Tax Tribunals Users Group Meeting

Held via Teams
Date: 5 June 2025
Time: 16:30 – 17:00

Minutes

Welcome and Introductions

1. The meeting was opened by Judge Amanda Brown KC, who welcomed attendees to the sixth Tax Tribunals Users Group meeting and her first as Chamber President, following her succession of Judge Sinfield on 1 May 2025. Judge Brown introduced Upper Tribunal Judge Zaman, who attended on behalf of the Upper Tribunal Tax and Chancery Chamber.

Upper Tribunal Tax and Chancery Chamber Update

2. Judge Zaman provided an update on the workload of the Upper Tribunal Tax and Chancery Chamber. It was noted that Mrs Justice Bacon's term as President concluded in February 2025, with Judge Tom Scott currently serving as Acting Chamber President. An Expression of Interest for a new Chamber President had been completed, and a successful candidate identified, though further details were pending announcement.

3. No judicial appointments or retirements had occurred since the previous meeting. The Upper Tribunal was largely up to date with issuing decisions post-hearing and processing PTAs, with only minor delays. The Tribunal aims to issue decisions within three months of the hearing or receipt of further submissions, and parties are entitled to request updates if this timeline is not met.

4. Difficulties were reported regarding the electronic transmission of documents for judicial review applications transferred from the Administrative Court, resulting in some notification delays. The UTTCC Admin team continues to be led by Andrew Upton, and the judges are supported by a small President's Private Office. Tribunal users were reminded to raise issues either through the Users Group or directly with the admin team (uttc@justice.gov.uk) or Private Office (UTTCCpresidentsoffice@justice.gov.uk).

First-tier Tribunal (FTT) Tax Chamber Update

5. Judge Brown reported that the year ending 31 March 2025 concluded with a lower outstanding active caseload compared to the start of the year, despite an increase in the absolute number of cases. Excluding VAT Umbrella appeals, the caseload continues to decrease year on year. Receipts have not returned to pre-pandemic levels but are trending upwards, and high disposal rates have contributed to the reduction in caseload. The figures provided are system-generated and unaudited.

6. In-person hearings at Tribunal Hearing Centres remain the default for all hearings except Basic case (penalty appeals), which are listed as video hearings where possible. The Chamber continues to utilise video hearings for certain case types, with judges determining

appropriateness. The Tribunal's Video Hearings Service platform has been unavailable since July of the previous year and has now been abandoned. Teams is used by default for video hearings, as judicial familiarity and limited clerking resources make it more efficient. Recording of hearings via Teams is not currently possible, but solutions are being explored.

7. Cloud Video Platform (CVP) is used for hybrid hearings and allows for recording. Hybrid hearings are listed where facilities are available, primarily for remote observers and transcribers. Notification that the hearing has hybrid facilities available is simply a statement to that effect and not an indication that hearing participants may be remote. As not all courtrooms have hybrid facilities the parties are expected to apply for a hybrid hearing in all circumstances and are expected to indicate who needs to join remotely. There should never be a situation in which either party is unaware that a speaking participant might join remotely. Hybrid facilities also allow members of the public to join remotely and thus can reduce congestion of court space. The priority when listing hybrid hearings is for speaking participants over observers. The number of hybrid hearings conducted last year was similar to the previous year. As the facilities available in the court estate improves so too the potential to facilitate recordings of in person hearings. Plans are ongoing to improve hybrid hearing facilities and enable streaming to larger venues.

FTT Judicial HR

8. There have been no new joiners or leavers since the last meeting. Two fee-paid judges are on long-term leave, and one salaried judge had a period of such leave in the past six months. As of 31 March 2025, there were ten salaried judges, now reduced to nine, listed alphabetically: Amanda Brown KC, Anne Fairpo, Geraint Williams, Harriet Morgan, Jennifer Dean (returned from parental leave), John Brooks, Kim Sukul, Michael Backwell, Michaela Snelders, and Ro Pettifer. Additionally, there are 52 fee-paid judges and 42 members.

9. Recruitment for four additional salaried judges is underway, with applications closing on 23 April 2025. The blind paper sift has occurred, and candidates will be notified regarding progression to selection day, scheduled between 4 and 10 July. Outcomes are expected in October 2025, with successful candidates anticipated to take up posts within six months.

Questions Provided in Advance

Oral Evidence from Abroad:

10. Judge Sinfield had initiated new practice directions, including one on giving evidence from abroad. Judge Brown confirmed the issuance of this practice direction on Tuesday, with details available in the Practice Statement F-tT Tax Chamber - Taking Oral Evidence from Abroad.

Terminology for Hearings:

11. The question regarding hybrid hearings was addressed earlier in the meeting.

Prohibited Items:

12. Concerns about bringing prescription drugs into Taylor House were clarified. The security team confirmed that prescription drugs may be brought into court buildings if in their original box with prescription information or accompanied by a prescription.

Default Directions for Skeleton Arguments:

13. Judge Brown addressed FTT directions, noting a query about amending default directions for skeleton arguments from 21 and 14 days to 28 and 14 days. HMRC Legal Group confirmed

no need for change, and Judge Brown expressed concern about potential cost implications for appellants. Applications to vary timetables can be made as appropriate.

Deadline for Skeleton Arguments FTT:

14. A question had been raised whether the default directions for the service of skeleton arguments can be amended from the current 21 and 14 days to 28 and 14 on the basis that the person raising the question considered that allowing only 7 days for HMRC to prepare a skeleton after service of the Appellant's skeleton (which may have been many months in the drafting) is insufficient. As this question was not raised by HMRC directly Judge Brown had engaged with the HMRC Legal Group to establish whether they have concerns, particularly as many of the skeleton arguments for HMRC are prepared by their litigators. HMRC have confirmed that they do not require a change to the default directions. Judge Brown also has concerns that there may be costs implications for Appellants to appoint counsel (most common where skeleton arguments are directed) as Counsel's costs may increase due with a longer gap between production of the skeleton and final preparation for the case. Obviously where, in accordance with the overriding objective it is appropriate to vary the timetable in any particular case an application to do so can be made and will be considered in light of the views of both parties. Anne Smith or Christina Parkinson from HMRC may wish to comment.

15. Judge Brown is considering inviting parties to indicate whether reading time would be beneficial for all cases, regardless of length.

UT Directions for Skeleton Arguments:

16. Judge Zaman reported that UT standard directions were revised in the past year, with bundles to be filed 14 and 5 days before the hearing, and skeleton arguments 14 and 7 days before. Directions clarify the definition of "before the hearing."

> (1) where a hearing has been directed to take place within a window, 10.30 a.m. on the first day of the applicable window; or
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> (2) if no hearing window has been specified, 10.30 a.m. on the first day of the hearing.

Delays in Receiving Decisions

17. Judge Sinfield previously introduced a process for following up on delayed decisions. Judges are required to inform the admin centre of the 12-week deadline, this will usually be from the end of the hearing but may be later if further written submissions need to be made, or the listing goes part heard. If the judgment has not been received after 8 weeks the admin team are tasked with sending a reminder to the judge and inviting them to confirm that the decision will be produced within the final 4 weeks. It is not intended that there be any communication with the parties at that point. A further reminder is scheduled to be sent at 11 weeks. If the deadline is not met, judges must provide a narrative and revised timeframe to parties. Where there continues to be a delay the matter is escalated to the Chamber President.

18. Egregious or repeated and persistent failures to meet the 12-week deadline is considered to be a matter of judicial conduct which the Judicial Conduct and Investigation Office will consider, and the Chamber President has a duty to report. Certainly, however, and at the risk of upsetting her judicial colleagues where users experience delays and do not consider to have been adequately updated it is their right to bring a complaint which will then be investigated. There can be no prejudice in doing so.

19. Judge Brown confirmed that reminders have been sent, apologies issued for delays, and that addressing delayed judgments is a priority. Upon taking office, 43 judgments were outstanding beyond the 12-week deadline. 24 of those the hearing took place after the introduction of the new process but as with any new process and as one of a large number of tasks that have to be performed by overstretched admin staff the application of the process is not consistent. The managers at Hagley Road have been asked to treat communication with the parties regarding delayed decisions as a priority matter but ultimately wherever they switch their focus is likely to impact other tasks focused on progression of appeals and thereby delay.

Tribunal Rules

20. Rule 38 has been amended to allow the Tribunal to set aside a decision of its own motion for procedural matters identified in rule 38(2). No similar facility exists under rule 41.

Tribunal Web Information

21. Judge Bailey and Judge Brown have rewritten Tribunal Guidance T242 and provided instructions for web page updates. Feedback from TTUG members is invited, with copies of guidance and instructions available from the Private Office.

Developments in ADR – Peter Nias

22. Four of six initiatives to encourage ADR have been agreed. A new Rule 3 FTT Practice Statement was issued on 9 May, reiterating Tribunal support for ADR and updating references to HMRC guidance. Guidance on costs has been added, emphasising parties' obligation to consider ADR, with unreasonable refusal potentially resulting in a costs award against a party or recovering a lower proportion of costs.

23. FTT judges have received wording for two new Directions: Following the *Churchill* decision in those relatively few cases where judges receive papers for review and consider ADR may be appropriate – in the more complex cases – they may issue a Direction as part of a case management decision not only to encourage but effectively require parties to engage in ADR

24. Judges may also issue a further Direction again in the relatively few complex cases to produce an agreed statement of facts and issues either between the parties themselves or with the benefit of a facilitated discussion involving mediation or other form of ADR.

25. In order to assist judges consider the appropriateness of issuing either of those two directions, an ADR Guidance Note has been produced for them identifying what ADR is and where it might (and might not) be appropriate

26. Finally, changes have been agreed to the wording in Appeal Notification letters bringing to parties' attention the possibility and appropriateness of ADR

27. A CEDR/HMRC webinar, "Towards better resolution of tax disputes," was held on 7 May, chaired by Graham Massie, with Fiona McRobert, Kelly Strickland-Coutinho, and Peter Nias participating. The discussion focused on successful practices, lessons learned, and promoting earlier resolution. What is clear is that a successful resolution outcome depends heavily on the parties' willingness to engage in the process collaboratively with a positive resolution mindset The webinar recording was circulated to TTUG members.

Questions and Any Other Business

No further questions or comments were raised.