



SENIOR PRESIDENT OF TRIBUNALS

PRACTICE DIRECTION: PANEL COMPOSITION FOR NEW APPEAL RIGHTS IN THE FIRST-TIER TRIBUNAL (GENERAL REGULATORY CHAMBER)

Background

1. The Senior President of Tribunals is responsible for determining panel composition by virtue of an order made by the Lord Chancellor under section 145(1) of, and paragraph 15 of Schedule 4 of, the Tribunals, Courts and Enforcement Act 2007.
2. Previous panel composition arrangements were made by way of Practice Statement. Amendments¹ to the First-tier and Upper Tribunal (Composition of Tribunal) Order 2008² mean that new arrangements must be made by a Practice Direction. The existing Practice Statements remain in force until superseded by a Practice Direction. It is my intention to consult publicly before issuing a Practice Direction reviewing the arrangements generally.
3. There are new appeal and application rights in the First-tier Tribunal (General Regulatory Chamber) and so it is necessary for me to consider the arrangements for those appeals now. I have therefore decided to issue this Practice Direction on a pilot basis for a period of six months. The panel composition requirements will be consulted upon while the pilot is running and may be changed in the future.
4. I have consulted the Lord Chancellor before issuing this Practice Direction.

Scope

5. This Practice Direction applies to the following appeals and applications:
 - (a) Section 162(1)(d) of the Data Protection Act 2018 (appeals against penalty notices);
 - (b) Section 166(2) of the Data Protection Act 2018 (orders to progress complaints);
 - (c) Section 202(2) of the Data Protection Act 2018 (certifying an offence to the Upper Tribunal).

¹ First-tier and Upper Tribunal (Composition of Tribunal) (Amendment) Order 2018, SI 2018/606

² SI 2008/2835

Number of members who will decide cases

6. A decision that disposes of proceedings or determines a preliminary issue in must be made by one judge, or where the Chamber President considers it appropriate, one judge and one or two other members.
7. 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 Tribunals, Courts and Enforcement Act 2007 must be decided by one judge, unless the Chamber President considers it appropriate that it is decided either by:-
 - a. the same members of the Tribunal as gave the substantive decision; or
 - b. a Tribunal, constituted in accordance with paragraphs 4 to 14 comprised of different members of the Tribunal to that which gave the substantive decision.
8. Any other decision, including striking out a case under rule 8, making an order by consent under rule 37 or giving directions under rule 5 of the 2009 Rules (whether or not at a hearing), must be made by one judge.
9. Where the Tribunal consists of two or more members the “presiding member” for the purposes of article 7 of the 2008 Order will be the judge.

Sir Ernest Ryder

Senior President of Tribunals

1 November 2019