



Senior President of Tribunals

PRACTICE DIRECTION

Composition of the First-tier Tribunal in relation to matters that fall to be decided by the Social Entitlement Chamber

1. In this Practice Direction:
 - (a) “the Composition Order” means the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008;
 - (b) “the Qualifications Order” means the Qualifications for Appointment of Members to the First-tier Tribunal and Upper Tribunal Order 2008;
 - (c) references to numbered rules are to the rules so numbered in the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008;
 - (d) “asylum support case”, “criminal injuries compensation case”, and “social security and child support case” have the meanings given in rule 1(3).

2. In exercise of the powers conferred by the Composition Order the Senior President of Tribunals, having consulted the Lord Chancellor, makes the following determinations and supplementary provision in relation to matters that fall to be determined by the Social Entitlement Chamber on or after 16 May 2024. These supersede all previous determinations made in respect of the Social Entitlement Chamber, which are set out in:
 - a. Practice Statement dated 31 July 2013 on composition of tribunals in social security and child support cases in the Social Entitlement Chamber;
 - b. Practice Statement dated 30 October 2008 on composition of tribunals in relation to matters that fall to be decided in criminal injury compensation cases in the Social Entitlement Chamber;
 - c. Practice Statement dated 30 October 2008 on composition of tribunals in relation to matters that fall to be decided in asylum support cases in the Social Entitlement Chamber;save that the determinations set out in the Practice Statements will continue to apply to cases in which a decision to list the matter for a hearing has been made before 16 May 2024.

3. The number of members of the Tribunal must not exceed three.

4. Paragraphs 5 to 14 below apply to social security and child support cases.

5. Where the appeal relates to:
 - (a) an attendance allowance or a disability living allowance under Part III of the Social Security Contributions and Benefits Act 1992; or
 - (b) personal independence payment under Part 4 of the Welfare Reform Act 2012;

the Tribunal must, subject to paragraphs 9 to 13, consist of one judge, one other member who is a registered medical practitioner, and one other member who has a disability qualification as set out in article 2(3) of the Qualifications Order.

6. Where the appeal:
 - (a) involves the personal capability assessment, as defined in regulation 2(1) of the Social Security (Incapacity for Work) (General) Regulations 1995;
 - (b) involves the limited capability for work assessment under Part 5 of the Employment and Support Allowance Regulations 2008, under Part 5 of the Universal Credit Regulations 2013 or under Part 4 of the Employment and Support Allowance Regulations 2013;
 - (c) involves the limited capability for work-related activity assessment under Part 6 of the Employment and Support Allowance Regulations 2008, under Part 5 of the Universal Credit Regulations 2013 or under Part 5 of the Employment and Support Allowance Regulations 2013;
 - (d) is made under section 11(1)(b) of the Social Security (Recovery of Benefits) Act 1997;
 - (e) raises issues relating to severe disablement allowance under section 68 of the Social Security Contributions and Benefits Act 1992 or industrial injuries benefit under Part V of that Act (except for an appeal where the only issue is whether there should be a declaration of an industrial accident under section 29(2) of the Social Security Act 1998);
 - (f) is made under section 4 of the Vaccine Damage Payments Act 1979;
 - (g) is against a certificate of NHS charges under section 157(1) of the Health and Social Care (Community Health and Standards) Act 2003;
 - (h) arises under Part IV of the Child Maintenance and Other Payments Act 2008;

the Tribunal must, subject to paragraphs 8 to 14, consist of one judge and one other member who is a registered medical practitioner.

7. In any other case the Tribunal must consist of one judge.
8. The Chamber President may determine that the Tribunal constituted under paragraph 6 or 7 must also include:
 - (a) an other member who is an accountant within the meaning of article 2(2)(i) of the Qualifications Order, where the appeal may require the examination of financial accounts;
 - (b) an additional other member who is a registered medical practitioner, where the complexity of the medical issues in the appeal so demands;
 - (c) such an additional judge or other member as the Chamber President considers appropriate for the purposes of providing further experience for that additional judge or other member or for assisting the Chamber President in the monitoring of standards of decision-making.
9. Where the Chamber President considers, in a particular case, that a matter that would otherwise be decided in accordance with paragraphs 5 or 6 only raises questions of law and the expertise of any of the other members is not

necessary to decide the matter, the Chamber President may direct that the Tribunal must consist of one judge, or one judge and any other member whose experience and qualifications are necessary to decide the matter.

10. The powers of the Chamber President referred to in paragraphs 8, 9, 11 and 17 may be delegated to a Regional Tribunal Judge and those referred to in paragraphs 8, 9 and 17 may be delegated to a District Tribunal Judge.
11. A decision, including a decision to give a direction or make an order, made under, or in accordance with, rules 5 to 9, 11, 14 to 19, 25(3), 30, 32, 36, 37 or 41 may be made by a judge, except that a decision made under, or in accordance, with rule 7(3) or rule 5(3)(b) to treat a case as a lead case (whether in accordance with rule 18 (lead cases) or otherwise) must be made by the Chamber President.
12. The determination of an application for permission to appeal under rule 38 and the exercise of the power of review under section 9 of the 2007 Act must be carried out:
 - (a) where the judge who constituted or was a member of the Tribunal that made the decision was a fee-paid judge, by a judge who holds or has held salaried judicial office; or
 - (b) where the judge who constituted or was a member of the Tribunal that made the decision was a salaried judge, by that judge or, if it would be impracticable or cause undue delay, by another salaried judge, save that, where the decision is set aside under section 9(4)(c), the matter may only be re-decided under section 9(5)(a) by a Tribunal composed in accordance with paragraph 5, 6 or 7 above.
13. It will be for the presiding member to give any written statement of reasons under rule 34(2).
14. In rule 25(2) (medical and physical examination in appeals under section 12 of the Social Security Act 1998) "an appropriate member" is an other member who is a registered medical practitioner.
15. In criminal injuries compensation cases:
 - (a) a decision at a hearing where:
 - (i) only the appellant's eligibility under the Criminal Injuries Compensation Scheme is at issue; or
 - (ii) the Criminal Injuries Compensation Authority alleges that there are grounds for withholding or reducing an award;may be made by one judge, or one judge and one or two other members, where each other member has any of the qualifications set out in article 2(2)(a)-(d), (f), (i), 2(3), 2(4)(b) or (c) of the Qualifications Order;
 - (b) any other matter that falls to be decided at a hearing must be decided by one judge and one or two other members, where each other

member has any of the qualifications set out in article 2(2)(a)-(d), (f), (i), 2(3), 2(4)(b) or (c) of the Qualifications Order;
(c) any matter that falls to be decided otherwise than at a hearing must be made by one judge.

16. Any matter that falls to be decided in an asylum support case must be decided by one judge.

17. In all cases, where the Tribunal consists of a judge and one or two other members, the judge shall be the presiding member. Where the Tribunal comprises more than one judge, the Chamber President (or in a criminal injuries compensation case, the Principal Judge) must select the presiding member. The presiding member may regulate the procedure of the Tribunal.

Sir Keith Lindblom

Senior President of Tribunals

2 May 2024