

GUIDANCE ON THE CONDUCT OF PROCEEDINGS IN THE UPPER TRIBUNAL
(TAX AND CHANCERY CHAMBER)

1. The following guidance replaces the “Guidance on the conduct of proceedings in the Upper Tribunal, Tax and Chancery Chamber during the Covid-19 Pandemic” issued on 19 November 2021. It applies to appeals, references in financial services cases, and other proceedings in the Tax and Chancery Chamber of the Upper Tribunal (hereinafter the **Tribunal**).

A. Skeleton arguments

2. A skeleton argument for the Tribunal must:
 - be concise;
 - be set out in numbered paragraphs;
 - be set out on A4-size pages in a font size not smaller than Times New Roman 12 point or Arial 11 point, for the main text (citations and footnotes can be one point smaller);
 - be spaced with at least 1.5 line spacing (save for citations and footnotes which can be single-spaced), with at least one line space between paragraphs;
 - have minimum margins of 2.5 cm (top, bottom and sides);
 - be self-contained and not incorporate by reference material from previous skeleton arguments;
 - identify documents to be relied on; and
 - not include extensive quotations from documents or authorities.
3. Skeleton arguments must be provided to the Tribunal in Word format and should not normally exceed:
 - 25 pages for any tax or charity substantive appeal;
 - 50 pages for a first instance tax appeal transferred to the Tribunal from the First-tier Tribunal, an application under paragraph 50 Schedule 36 Finance Act 2008, a judicial review hearing, or a trial of a reference from a decision made by the Financial Conduct Authority, Prudential Regulatory Authority or the Pensions Regulator;
 - 15 pages for any consequential matters, including in particular costs and any application for permission to appeal;

in all cases including any appendices and schedules. If any party considers it necessary to exceed these page limits, permission should be sought in advance from the Tribunal.

4. The Tribunal may return any skeleton argument that does not comply with the requirements set out above, and require it to be refiled in compliance with those requirements. The Tribunal may also disallow the costs of a non-compliant skeleton argument.

B. Bundles

5. The Tribunal will issue directions for the dates on which skeleton arguments, hearing and authorities bundles, and any other documents must be provided to the Tribunal and served on the other parties.
6. All bundles must be prepared in electronic form. Unless otherwise directed, the parties should provide only the core bundle to the Tribunal in hard copy form (and for the avoidance of doubt an electronic version of that bundle should also be provided). Any hard copy bundles should, unless the Tribunal directs otherwise, be delivered to the Upper Tribunal Tax and Chancery Chamber administrative office on the 5th floor of the Rolls Building.
7. Electronic bundles should be provided as PDF documents collating electronic copies of the documents for use at the hearing. In most cases, three electronic bundles should suffice: a core bundle containing the key documents for the hearing, a supplemental bundle containing any further relevant documents (if necessary), and an authorities bundle. Where possible, the parties should agree a single joint bundle of authorities.
8. An index or table of contents of each bundle must be prepared, if possible hyperlinked to the indexed documents, with corresponding bookmarks giving a tab number plus a short form name/ description of the document.
9. If possible, all bundles must be the subject of OCR (optical character recognition).
10. All documents should appear in the bundle in portrait mode. No document should appear upside down. Where outsize documents are included (e.g. large spreadsheets or drawings), they should be fitted onto a single page but be capable of being read with adequate clarity by use of the 'zoom' function. The default view for all pages in the bundle should be set as 100%.
11. All pages in a bundle must be numbered consecutively with whole numbers only (no subdivision of pages with letters, decimal points or other) and if possible, by computer generated numbering or at least in typed form in the bottom right hand corner of each page. The pagination of electronic bundles must correspond to the pages of the PDF file, with the first page of each bundle (whether this is an index or title page) numbered as page 1. Roman numerals should not be used for pagination.
12. If documents are to be added after the electronic bundles have been sent, the additional documents should be collated in a supplemental bundle, rather than being inserted in the original bundles.

C. Form of hearings

13. The hearing may take one or other of the following forms: an in-person hearing (with all participants attending in person in a courtroom); a remote hearing (with all participants attending via either video or telephone conferencing technology); or a hybrid hearing (with some participants attending in person and others attending remotely).

14. In all cases, the decision as to the form of the hearing will be made by the Tribunal.
15. The default position for hearings of half a day or less (which, in practice, will mean most hearings to consider an application for permission to appeal and other procedural hearings) will be a remote hearing. If one or other of the parties prefers an in-person hearing or a hybrid hearing, they should contact the Tribunal well in advance of the hearing date, explaining the reasons for that preference. The Tribunal will decide on the form of hearing in light of the views of the parties.
16. The default position for hearings of more than half a day (which, in practice, will mean most substantive appeals and financial services trials) will be an in-person hearing. If one or other of the parties prefers a remote hearing or a hybrid hearing, they should contact the Tribunal well in advance of the hearing date, explaining the reasons for that preference. The Tribunal will decide on the form of hearing in light of the views of the parties.
17. The procedure outlined in this guidance is intended to promote flexibility as to the form in which hearings are to be conducted, taking into account the interests of justice, the reasonable requirements of all parties, and the availability of a courtroom able to accommodate the parties, their representatives and members of the public wishing to attend the hearing. In the event that circumstances change, following the decision made under either paragraph (15) or (16) above, such that the proposed form of hearing is no longer appropriate, the Tribunal may order a different form of hearing. If the circumstances of a party change, such that the proposed form of hearing is no longer appropriate, they shall inform the Tribunal as soon as reasonably practicable.
18. The Tribunal will record the hearing. The parties are not permitted to record the hearing. Professional transcribers may record the hearing, where they are permitted to attend the hearing remotely, where that is necessary for the purposes of transcribing it.
19. In the case of a remote or hybrid hearing, the hearing will not proceed unless and until the Tribunal is satisfied that the relevant technology is available to enable the hearing to be conducted fairly and in accordance with the interests of justice and for it to be recorded by the Tribunal.
20. Remote and hybrid hearings will, so far as possible, still be public hearings unless the Tribunal directs that the hearing be held in private.

The Hon. Mrs Justice Bacon DBE

President of the Upper Tribunal, Tax and Chancery Chamber

25 July 2023