Courts and Tribunals Judiciary

Tax Tribunals Users Group Autumn (Interim) Meeting

By Teams

7 November 2024

16:45 -18:00

MINUTES

Some minor redactions have been made to the minutes to remove personal information

WELCOME AND INTRODUCTIONS

1. Judge Sinfield welcomed everyone to the Interim Tax Tribunals Users Group meeting and apologised that Mrs Justice Bacon, President of the Upper Tribunal Tax and Chancery Chamber, was not able to attend but that Upper Tribunal Judge Swami Raghavan was there in her place.

2. Judge Sinfield gave a brief overview of the Tax Chamber in the last year as well as an update on recruitment and retirements.

3. Judge Raghavan gave a brief overview of the Upper Tribunal Tax and Chancery Chamber and update of retirements and appointments of judiciary.

GENERAL UPDATE FTT TAX CHAMBER

FTT JUDICIAL HR

Leavers

4. Barbara Mosedale retired as a judge with effect from 7 September 2024.

5. Judge Sinfield will retire on 30 April 2025. The exercise to recruit a new Tax Chamber President launched last week (on 28 October 2024) and closes on Monday 11 November 2024.

Joiners

6. We have five new fee-paid judges from the last JAC exercise as well as four fee-paid judges and ten members who have been cross-assigned from other jurisdictions following an Expression of Interest exercise.

7. The new fee-paid judges assigned to the Tax Chamber are:

   (1) Lisa Cristie (London)

   (2) Rupert Davies (Manchester)

   (3) Matthew Goodwin (Birmingham)

   (4) Sangeeta Rabadia (London)

   (5) Matheu Smith (Manchester/Birmingham)

8. The new fee-paid judges cross-assigned to the Tax Chamber (and their home jurisdictions) are:

   (1) Keith Gordon - SEC

   (2) George Peretz KC - SEC

(3) John Tolman - SEC

(4) Alexander Wilson – HESC SEND

9. The new members cross-assigned to the Tax Chamber (and their home jurisdictions) are:

(1) Colin Boyd - SEC

(2) Jane Cummins - SEC

(3) Hannah Deighton – HESC Mental Health

(4) Manu Duggal – GRC Charity

(5) Simon Gillespie-Khan – SEC (SSCS)

(6) Nasreen Hussein – HESC SEND

(7) Sarah Kinsella – HESC SEND

(8) Phebe Mann - GRC, UT AAC (Traffic)

(9) Kerry Pepperell - GRC, UT AAC (Traffic)

(10) Jennifer Thomas - SEC

10. They have all completed their induction training and the new fee-paid judges were sworn in by Mrs Justice Bacon at an event on Monday 4 November.

11. We now have 63 judges plus one presiding member who sits as a judge and 44 members.

Future numbers

12. We plan to launch a new JAC Competition to recruit four new salaried judges to the Tax Chamber in March 2025, although it is possible this may slip a little into April or May. If you are interested in applying, I strongly encourage you to consider joining our Judicial Recruitment Support Scheme, if you have not already done so, by contacting Judge Kim Sukul.

GENERAL UPDATE UT TAX AND CHANCERY CHAMBER

13. Since April, there has been a revised set of standard directions on the judiciary website for the Upper Tribunal bringing forward some of the deadlines for bundles.

14. In July 2024 we put out a statement on our policy on publication of decisions, and we are now publishing our decisions on permission to appeal ('PTA') applications following an oral renewal hearing. That has not been done in the past and is in response to previous feedback.

15. There was an issue earlier this year with a backlog of PTAs and delays in those being processed. That has been addressed by opening up that work to a wider pool of judges and we have a system now where their availability is sought to deal with those applications which has vastly improved the backlog.

UTTCC JUDICIAL HR

Joiners

16. Since the last meeting in April we have now welcomed 2 new salaried judges – Judge Jonathan Cannan and Judge Jeanette Zaman.

17. We are at full complement of our deputy Upper Tribunal judges and salaried Upper Tribunal judges.

MINUTES OF APRIL 2024 AND MATTERS ARISING Have TTUG Meeting Minutes been published yet?

18. The minutes of the TTUG meetings are now published on the judiciary.uk website on this page - Work of the First-Tier Tribunal Tax Chamber - Courts and Tribunals Judiciary. We welcome any suggestions on what other material should be added and how the FTT Tax Chamber webpages can be improved generally.

Can all practice directions etc be put on the FTT Tax Chamber website?

19. We will look at putting all the extant practice directions and statements of practice on the same web pages. The hope is that this can be done in the next few months.

QUESTIONS AND ISSUES PROVIDED IN ADVANCE

Acknowledgement of notifications of appeals

20. Our target is to acknowledge and serve all new appeals within 5 working days of receipt. However, this does not account for any appeals needing to be referred to Tribunal Caseworkers ('TCWs') for categorisation or those impacted by technical issues affecting our online platform.

21. Any appeal requiring referral to TCWs is at present delayed by approximately 4 to 6 weeks before it can be acknowledged or returned. We are currently in the process of reviewing the categorisation guidelines followed by tribunal staff to reduce the volume required to be referred.

22. As of Monday 4 November 2024 we held 123 new appeals which had been received earlier than 1 October 2024, awaiting acknowledgement. We advise parties to contact us if they have not heard anything after one month. In the first instance to contact Hagley Road but should there be an excessive delay then please email presidentsofficestax@justice.gov.uk

Delays in releasing decisions

23. All decisions should be delivered within three months of hearing save in exceptional circumstances. It is not annoying to ask for an update: it is a right.

24. We are introducing a new process which is intended to ensure that the three month deadline for releasing decisions is met. Once it is up and running, parties should expect to receive an update at around 8 weeks after the end of the hearing or, if later, final written submissions in the case. The Tribunal should send a further update at 12 weeks.

25. If the decision has not been received by the parties by three months after the end of the hearing, or last submissions, then please email the President's Office at presidentsofficestax@justice.gov.uk.

26. Judge Sinfield acknowledged this is a problem that can be due to a variety of reasons, including a backlog building due to judges juggling sitting and writing up, or fee-paid judges who have their own demands of their own practices to meet.

27. Judge Sinfield also mentioned that there is a consultation on new working practices which will introduce the concept of booked time, which will provide specific writing time for fee-paid and salaried judges to address this. There will then be a period of implementation that will hopefully have a positive impact.

Racially prejudiced assumptions

28. Diversity and Inclusion Lead Judge Kim Sukul acknowledged the seriousness of the issue of racial prejudice after two incidents were reported by legal representatives of colour. This issue had been raised to the operations manager at Taylor House.

29. The Operations Manager at Taylor House, organised a Teams meeting with all their staff yesterday (Wednesday 6 November 2024) to highlight this issue. Clerks expressed the difficulty in identifying court users and their role when they are rushing to get court started and highlighted that no offense was meant.

30. Members from the Users Group suggested that court staff ask court users open-ended questions about why they are at court when they are trying to identify their roles. It was agreed that training on diversity issues was needed.

Information about stayed cases: what are the areas of tax and the amount of tax at stake in those cases.

31. At year end 2023/24, we held 51,189 live cases, of which 41,922 (83%) were stayed.

32. The number of live cases is higher than the figure reported by HMRC due to different recording and reporting of consolidated appeals, the time lag between tribunal and HMRC registration of new appeals, and our figure including appeals relating to decisions made by other agencies.

33. The vast majority (approximately 34,000) of the stayed appeals are VAT mini umbrella company appeals. The lead cases behind which they are stayed are now in the Upper Tribunal. The remining stayed cases are mostly smaller stayed groups, single cases stayed behind another, and cases stayed pending the outcome of ADR or Hardship processes.

Differences in Notices of Appeal online and on Form T240

34. Judge Sinfield said the Tribunal will need to revisit the revised Form T240

ADR Update

Peter Nias provided the following update on the Focus Group.

The Group was originally formed to identify and discuss issues relevant to the more effective use of ADR techniques and procedures in the management of tax disputes.

Over the last 18 months it had met to consider a number of issues but since the autumn had decided to meet less frequently as a whole group with a smaller number of its members meeting to take forward specific issues before sharing their work with the larger group for further discussion.

One such issue is a **Webinar** on tax dispute resolution and the use of ADR which we had hoped to have held by now but was delayed due to administrative issues for HMRC in respect of its format. Those issues have now been resolved and the webinar will be hosted by CEDR as a joint one with HMRC sometime early in 2025. We are now working on the detail of its content. Another issue we have discussed concern certain elements in the **HMRC website guidance** on ADR process and procedure, including issues around the "without prejudice" nature of the process and its impact on "tax facts" which HMRC have stated could not be discussed on a without prejudice basis.

HMRC have said they are reviewing the website wording as part of a more holistic approach to ADR management and would be considering a principles-based approach for deciding the suitability of any matter to ADR.

Another issue discussed concerns the desirability in large and more complex issues for ADR meetings to be attended by the HMRC policy and technical officers involved in the case.

At the moment as a policy matter their attendance is only in the background- not customer facing- to make themselves available to the caseworkers. Fiona McRobert (HMRC ADR lead) is looking at this issue further.

Another initiative of more interest to the TTUG members is the work on Tribunal ADR initiative proposals to see to what extent the Tribunal could encourage more active participation by parties in ADR.

A Note setting out six proposals had been circulated to TTUG members for comment.

The proposals and complementary draft wording have been put together by a group comprising Judges Greg Sinfield and Amanda Brown KC together with Peter Nias and his Chambers colleague Ben Elliott with contributions from other Chambers colleagues including Sadiya Choudry KC.

TTUG members were asked to feed in any comments to Peter Nias by 22 November 2024 for further discussion and consideration.

The six Proposals were outlined and discussed with particular points raised by Jonathan Main, Aparna Nathan KC and Judge Raghavan.

QUESTIONS AND AOB

36. There were no further questions or comments.