



## Chamber President's Guidance Note No.4.

### PROCEDURE FOR OBTAINING MEDICAL NOTES AFTER 1 APRIL 2019

1. This Guidance Note applies to Social Security and Child Support Appeals, as defined by rule 1(3) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 ('the rules').
2. Until 1<sup>st</sup> April 2019 HMCTS issued modest payments to Doctors who disclosed medical notes with the permission of an appellant to the Tribunal. The Data Protection Act 2018 and the General Data Protection Regulations have clarified the position and those payments can no longer be made. Following this the method of presenting such evidence to the Tribunal has been reviewed.
3. Keeping in mind that we are an enabling tribunal, in those cases where an appellant has failed to present medical evidence and the Tribunal considers that a further opportunity to present such evidence is the only way to enable justice to be done, it is open to the Tribunal to invite the appellant to produce that evidence.
4. The keepers of medical evidence are obliged to disclose such notes to the subject of them. The keepers of medical notes are not obliged to disclose them to the Tribunal without a formal order. Such orders are undesirable because at the time the order is made it is unlikely that an appellant will know the full contents of their medical notes and may not be in a position to give informed consent to their disclosure.
5. Only in cases where the Tribunal considers it is unable to do justice on the basis of all the evidence, both written and oral, should the appellant be invited to produce further evidence by way of their GP notes. A date should then be fixed to allow for the appellant to seek such evidence and, once satisfied it is in their interests to do so, to lodge it in the proceedings.
6. In relation to GP notes it should not be necessary for the Tribunal to issue any further orders or directions beyond directing, relisting and specifying the obligation to lodge evidence as soon as possible.
7. In the event that it is not possible to determine the appeal on the basis of the evidence, and the appellant has not or has been unable to produce any GP notes, the file should be referred to a salaried judge to consider issuing an Order to Disclose.

**Judge John Aitken**  
**Chamber President Social Entitlement**  
**28 March 2019.**