



SENIOR PRESIDENT
OF TRIBUNALS

Amended Pilot Practice Direction: Panel Composition in the First-Tier Tribunal and the Upper Tribunal

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. On 19 March 2020, Sir Ernest Ryder, Senior President of Tribunals, issued a Pilot Practice Direction setting out how the First-tier Tribunal and Upper Tribunal might adjust their ways of working in relation to panel composition during the Covid-19 pandemic, to limit the spread of the virus and manage their workloads appropriately.
3. Having reviewed that Practice Direction, I have decided to extend it to 18 March 2021, amend paragraph 6, incorporate into it an amendment to paragraph 7 that was previously effected by a separate Practice Direction, and add a new paragraph 9. For ease of reference, the full text of the Practice Direction as now amended, is set out below. The Practice Direction may be reviewed again prior to its expiry should it become inappropriate or unnecessary, and may be revoked at any time. The Lord Chancellor has approved the amendments in accordance with s23 Tribunals, Courts and Enforcement Act 2007.

Scope

4. This Practice Direction applies to all appeals and applications within the First-tier and Upper Tribunal, except in mental health cases as defined in rule 1(3) of the Tribunal Procedure (First-tier Tribunal)(Health, Education and Social Care Chamber) Rules 2008, and save that paragraph 9 applies only to the War Pensions and Armed Forces Compensation Chamber.

Number of members who will decide cases

5. The Composition Statements previously issued in respect of each of the Chambers of the First-tier Tribunal and Upper Tribunal (including such pilot composition statements as

already exist) will remain in force, and composition will ordinarily be determined in accordance with those statements ('the Standard Composition Arrangements').

6. However, while this Pilot Practice Direction remains in force, the following provisions will also apply to all decisions (whether on preliminary issues, or those that determine proceedings):
 - a. If a salaried judge considers that a case could not proceed, or would be subject to unacceptable delay, if the Standard Composition Arrangements were applied, that judge may decide that the case shall be heard by a judge alone, or by panel consisting of fewer or different members
 - b. When making a decision under paragraph 6.a., salaried judges must have regard to the urgency within which a case needs to be determined and the need to ensure the case is dealt with in accordance with the overriding objective.
 - c. Where a salaried judge decides to alter the composition requirements in accordance with paragraph 6.a., that salaried judge may determine which members will deal with the case, and can select salaried or fee paid members.
7. For the purposes of paragraph 6 above, a 'salaried judge' is:
 - a. A salaried, or former salaried, judge of the relevant Chamber; or
 - b. A salaried, or former salaried, judge assigned to the relevant Chamber; or,
 - c. A salaried surveyor member of Upper Tribunal Lands Chamber.

Involvement of Non-Legal Members not on a panel

8. If the composition arrangements for a case are altered from what they would have been under the Standard Composition Arrangements, the tribunal may seek the advice of one or more non-legal members to assist with its decision-making, provided the advice is recorded and disclosed to the parties.

War Pensions and Armed Forces Compensation Chamber

9. While this Practice Direction remains in force, the Standard Composition Arrangements for the War Pensions and Armed Forces Compensation Chamber will be amended so that a case which is decided without a hearing pursuant to rule 5A or rule 25 of The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 may be determined by a panel consisting of a judge and either one or two members.

The Rt. Hon. Sir Keith Lindblom

Vice President of Tribunals and Acting Senior President of Tribunals

14 September 2020