of a claim is contained in numerous attached documents, such as grievance / appeal letter or screenshots from social media. Seeking to deal with claims presented in this manner consumed a disproportionate amount of time and effort, both from the Employment Tribunals and respondents to these claims. The difficulties caused by such claims can be seen in cases such as *Rahim v The Big Word*[4] and *C v D*[5].

34. Often, such claims could not be dismissed on the basis that the claim form raised no grounds for the claim, because they do contain grounds for the claim, albeit in an inaccessible form.

35. Retaining a 'cannot sensibly be responded to' element to the test in rule 13 will not prevent these types of problems occurring. The TPC concluded, however, that it was a useful procedural tool that should be available to the Employment

[4] https://www.bailii.org/uk/cases/UKET/2025/1309321_2020.html
[5] https://www.bailii.org/uk/cases/UKEAT/2019/0132_19_1709.html

Tribunals in suitable cases. The TPC concluded, however, that it was appropriate to adjust the wording of the rule, removing the word ‘otherwise’ between ‘cannot sensibly be responded to’ and ‘is an abuse of process’. The presentation of a claim that cannot sensibly be responded to is a form of abuse of process within the legal definition. But most claimants who present such claims are not deliberately seeking to abuse the Tribunals’ processes. The presentation in the rules, therefore, as such behaviour as being a subset of abuse of process, while legally accurate, was therefore likely to lead to confusion, rather than achieving clarity.

36. A number of respondents made proposals for improvements to the current claim forms, in particular in the hope that they could be made easier for litigants in person to complete. The TPC does not have any responsibility for the forms, but the comments have been passed onto the Presidents of the Employment Tribunals.

37. Rule 18 sets out circumstances in which a response may be rejected by the Employment Tribunals. The consultation proposed an addition to rule 18(1)(b)(iii) that would allow the Tribunal to reject a response if it does not include the grounds on which the respondent resists the claim.

38. Seven respondents supported this change.

39. Two respondents made similar drafting suggestions, on the basis that the wording ‘the grounds on which the respondent resists the claim’ was problematic. Both suggested that this might impose an excessive burden on respondents. One respondent suggested that the requirement should be for respondents to provide ‘grounds on which’ they resisted claims. One suggested that requirement should be for respondents to provide ‘the main grounds on which’ they resisted claims.

40. One respondent suggested that the proposal would be unworkable without further clarification of the term ‘claim’ because where the claimant brings more than one claim the Employment Tribunals should not reject a response which provided grounds to resist some, but not all of those claims.

41. The TPC agreed that it was appropriate to amend the drafting of the rule in order to clarify these issues. Ultimately, the TPC concluded that this was better achieved by was appropriate to amending rule 29, rather than rule 18.. Rule 29 deals with the circumstances in which a response is dismissed following initial consideration by a judge under rule 27, rather than circumstances where a response form is rejected because it is either not made on a response form or does not contain the minimum information. Rule 29 also applies to a reply to a counterclaim and these should be treated consistently with the response.

42. The TPC concluded that consideration of whether a response contained the grounds on which a respondent relied would often, in practice, require a nuanced assessment of the response form, in the context of the original claim. It was not, therefore, the same type of straightforward assessment dealt with in rule 18. It was therefore appropriate that it be undertaken as part of the initial assessment, rather than as part of the essentially administrative assessment dealt with at the point that the response is first presented.

43. This approach still achieved a symmetrical requirement on both claims and responses, since both will be required to contain grounds. The process applied under rule 29 is different to that applied under rule 13. Rule 29 requires that the respondent be notified of the Tribunal's view and given the opportunity to provide representations before the response is dismissed, while rule 13 allows for a claim to be rejected immediately in the specified circumstances (while allowing the potential claimant the opportunity to apply for reconsideration of the rejection). The TPC concluded, however, that this distinction was appropriate. Rule 13 deals with the question of whether a claim should be permitted to come into existence, while rule 29 is dealing with whether a respondent should be permitted to defend a claim that has already been brought.

Question 3: Do you agree with the proposed amendment to rule 26? If not, why not?

44. The consultation proposed a change allowing the Employment Tribunals to waive the requirement to present a reply to an employer's contract claim under rule 26, where it was in the interests of justice to do so. The TPC noted that this requirement is often overlooked and, in simple and straightforward cases, may be unnecessary.

45. Ten respondents supported the proposal.

46. One opposed. They argued that an employer's contract claim requires a formal response, because they can be of significant value. They also noted that the need to plead a defence to a contract claim, might prompt an unrepresented party to seek assistance from a CAB or Law Centre. The TPC agreed that many contract claims do require (or would benefit from) a fully pleaded reply. But that is a factor that can be considered when the Employment Tribunal applies the interests of justice test. If the nature of the case is such that a formally pleaded reply is appropriate (given all the circumstances of the case) it will not be in the interests of justice to waive that requirement.

47. This respondent also argued that, if this change was made, it would make it more difficult to argue that the Employment Tribunals' jurisdiction should be expanded to claims of more than £25,000. The TPC concluded that, when making rules, it should primarily consider the current jurisdiction, rather than any potential changes to that jurisdiction – particularly when any potential change does not appear imminent. The TPC, as a body, does not have any position on whether the Employment Tribunals' jurisdiction in relation to contract claims should be expanded and it would be inappropriate to base its assessment of rules changes on seeking to facilitate that outcome. In any event the vast majority of contract claims are brought by employees, not employers, and this proposed rule change would have no impact on those claims.

48. One respondent, while supporting the proposal, suggested that the rules should provide some guidance on the interests of justice test. The TPC considered this but concluded that such guidance was not likely to be helpful. Whether it is in the interests of justice to waive the requirement to provide a reply will depend on the circumstances of any individual case. Attempting to draw up a list of factors to be considered would add complexity and length to the rules but would be unlikely to assist the Tribunal and parties before it.

49. A number of respondents suggested that the rules change might be unnecessary, because the existing rules already allowed the Employment Tribunals to either a) extend time to provide a reply (rule 21) or b) let the claimant participate in any hearing despite not having provided a reply (rule 22(3)). The TPC agreed that, in practice, the existing rules provided a number of options that could address some of the problems presented by a reply not having been provided. Nonetheless, the TPC concluded that having an explicit power to waive the requirement provided a simpler approach that was both easier for parties to understand and simpler for the Employment Tribunals to apply.

50. Taking all the responses into consideration TPC concluded that it was appropriate to proceed with this proposal. The TPC concluded, however, that it was better to set out this discretion in a new paragraph (2A) rather than in a new sub-paragraph (d), because this was clear and easier for users of the rules to follow.

Question 4: Do you agree with the proposed rule 30(4)? If not, why not?

51. The consultation proposed an addition to rule 30(4) allowing the Employment Tribunals to require a party to supply a draft of a proposed case management order.

52. Ten respondents supported the proposal.

53. Two respondents opposed the proposal. One, argued that, while it would sometimes be useful for the parties to provide a draft, this should be on a purely voluntary basis. They raised a number of concerns to support this argument. First, that there should not be a risk of one party unduly influencing case management (especially where the other side was unrepresented) or of a represented party being faced with excessive costs as a result of efforts to agree a draft. Second, that the Employment Tribunals would need to be able to step in, where parties were not able to agree a draft.

54. This response, in part, appeared to misunderstand the proposed rule, which simply expressly recognised the power, implicit in rule 30, for an Employment Tribunal to direct a party to provide a draft of a proposed order. That draft might or might not be approved, depending on the circumstances. The Employment Tribunal would always retain control over the final form of the order.

55. Another respondent also opposed the proposal, on the basis that it was likely to disadvantage claimant litigants in person. This respondent argued that Employment Tribunals are too willing to allow respondent solicitors to lead on case management issues, to the disadvantage of litigants in person, and that this proposal would exacerbate this problem.

56. The TPC agreed that the Employment Tribunals should remain alive to equality of arms issues and that the injudicious use of this type of rule could cause problems. The Employment Tribunals would need to consider these type of issues, both when directing that a draft order be produced and considering the draft which they had been provided with. The fact, however, that the power could be used inappropriately, did not mean that it should not exist. Many of the Employment Tribunals' powers, if used without proper consideration, may lead to

undesirable consequences. The TPC concluded that Employment Judges could be trusted to use this power in an appropriate way and in line with the overriding objective.

57. Taking all the responses into consideration TPC concluded that it was appropriate to proceed with this proposal. It did, however, amend the wording of the revised rule in order to make it clear that the Tribunal may order a party to provide the proposed draft to either the Tribunal or the other party.

Question 5: Do you agree with the proposed change to rule 65? If not, why not?

58. The consultation proposed that the requirement that all judgments be placed on the public register be modified so that judgments that refuse an application to reconsider a judgment that is refused on the basis that it has no reasonable prospect of success, because substantially the same application has already been made and refused do not have to be placed on the public register. This was proposed in order to reduce the administrative burden, that arises in a small number of cases, where the same application is made repeatedly.

59. 9 respondents supported the proposal.

60. One respondent opposed the proposal. They argued that the publication of repeated applications to reconsider a judgment on the same grounds was in the public interest, because it publicised that behaviour. They also suggested that the Employment Tribunals should have more robust powers to deal with vexatious behaviour. The TPC agreed that, in some cases, it would be desirable to publicise misbehaviour on the part of a party. The proposed rules change, however, did not prevent Employment Tribunals doing this in appropriate cases. The Employment Tribunals would retain a discretion to publish a judgment if they concluded that was appropriate.

61. One respondent did not object but said they were not convinced a change was required, because they did not believe that many judgments involve the refusal of applications to reconsider. The TPC agrees that the number of cases affected by the potential change is small but also believes that there is a disproportionate use of administrative resource in the limited number of cases where a party repeatedly makes the same application, resulted in a large number of judgments that need to be placed on the public register. One respondent did not specifically answer the question but provided general comments.

62. A number of the respondents addressed the issue of open justice, which had been raised in the consultation. They agreed with the TPC's preliminary view that the change did not have a negative impact on the principle of open justice, not least because the substantive reasons for the outcome of the case, if provided in writing, would be available on the online register.

63. Taking all the responses into consideration TPC concluded that it was appropriate to proceed with this proposal.

Consultation and keeping the Rules under review

64. The TPC is grateful to all those who read the Consultation and for the reply received.

65. The remit of the TPC is to keep the Rules under review. Please send any suggestions for further amendments to the Rules to:

Email: tpcsecretariat@justice.gov.uk

Post: Tribunal Procedure Committee,
Civil, Family, Tribunals and Administration of Justice Directorate,
102 Petty France, Area 7th Floor,
Westminster,
London,
SW1H 9AJ

Annex A

List of Respondents

Law Society of Scotland

Employment Lawyers Association

Union of Shop, Distributive & Allied Workers

The Chartered Institute of Legal Executives

The Bar Council

Faculty of Advocates

WorkNest Limited

Birmingham Law Society

Council of Employment Judges

3 individuals responded in a personal capacity