



TRIBUNALS
JUDICIARY

PRACTICE STATEMENT

**COMPOSITION OF TRIBUNALS IN RELATION TO MATTERS THAT FALL TO BE
DECIDED BY THE ADMINISTRATIVE APPEALS CHAMBER OF THE UPPER
TRIBUNAL ON OR AFTER 26th MARCH 2014**

1. In this Practice Statement;
 - a. “the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;
 - b. “the 2008 Order” means the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008;
 - c. “the 2008 Rules” means the Tribunal Procedure (Upper Tribunal) Rules 2008;
2. In exercise of the powers conferred by the 2008 Order the Senior President of Tribunals makes the following determinations and supplementary provision:-
3. In accordance with articles 3 and 4 of the 2008 Order, any matter that falls to be decided by the Administrative Appeals Chamber of the Upper Tribunal is to be decided by one judge of the Upper Tribunal (or by a Registrar if the Senior President of Tribunals has approved that they may decide the matter) except that –
 - a. where the Senior President of Tribunals or the Chamber President considers that the matter involves a question of law of special difficulty or an important point of principle or practice, or that it is otherwise appropriate, the matter is to be decided by two or three judges of the Upper Tribunal; and
 - b. where the matter is the determination of an appeal brought under section 4 of the Safeguarding Vulnerable Groups Act 2006 (otherwise than by the striking out of the appeal under rule 8(2) or (3)(a) or (b) of the 2008 Rules), the matter is to be decided by –
 - i. one judge and two other members of the Upper Tribunal; or
 - ii. where the Senior President of Tribunals or Chamber President considers that the matter involves a question of law of special difficulty or an important point of principle or practice, or that it is otherwise appropriate, two judges and one other member of the Upper Tribunal.
 - c. where the matter is the determination of an appeal in a road transport case and the Senior President of Tribunals or Chamber President considers it appropriate the matter is to be decided by –
 - i. one judge and one or two other members of the Upper Tribunal; or
 - ii. where the Senior President of Tribunals or Chamber President considers that the matter involves a question of law of special difficulty or an important point of principle or practice, or that it

- is otherwise appropriate, two judges and one other member of the Upper Tribunal.
- d. where the matter is the determination of a national security certificate appeal as defined in the 2008 Rules, the matter is to be decided by three judges of the Upper Tribunal each of whom either –
 - i. prior to 18 January 2010 was designated under paragraph 2(1) of Schedule 6 to the Data Protection Act 1998; or
 - ii. has been nominated for that purpose [generally or on a case by case basis] by the Senior President of Tribunals [or by the Chamber President with the concurrence of the Senior President and/or the Lord Chief Justice].
 - e. where the matter is the determination of an appeal or preliminary issue transferred from the First-tier Tribunal to the Upper Tribunal under Rule 19(3) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 and the Senior President of Tribunals or Chamber President considers it appropriate the matter is to be decided by –
 - i. one judge and two other members of the Upper Tribunal; or
 - ii. where the Senior President of Tribunals or Chamber President considers that the matter involves a question of law of special difficulty or an important point of principle or practice, or that it is otherwise appropriate, two judges and one other member of the Upper Tribunal.
4. Other members of the Upper Tribunal may be chosen under paragraph 3(b) only if they satisfy the requirements of paragraph 5 or the requirements of paragraphs 6 and 7.
- 4A. Other members of the Upper Tribunal may be chosen under paragraph 3(c) only if they have substantial experience in transport operations and its law and practice.
- 4B. Other members of the Upper Tribunal may be chosen under paragraph 3(e) only if they have substantial experience of data protection or of freedom of information (including environmental information) rights.
5. The requirements of this paragraph are—
- a. experience in the provision of services
 - i. which must or may be provided by local authorities under the Adoption Act 1976, the Children Act 1989 or the Adoption and Children Act 2002 or which are similar to such services;
 - ii. for vulnerable adults; or
 - iii. in a residential family centre; and
 - b. experience in relevant social work.
6. The requirements of this paragraph are—
- a. experience in the provision of services by a Health Authority, a Special Health Authority, a National Health Service trust, an NHS foundation trust or a Primary Care Trust;
 - b. experience in the provision of education in a school or in an institution within the further education sector; or
 - c. experience of being employed by a local education authority in connection with the exercise of its functions under Part I of the Education Act 1996.

7. The requirements of this paragraph are—
 - a. experience in the conduct of disciplinary investigations;
 - b. experience on an Area Child Protection Committee, or similar experience;
 - c. experience of taking part in child protection conferences or in child protection review conferences, or similar experience; or
 - d. experience in negotiation the conditions of service of employees.

8. Where more than one member of the Upper Tribunal is to decide a matter, the “presiding member” for the purposes of article 7 of the 2008 Order and the paragraphs below is –
 - a. the senior judge, as determined by the Senior President of Tribunals or Chamber President, if the tribunal is composed under paragraph 3(a), (b)(ii), (c)(ii), (d) or (e)(ii) ; or
 - b. the judge if the tribunal is composed under paragraph 3(b)(i), (c)(i) or (e)(i).

9. Where, under paragraph 3(a), (b), (c), (d) or (e), two or three members of the Upper Tribunal have been chosen to give a decision that will, or may, dispose of proceedings, any ancillary matter that arises before that decision is given may be decided by –
 - a. the presiding member; or
 - b. by all the members so chosen; or
 - c. (i) a judge or (ii) otherwise than at a hearing, a Registrar (who the Senior President of Tribunals has approved may decide the matter), in either case nominated by the Chamber President or presiding member.

10. Where the Upper Tribunal has given a decision that disposes of proceedings (“the substantive decision”), any matter decided under, or in accordance with, rule 5(3)(l) or Part 7 of the 2008 Rules or section 10 of the 2007 Act must be decided by the same member or members of the Upper Tribunal as gave the substantive decision.

11. Paragraph 10 does not apply where complying with it would be impractical or would cause undue delay and, in such a case, the matter decided under, or in accordance with, rule 5(3)(l) or Part 7 of the 2008 Rules or section 10 of the 2007 Act must be decided by –
 - a. if the substantive decision was given by more than one member of the Upper Tribunal and the presiding member or any other judge from that constitution is available, the members of the Upper Tribunal who gave the substantive decision and are available to decide the matter;
 - b. otherwise, another judge of the Upper Tribunal nominated by the Chamber President.

SIR JEREMY SULLIVAN
SENIOR PRESIDENT OF TRIBUNALS
26TH MARCH 2014