



TRIBUNALS
JUDICIARY

PRACTICE STATEMENT

**COMPOSITION OF TRIBUNALS IN RELATION TO MATTERS THAT FALL TO BE
DECIDED BY THE TAX CHAMBER OF THE FIRST-TIER TRIBUNAL AND THE FINANCE
AND TAX CHAMBER OF THE UPPER TRIBUNAL
ON OR AFTER 1 APRIL 2009**

1. In this Practice Statement;
 - a. “the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;
 - b. “the 2008 Order” means the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008;
 - c. “the 2009 Rules” means the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009;
 - d. “the Qualifications Order” means the Qualifications for Appointment of Members to the First-tier Tribunal and Upper Tribunal Order 2008;
 - e. “the Upper Tribunal Rules” means the Tribunal Procedure (Upper Tribunal) Rules 2008;
 - f. “Member” means a judge or other member;
 - g. “Other member” means a member who is not a judge and has any of the qualifications set out in article 2(2)(f), (h), (i), 4(h), (i) of the Qualifications Order.

2. In exercise of the powers conferred by the 2008 Order the Senior President of Tribunals makes the following determinations and supplementary provision:-

TAX CHAMBER OF THE FIRST-TIER TRIBUNAL

DEFAULT PAPER CASE

3. Subject to paragraph 10 a decision must be made by one judge or other member.

BASIC CASE

4. A decision that disposes of proceedings or determines a preliminary issue made at, or following, a hearing must be made by either one, two, or where the Chamber President considers it appropriate three, members each of whom is a judge or other member as determined by the Chamber President.

5. Where the Tribunal is constituted under paragraph 4 the “presiding member” for the purposes of article 7 of the 2008 Order will be chosen by the Chamber President.

6. Any other decision, including striking out a case under rule 8 of the 2009 Rules (except at, or following, a hearing) or giving directions under rule 5 of the 2009 Rules (whether or not at a hearing) must be made by one judge, or one other member who has been designated by the Chamber President to make such decisions.

STANDARD OR COMPLEX CASE

7. A decision that disposes of proceedings or determines a preliminary issue made at, or following, a hearing must be made by;
 - a. one judge; or
 - b. one judge and one or two members each of whom is a judge or other member as determined by the Chamber President.
8. Where the Tribunal is constituted under paragraph 7(b) the “presiding member” for the purposes of article 7 of the 2008 Order will be the judge. Where more than one judge is to decide the matter the “presiding member” will be chosen by the Chamber President.
9. Any other decision, including striking out a case under rule 8 of the 2009 Rules (except at, or following, a hearing) or giving directions under rule 5 of the 2009 Rules (whether or not at a hearing) must be made by one judge.

ALL CASES

10. Where the Tribunal has given a decision that disposes of proceedings (“the substantive decision”), any matter decided under, or in accordance with, rule 5(3)(l) or Part 4 of the 2009 Rules or section 9 of the 2007 Act must be decided by one judge, unless the Chamber President considers it appropriate that it is decided either by;-
 - a. the same member or members of the Tribunal as gave the substantive decision; or
 - b. a Tribunal, constituted in accordance with paragraphs 3 to 9, comprised of different members of the Tribunal to that which gave the substantive decision.

FINANCE AND TAX CHAMBER OF THE UPPER TRIBUNAL

11. A decision that disposes of proceedings or determines a preliminary issue made at, or following, a hearing must be made by;
 - a. one judge; or
 - b. one judge and one or two members each of whom is a judge or other member as determined by the Chamber President.
12. Where the Tribunal is constituted under paragraph 11(b) the “presiding member” for the purposes of article 7 of the 2008 Order will be the judge. Where more than one judge is to decide the matter the “presiding member” will be chosen by the Chamber President.
13. Any other decision, including striking out a case under rule 8 of the Upper Tribunal Rules (except at, or following, a hearing) or giving directions under rule 5 of the Upper Tribunal Rules (whether or not at a hearing) must be made by one judge.
14. Where the Tribunal has given a decision that disposes of proceedings (“the substantive decision”), any matter decided under, or in accordance with, rule 5(3)(l) or Part 7 of the Upper Tribunal Rules or section 9 of the 2007 Act must be decided by the same member or members of the Tribunal as gave the substantive decision.

15. Paragraph 14 does not apply where complying with it would be impractical or would cause undue delay and, in such a case, the matter decided under, or in accordance with, rule 5(3)(l) or Part 7 of the Upper Tribunal Rules or section 9 of the 2007 Act must be decided by –
 - a. if the substantive decision was given by more than one member of the Upper Tribunal and the presiding member or any other judge from that constitution is available, the members of the Upper Tribunal who gave the substantive decision and are available to decide the matter;
 - b. otherwise, another judge of the Upper Tribunal nominated by the Chamber President.

LORD JUSTICE CARNWATH
SENIOR PRESIDENT OF TRIBUNALS
10 March 2009