



**THE UPPER TRIBUNAL  
(ADMINISTRATIVE APPEALS CHAMBER)**

**TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

**DIRECTIONS FOR GENERAL EXTENSION OF TIME  
TO COMPLY WITH DIRECTIONS OF  
THE UPPER TRIBUNAL  
(ADMINISTRATIVE APPEALS CHAMBER)**

**Background**

1. The Secretary of State for Work and Pensions is party to numerous proceedings before the Upper Tribunal (Administrative Appeals Chamber) (the “**Upper Tribunal**”).
2. The Upper Tribunal has been informed that the business unit of the Department for Work and Pensions known as the Decision Making and Appeals team (“**DMA**”) has experienced unexpected staff shortages recently, including an 80% reduction in the staff available to draft submissions now compared with staffing levels in June 2021. I am told that this situation has been exacerbated by an unexpected increase in the number of appeals DMA has received from the Upper Tribunal in recent weeks.

**Application for general extension of time**

3. The Secretary of State, realising that she may as a consequence of the circumstances outlined above struggle to meet deadlines for her taking action in respect of Upper Tribunal proceedings to which she is party, has made an application for a general extension of time to comply with directions, or otherwise to provide submissions or comments in respect of cases with deadlines from 20 September 2021 to 11 October 2021.

**Reasons for grant of general extension of time**

4. While mindful of the need to avoid delay in proceedings, so far as compatible with proper consideration of the issues, given the exceptional circumstances outlined in paragraph 2 and 3 above, I consider it to be in the interests of justice to grant an extension of time. Given that these circumstances are likely to affect the Secretary of State’s ability to comply with directions and other time limits in many of the proceedings to which she is a party I consider it proportionate to grant a general extension of time to avoid the need for the Secretary of State to make individual applications for extensions of time on a case by case basis, which would place a disproportionate burden both on the Secretary of State and on the administrative office and judiciary of the Upper Tribunal.

5. However, in those cases where the Government Legal Department is instructed it is unlikely that the Secretary of State will be as reliant on DMA staff. I do not consider it appropriate for the general extension of time to extend to such cases. Should the Secretary of State have difficulty meeting deadlines in those proceedings she will need to apply for an extension of time on a case by case basis in the usual way. Furthermore, it is not in the interests of the overriding objective for a general extension of time to cover cases in which a hearing date has been fixed.
6. To send written notice of these Directions to every party and other person affected by them would place a disproportionate burden on the administrative office of the Upper Tribunal. They will instead be published on the judiciary website.
7. The Upper Tribunal has been assured that new staff members have been recruited and are being trained to mitigate the situation, and staff members on sick leave are expected to return to work in due course. For these reasons any further application for a general extension of time is unlikely to be successful absent a significant change of circumstances.

#### **DIRECTIONS**

Pursuant to rules 2, 5, 6 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (the “**UT Rules**”), and in the interests of justice, I hereby **DIRECT** as follows:

1. These Directions apply to proceedings in respect of which officials of DMA act for the Secretary of State for Work and Pensions (“**relevant proceedings**”) save that proceedings in which the Government Legal Department is instructed to act and proceedings in which any hearing date has been fixed are not, and shall not be treated as, relevant proceedings.
2. In relevant proceedings, the period for compliance by the Secretary of State with Directions, or for the provision by the Secretary of State of submissions or comments, in respect of any deadlines falling due on or after 20 September 2021 and before 11 October 2021 shall be extended by a period of **one month**; and
3. Where the Secretary of State relies on these Directions she shall, when making any submission or otherwise seeking to comply with a direction of the Upper Tribunal, include a copy of these Directions.

These Directions may, in any relevant proceedings, be amended, suspended or set aside in relation to those proceedings by any judge of the Upper Tribunal or any registrar of the Upper Tribunal in exercise of delegated powers (without prejudice to rule 4(3) of the UT Rules (right to apply for registrar’s decision to be considered afresh by a judge)).

Any party to relevant proceedings may apply to the Upper Tribunal, with reasons and on notice to the Secretary of State for Work and Pensions, for these Directions to be amended, suspended or set aside in relation to those proceedings.

**Mrs. Justice Farbey**  
**Chamber President 05/10/2021**