



SENIOR PRESIDENT  
OF TRIBUNALS

**THE RT. HON. SIR ERNEST RYDER**

Judges' and Members' Administrative Instruction No 4

**To all Tribunal Judges and Members:**

14 April 2020

As we approached what were important annual festivals for many last week, I was acutely conscious that these are not ordinary times. I am sure that you will agree with me that in common with all key workers there will be no let up in our determination to continue to provide vital public services. I published a message on Maundy Thursday which gave my personal thanks to our judges, members and staff at the end of term and my best wishes to everyone

<https://intranet.judiciary.uk/2020/04/09/message-from-the-senior-president-sir-ernest-ryder/>.

**Help for Users during Covid-19:**

Each tribunal will publish a single page 'Help for Users' guide this week which explains how the Practice Directions, Rule changes and guidance work. The aim is to set out in plain language what we are doing to provide urgent decision making for those who need it, to prioritise the work that is to be done and to make plans to determine as many of our ordinary appeals as we can by remote hearings, where that is appropriate. They will be published on the [internet](#), on the [judicial intranet](#) and on team sites for each chamber and tribunal.

**Rules:**

Since my last Admin Instruction, temporary changes to the Procedure Rules have been made by the Tribunals Procedure Committee. The Tribunal Procedure (Coronavirus) (Amendment) Rules 2020 came into force on the 10th of April 2020 and are set to expire on the same day as the Coronavirus Act 2020. The measures that have been introduced are as follows:

- First, the timeframe for starting the hearing of an appeal under Section 66(1) (a) of the Mental Health Act 1983 (often known as "section 2 cases") in the First-tier Tribunal has been extended from 7 to 10 calendar days, with the

option of extending the time limit further if 10 calendar days is still not practicable.

- Second, a rule has been inserted that allows the First-tier Tribunal and the Upper Tribunal to make a decision on the papers without the parties' consent (without prejudice to any other powers they already had to conduct paper determinations). The new rule will only be applied in circumstances where a decision is urgent, and a hearing is not reasonably practicable.

Both the First and Second rule changes were made by the Tribunal Procedure Committee in response to a direction by the Lord Chancellor as provided for under paragraph 29 of Schedule 5 of the Tribunals, Courts and Enforcement Act 2007.

- Third, there is a new rule allowing the First-tier Tribunal and Upper Tribunal to direct that a remote hearing will take place privately, if it is not practicable for that hearing to be broadcasted to the public in a Court or Tribunal building, and a media representative cannot access the proceedings. If a hearing does take place privately, it must be recorded where that is practicable, and any person may access the recording afterwards with the Tribunal's permission.

This change was not made under a direction from the Lord Chancellor. It mirrors the arrangements made for video and audio hearings in the civil courts (166th PD Update to the Civil Procedure Rules).

The Practice Directions previously issued by me remain in place but now that these rule changes have come into force, it is unnecessary for you to refer to my Practice Direction on video/audio hearings ([Pilot Practice Direction: Video/Audio Hearings in the First-tier Tribunal and the Upper Tribunal](#)).

### **Practice Direction for the FtT Property Chamber:**

I have issued a new Practice Direction since my last administrative instruction, which applies to the First-tier Tribunal, Property Chamber. It directs that new applications and appeals and all correspondence and case management documentation should be lodged by email and allows applications to be made to any office. Here is the link: [Practice Direction Property Chamber, First-tier Tribunal Lodging Applications and Documents by Email and Areas in the Property Chamber](#)

### **Legal aid:**

The Lord Chancellor has [announced](#) that the legal aid fees for First-tier Tribunal Immigration and Asylum appeals will be aligned with HMCTS' move to an online system for these cases. Further details will be provided as soon as they are available.

## **Recovery Planning:**

The judicial leadership of the Tribunals have agreed that we should plan for further or intermittent lockdown, the relaxation of lockdown restrictions and both the return of existing business and new business as the United Kingdom recovers from the Covid-19 outbreak. We have adopted a four-phase plan for recovery, and individual tribunals will be publishing those plans in the coming weeks. Planning involves the evaluation of ways of working that we have introduced to cope with Covid-19. The four phases are as follows:

- Phase 1 – Immediate response: the prioritisation of urgent work; the use of judges sitting alone for that work where necessary; and the move to remote hearings wherever practicable.
- Phase 2 – Consolidation: communication and collaboration to make the immediate response sustainable; the introduction of new software for remote hearings; and re-commencing both paused work and the use of panels for remote hearings.
- Phase 3 – Emergence: the implementation of plans for change after lockdown is relaxed; communication about and engagement with new ways of working; and making provision for working at pace to deal with existing and new business.
- Phase 4 – New equilibrium: the consolidation of good practice.

## **Paper Case Files:**

In many tribunal jurisdictions it is not yet possible to prepare appeals using digital bundles. We are doing our best to maximise the opportunity for the receipt of digital bundles, but in the meantime, many judges and members will be asked to work on paper files. The arrangements for the collection and delivery of paper files vary between Tribunals and are also different in different regions. It is essential that if you do not know the arrangement for your own tribunal, you liaise with your leadership judges who have agreed these arrangements with local HMCTS managers.

Advice about data protection compliance has now been issued by the Judicial Data Protection Panel which can be found at <https://intranet.judiciary.uk/publications/covid-19-guidance-storing-bundles-at-home/>.

Advice from Public Health England, Health Protection Scotland and Public Health Wales about the safe handling of paper files is clear. People are encouraged to wash their hands more frequently (for 20 seconds using soap and hot water) to protect themselves from any contaminated surfaces. Anyone using paper files should wash their hands after handling them and avoid touching your face before washing your hands.



**Sir Ernest Ryder**  
**Senior President of Tribunals**