

COUNTDOWN TO T-DAYS 1 AND 2

Main steps towards implementation

June 2008

- Affirmative commencement orders laid in Parliament
- Consultation on Rules (including two 'consultation events' for interested stakeholders)

July 2008

- Other commencement Orders laid in Parliament
- Rules consultation closes
- Affirmative orders debated in Parliament
- Rules for November 08 Chambers signed off by Tribunal Procedure Committee
- Letters sent to all judges and members mapping existing posts into the new generic tribunals including the new standardised terms and conditions
- Announcement of appointments of phase 1 Chamber Presidents

August 2008

- SSRB expected to report on fees and salaries for new structure

September 2008

- Government decision on new fees and salaries (with possible effect from April 2009)

October 2008

- Practice Directions and delegated powers for phase 1 chambers issued
- Training events on new rules for phase 1 chambers
- General Regulatory Chamber conference
- Consultation on rules for phase 2 chambers by TPC

November 2008

- 3 November: Phase 1 Implementation T1 Day
- Social Entitlement chamber established
- Health, Education and Social Care chamber established
- Upper Tribunal established as single chamber to hear onward appeals from First-tier Chambers. Some categories of Judicial Review cases may be transferred from High Court to Upper Tribunal.
- Swearing-in of transferred in judges and members starts

December 2008

- Affirmative commencement orders for phase 2 laid in Parliament
- Consultation on phase 2 chambers concludes
- TPC sign off phase 2 rules

April 2009

- :Phase 2 Implementation T2 Day
- Abolition of GCIT and reform of tax tribunals - Finance and Tax chambers created at both levels
- Establishment of Lands Chambers in both Tribunals
- Creation of General Regulatory First-tier Chamber
- Earliest date at which there can be changes to salaries and fees

THE SENIOR PRESIDENT'S STATUTORY FUNCTIONS - SUMMARY

General Powers and Duties

- In carrying out the functions of the office the Senior President must have regard to –
 - the need for tribunals to be accessible,
 - the need for proceedings before tribunals –
 - to be fair, and
 - to be handled quickly and efficiently
 - the need for members to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters, and
 - the need to develop innovative methods of resolving disputes that are of a type that may be brought before tribunals (section 2)
- Presiding over and being a member of the First-tier and Upper Tribunal (section 3(4), 5(1)(a) and 4(1)(c)).
- Power to lay before Parliament written representations on matters relating to tribunal members or the administration of justice by tribunals (Schedule 1, paragraph 13).
- Responsibility for representing the views of tribunal members to Parliament, the Lord Chancellor and Ministers of the Crown (Schedule 1, paragraph 14).
- Providing a report to the Lord Chancellor on matters which the Senior President wishes to bring to the attention of the Lord Chancellor and matters which the Lord Chancellor has asked the Senior President to cover (section 43).
- Power to delegate any function to a judge or other member, of the Upper Tribunal or First-tier Tribunal, or to staff (section 8)
- Duty of mutual co-operation with the Chief Justices in relation to their responsibilities for the training, welfare and guidance of the court judiciary (section 47).

Chambers and Chamber Presidents

- Concurring in relation to the chambers structure for the First-tier Tribunal and the Upper Tribunal, and any change to it (section 7(1)).
- Right to be consulted before the Lord Chancellor appoints a Chamber President from the court judiciary (Schedule 4, paragraph 2(1)).
- Power to appoint an Acting Chamber President (Schedule 4, paragraph 6(1)).

- Power to appoint a person who is a Chamber President to preside instead, or also, over another chamber (section 7(6)).
- Power to appoint a person who is a Deputy Chamber President to be instead, or also, a Deputy Chamber President of another chamber (Schedule 4, paragraph 5(2)). The Lord Chancellor must consult the Senior President about whether a Deputy Chamber President should be appointed for the chamber concerned (Schedule 4, paragraph 5(3)).

Responsibilities for Judges and Members

- Concurrence in relation to the making of orders prescribing the qualifications required for appointment of members of the First-tier Tribunal (Schedule 2, paragraph 2(2)) and the Upper Tribunal (Schedule 3, paragraph 2(2)).
- Power to request court judges to act as judges of the First-tier or Upper Tribunal (Schedule 2 paragraph 6(2); Schedule 3 paragraph 6(2)).
- Duty to maintain appropriate arrangements for training, guidance and welfare of judges and other members of the First-tier and Upper Tribunal (Schedule 2 paragraph 8; Schedule 3 paragraph 9).
- Power to take oaths of allegiance and judicial oaths (or to nominate someone to do so) from judges and other members of the First-tier and Upper Tribunal (Schedule 2 paragraph 9, and Schedule 3 paragraph 10) and Chamber Presidents, Deputy Chamber Presidents and Acting Chamber presidents (Schedule 4, paragraph 8).
- Power to assign judges and other members to chambers (Schedule 4, paragraph 9), subject to a policy to be published following agreement with the Lord Chancellor (Schedule 4, paragraph 13).
- Choosing members to decide cases (Schedule 4, paragraph 14).
- Determining the number of members of the tribunal who are to decide a matter that falls to be decided by the First-tier and Upper Tribunal where the Lord Chancellor provides for it to be determined by the Senior President (Schedule 4, paragraph 15).

Other Functions in respect of Tribunals

- Making provision, with the concurrence of the Lord Chancellor, for the allocation of functions between chambers (section 7(9)).
- Power to give Practice Directions as to practice and procedure. Unless these concern the application or interpretation of the law or the making of decisions, or criteria for determining which members may be chosen to decide categories of matter, the approval of the Lord Chancellor is required (section 23).

- Approval of Practice Directions given by Chamber Presidents (section 23(5)(a)).
- Right to be consulted prior to the Lord Chancellor making an order authorising him to enter contracts for the provision of staff to carry out the administrative work of the tribunals (section 40(5)).
- Right to be consulted prior to the Lord Chancellor making an order prescribing fees payable in respect of tribunal proceedings or mediation conducted by staff (section 42(5)(a)).

Tribunal Procedure Committee

- Being or nominating a member of the Tribunal Procedure Committee (it is expected that the Senior President or his nominee will chair the Committee) (Schedule 5 paragraph 20).
- Power to request the appointment of additional members of the Tribunal Procedure Committee (Schedule 5 paragraph 24).

Administrative Justice and Tribunals Council

- The Administrative Justice and Tribunals Council are to advise the Senior President, and others, on the development of the administrative justice system (Schedule 7, paragraph 13).

Asylum and Immigration Tribunal ¹

- Power to give Practice Directions about the procedure of the Asylum and Immigration Tribunal. Unless these concern the application or interpretation of the law or the making of decisions, or criteria for determining which members may be chosen to decide categories of matter, the approval of the LC is required (section 107(1A)).
- Approving Practice Directions given by the President of the Asylum and Immigration Tribunal (section 107(4)).
- Power to assign a relevant tribunal judge to act as a legally qualified member or a relevant other tribunal member to act as a member of the Asylum and Immigration Tribunal, with the consent of the relevant chief justice as appropriate (Schedule 4, paragraph 5A(1)).
- Power to assign a relevant judge to act as a legally qualified member of the Asylum and Immigration Tribunal, with the consent of the President, relevant chief justice and judge concerned (Schedule 4, paragraph 5B(1)).

¹ Reference are to the Nationality, Immigration and Asylum Act 2002 as amended by the TCEA 2007 Schedule 8, paragraph 54.

- Making arrangements for the allocation of proceedings, which may permit allocation by the Senior President (Schedule 4, paragraph 8).
- Duty to maintain appropriate arrangements for the training, guidance and welfare of members of the Asylum and Immigration Tribunal (Schedule 4, paragraph 13).
- Power to take the oath of allegiance and judicial oath from members of the Asylum and Immigration Tribunal (Schedule 4, paragraph 14(2)).

Employment Tribunal and Employment Appeal Tribunal ²

- Duty to maintain appropriate arrangements for the training, guidance and welfare of members of panels of members of employment tribunals (section 5A).
- Power to take the oath of allegiance and judicial oath from the Presidents and members of panels (section 5C).
- Power to nominate a relevant tribunal judge or a relevant judge to act as a member of a panel of members of the Employment Tribunals, with the consent of the relevant chief justice as appropriate (section 5D(2)(a)).
- Power to give Practice Directions about the procedure of Employment Tribunals. Unless these concern the application or interpretation of the law or the making of decisions, or criteria for determining which members may be chosen to decide categories of matter, the approval of the LC is required (section 7(A1)).
- Approval of Practice Directions given by the Presidents (section 7A(2C)(a)).
- A duty to maintain appropriate arrangements for the training, guidance and welfare of members of panels of judges and other members of the Employment Appeal Tribunal (section 24A).
- The power to take the oath of allegiance and judicial oath from relevant appointees (section 24B).
- The power to give Practice Directions about the procedure of the Employment Appeal Tribunal, Unless these concern the application or interpretation of the law or the making of decisions, or criteria for determining which members may be chosen to decide categories of matter, the approval of the LC is required (section 29A(1)(a)).
- Approval of Practice Directions given by the President of the Employment Appeal Tribunal (section 29A(4)(a) and (6)(a)).

² References are to the Employment Tribunals Act 1996, as amended by TCEA 2007 Schedule 8, paragraph 35 to 48

THE TRIBUNALS JUDICIAL EXECUTIVE BOARD

Chair

The Senior President

Judicial Membership

The Deputy Senior President

The Chamber Presidents or their nominees

The Chairman of the Training Group

A representative of “cross-border” interests (Scotland and Northern Ireland)

Other tribunal judges by invitation of the Chair.

Purpose

The Tribunals Judicial Executive Board is the Senior President’s discussion and decision making forum although final decisions on matters relating to his statutory and delegated responsibilities rest with him.

The Board takes collegiate responsibility for the leadership, organisation and management of those tribunals judiciary who come under the remit of the Senior President as set out in the Tribunals, Courts and Enforcement Act 2007.

The objectives of the Board are to:

- a. provide leadership, direction and support to the tribunals judiciary
- b. manage the tribunals judiciary’s overall relationship with the Tribunals Service, MoJ and other jurisdictions and bodies
- c. provide comment and advice to the Tribunals Service and MoJ from the judicial perspective on any initiatives or projects relating to tribunals or their service delivery (Joint meeting)
- d. discuss with the Tribunals Service and MoJ the spending review priorities, targets and plans as they affect the tribunals judiciary and the financing and resources for the Tribunals Service (Joint meeting)
- e. liaise with the Judges’ Council
- f. ensure appropriate cross border relationships are maintained and promoted
- g. develop policy and practice on judicial appointments in tribunals, relationships with the Judicial Appointments Commission and Lord

Chancellor and hold discussions on specific appointments where necessary (Appointments and Assignment Group)

- h. ensure the provision and delivery of judicial training in tribunals within the TJO budget and the oversee the link with the Judicial Studies Board (the Training Group).
- i. oversee the provision, over time, of a consistent system of appraisal in tribunals and develop general policy for the welfare and guidance of the tribunals judiciary (the Appraisal and Welfare Group)
- j. direct the judicial communications strategy (both internal and external) for tribunals; develop policy and practice for precedent and reporting system in the new generic tribunals (the Communications Group);
- k. oversee the provision of publications, on-line services and other reference materials for judicial use and agree allocation of the publications budget (Publications Group)

JUDICIAL SUB-GROUPS

Tribunals Judiciary Appointments and Assignments Group

The group oversees the judicial input into the end to end forecasting and appointments lifecycle and the assignment and ticketing processes. In particular the group will:-

- set the annual forecasting timetable
- analyse the forecasting results prior to sending them to TJEB for endorsement
- comment on the draft JAC programme to ensure that it correctly reflects priorities

The group will monitor progress of tribunal competitions in the JAC programme and work with them and JSO to identify and solve problems at an early stage (this may be achieved by way of written updates rather than meetings).

The group will develop, for the Senior President, both the policy on and processes for assigning and ticketing judges and members.

In delivering these objectives the group will be responsible for the development of an efficient, effective and documented forecasting and appointments process which minimises hand offs and duplication of work within MoJ and between the Ministry and JAC.

Tribunals Judiciary Training Group

Overriding objective: To maintain and improve judicial standards through training.

TJTG advises the SP on training issues generally, and in particular:

- will identify judicial training needs across the Tribunals Service and their priority within the overall programme
- will develop and cost the annual judicial training programme for the Tribunal Service, and where appropriate will reassess and/or adjust the programme as required in the light of the final allocated budget and agree the final programme with the Senior President
- will keep under review the delivery of the agreed training programme within budget.

In delivering these objectives TJTG will have regard to the SP's TCE Act responsibilities under Section 2 and Schedules 2 (para 8) and 3 para (9), as well as the JSB's role for delivery of training to non-TS tribunals. To this end, TJTG group will keep under review training provision to ensure that it is provided in the most cost efficient and effective way to its target groups whether delivery be from within TS or by another provider and in consultation with the other Groups that report to TJEB..

Tribunals Judiciary Appraisal and Welfare Group

The group's purpose is to

1. Develop policy and proposals which effectively support the Senior President in his role as head of the tribunals judiciary for the implementation of a welfare scheme and record across the tribunals judiciary.
2. Consider JSB's recommendations on existing appraisal systems and make recommendations to the Senior President regarding the convergence of judicial appraisal schemes.
3. Develop proposals which address the need for consistency of appraisal for both fee paid and salaried judicial office holders
4. Produce a joint policy statement with the JAC regarding the use of appraisal reports during the judicial appointment process
5. Ensure that the use of appraisals in ticketing and assignment decisions is compatible with the way in which appraisal evidence is used in the appointments process
6. Ensure that judiciary responsible for appraisal are trained to a consistent level of competence.
7. Develop proposals for the harmonisation of judicial terms and conditions in relation to appraisals across the tribunals judiciary
8. Develop proposals for a new welfare system
9. Develop proposals for a mentoring scheme, allowing for jurisdictional differences, but ensuring that a scheme is available across the tribunals' judiciary
10. Oversee the agreed appraisal and welfare processes ensuring that there is close liaison with the training and appointments groups.

Tribunals Judiciary Communications Group

The group's primary purpose is to ensure that the Judicial Communications Strategy is implemented. In doing that the group will also

- Evaluate and implement appropriate means and mediums of communication (including e communications) between tribunals judges, and between the judiciary and the outside world
- Develop efficient and effective internal communications using existing methods to reach both legal and non-legal tribunals office holders
- Develop and monitor the use of the judicial portal as the primary internal communications channel
- Initiate work on Precedent and Reporting and establish a separate group to develop policy and practice on this area

Tribunals Judiciary Publications Group

TJPG advises the Senior President on the procurement of publications, on-line services and other reference materials for judicial use with a view to improving the

supply and distribution of these information resources through the development of collaborative approaches.

Each year TJPG will support the process of financial planning by collating bids for judicial information resources in a format approved by the Senior President and making recommendations to the Senior President.

Tribunals Medical Advisory Group

Medical Advisory Group

The object of the group is to provide advice and recommendations to TJEB and TSET on medical issues. Those would include

- a. the recruitment and retention of medical members, their necessary qualifications, and their deployment within the tribunal jurisdictions,
- b. their remuneration and revalidation requirements
- c. their training, appraisal, mentoring and their information requirements.

JURISDICTIONAL DESCRIPTION

First-Tier Tribunal

The first phase creates the first two chambers, referred to in the *Transforming Tribunals* Consultation Document as Social Entitlement and Health, Education and Social Care. It has been suggested that the Social Entitlement Chamber's jurisdictions would be better described as Compensation, Pensions and Social Entitlement. This is still under discussion but the jurisdictional names need to be fixed very shortly, so that all the necessary administrative changes can be made and users can become used to them. There is more time for discussion of the chamber and jurisdictional names for the later chambers (ie those created in April 2009 or later).

[Compensation, Pensions and] Social Entitlement Chamber

- Social Security and Child Support
- Asylum Support
- Armed Forces
- Criminal Injuries Compensation

Health, Education and Social Care Chamber

- Mental Health
- Special Educational Needs and Disability
- Care Standards

Lands (First-tier)

- Agricultural Land
- Land Registration

Tax and Duties

- Tax and Duties³

General Regulatory

- Consumer credit
- Estate Agents
- Information Rights
- Immigration Services
- Gambling
- Charity
- Claims Management Services
- Driving Standards⁴
- Local Government Standards⁵

³ The fundamental reform of tax appeals, coupled with the fact that the membership of three of the four existing tribunals almost entirely overlaps, makes it possible to think of jurisdictional identities with less of a need to show continuity.

⁴ This chamber will take the Transport Tribunal's jurisdiction to deal with appeals from the Driving Standards Agency. The terms "Driving Standards" distinguishes that work from the older Transport Tribunal jurisdiction dealing with appeals from the Traffic Commissioners, which will be dealt with in the Upper Tribunal.

⁵ This seems a suitable term for appeals which currently lie to the Adjudication Panel for England and to tribunals under the regulations governing appeals in respect of the local authorities code of conduct.

Many of the tribunals in the General Regulatory Chamber have a negligible workload and so there is no existing user community who need to be reassured. For those jurisdictions the statutory term “First-tier Tribunal” should suffice.

Upper Tribunal

Jurisdictional names should largely be aligned with the intended chamber names and structures for the Upper Tribunal:

- Administrative Appeals⁶
- Finance and Tax
- Lands

⁶ Within the Administrative Appeals chamber there may be separate “lists”, for example a “Transport List”, dealing with appeals from Traffic Commissioners.

TRIBUNAL RESOURCES – CONSULTATION ARRANGEMENTS

1. The resourcing of the Tribunals is a three stage process:
 - the settlement from HM Treasury to the Ministry of Justice to the comprehensive spending review;
 - the departmental allocation made to Tribunals Service by the MOJ; and
 - the budgets and plans set across TS within this allocation.
2. In each spending review period TS will prepare its bid to MoJ for consideration and approval by the Chief Executive, advised by TSMB. Under the new arrangements this will first be considered by the monthly Chief Executive/Deputy Senior President joint meeting with whatever supporters are necessary.
3. When the bid goes forward it will be scrutinised by the MoJ and there may be discussions between Tribunals Service officials and MoJ corporate officials. Before the bid is finalised and sent to HMT the Lord Chancellor and the Senior President will consider and where possible agree it. The Senior President will write to the Lord Chancellor to represent the views of the judiciary on the bid whether these are positive or negative and the Lord Chancellor will enclose this letter with his bid to the Chancellor of the Exchequer.
4. The steps within the MoJ are inevitably bound up with the same process for HMCS and so the Senior President may wish to discuss resourcing issues with the Lord Chief Justice or his nominee.
5. There is then a process of negotiation between the Lord Chancellor and MoJ officials (with the support and involvement of TS and HMCS officials and judges as necessary) and HMT. The response of HMT to any letter from the Senior President will be conveyed by the Lord Chancellor to the Senior President.
6. There may well be a process of negotiation with MoJ corporate before allocation is made to the Tribunals Service. The Lord Chancellor and the Senior President will consider the proposed allocation with particular reference to the Lord Chancellor's statutory duties under the TCE Act before it is decided by the Lord Chancellor. If the Senior President has concerns about the allocation he can record his position in writing to the Lord Chancellor and, if he so wishes, to Parliament.
7. Within the allocation given to the Tribunals Service the Chief Executive will make any necessary final decision about budgets and plans. However, both the proposed budget and the TS business plan will be discussed with the judiciary. The procedure to be followed for these discussions will be settled by the CEO/DSP joint meeting.

8. The Senior President will appoint a senior member of the tribunals judiciary to liaise informally with the Director of Finance and Resources on budgetary and resourcing issues generally.

TRIBUNALS JUDICIAL TRAINING STRATEGY

as approved by JSB Tribunals Committee in February 2008

The JSB Tribunals Training Strategy supports the implementation of the TCE Act 2007 and, in particular, the cross-ticketing and assignment provisions, whilst continuing to recognise the training requirements of individual tribunal judges and individual jurisdictions. The principal aims of the strategy are to:

- secure Tribunals Service agreement to accept and adopt, without modification, the JSB Competences (Qualities & Abilities in Action) - so that they may provide the bedrock of core competences across the board, and offer a clear framework for common training and appraisal schemes and standards across the Tribunals Service and beyond;
- continue ongoing independent and objective evaluation of tribunals' training, appraisal and mentoring programmes – set against agreed standards and outcomes, and built upon previous findings and recommendations. The JSB is ideally placed to independently and objectively evaluate and help to maintain the consistency of training, appraisal and mentoring standards across and within all the pillars, chambers and jurisdictions that make up the tribunals family. The evaluation strategy would be a 'light touch' rolling programme that enables specific elements of training, appraisal and mentoring to be reviewed in depth. The JSB would send an Annual Report to the SP;
- work in liaison with the Tribunals Judiciary Appraisal and Welfare group to agree common Appraisal and Mentoring Skills Standards, and devise advanced cross-jurisdiction training for all tribunal Appraisers and Mentors to take place 18 to 24 months after initial JSB training;
- maintain conformity and consistency with wider JSB practice & experience so that tribunal judges can access the same quality training resources, and benefit from training programmes informed by the same vision and strategy, as the higher courts and uniformed branch;
- develop and offer a new prospectus of shorter, focused & modular training sessions in specific judicial and training skills. Chambers and tribunals would be encouraged to incorporate one or more modules into their own training, with the JSB providing the speaker and materials, or to put together (in collaboration with the JSB) an entire bespoke training programme or course, made up of individually selected sessions from the new modular prospectus;
- continue to develop JSB's own high quality multi-jurisdiction courses in judgecraft and other generic skills such as training, facilitating, judicial leadership, appraising and mentoring. Cross-jurisdictional training exploits the obvious benefits of delegates sharing different and diverse tribunal experiences and backgrounds, builds a sound platform for assignment and cross ticketing, and helps to promote an inclusive and collegiate tribunals

family. Courses would be aimed at tribunal judges at all levels, including new advanced courses for experienced judiciary;

- offer advice, support and help to tribunals and chambers wishing to develop their own jurisdiction and chamber-specific training sessions;
- develop new technology-based training platforms for use by tribunals;
- explore ways to support judges who are using alternative and proportionate ways for tribunals to do justice.