

First-tier Tribunal Directions

Information Rights

Explanatory Notes

Agreed Statement of Facts

Much of the evidence of the parties (to be submitted to the Tribunal) will be agreed and not in dispute. A summary of these agreed facts is therefore prepared in order to simplify and speed up the hearing. It is then clearer to the parties and the Tribunal which evidence is in dispute, and time can be concentrated at the hearing determining outstanding facts in the case.

Authorities

Are copies of cases from Courts or Tribunals which are relevant to the legal points being argued during the appeal. They are used to demonstrate the way in which a particular party says the law should be interpreted and applied.

Bundle of documents

This is the collection of documents that the parties want the Tribunal to look at when deciding the appeal. It will include witness statements, some of the correspondence between the parties, and often the information (or parts of it) that has been disclosed so far. The parties agree with each other what documents the Tribunal needs to see. If a document is not in the bundle of documents it will not normally be considered at the Appeal.

Call to give oral evidence

Witnesses first need to write down the evidence that they intend to give to the Tribunal; this is their witness statement. This is given to all the other parties and the Tribunal. If anyone does not agree with the witness's evidence, or thinks that they do not go far enough and want to ask them to expand upon their evidence, they can ask for the witness to attend an oral hearing in order to repeat the evidence in their witness statement and have questions asked of them.

Chronology

The sequence of events in date order, from the original request to the notice of appeal to the Tribunal.

Consolidated actions

If there are two or more appeals which have a similar issue of fact or question of law to be decided, the Tribunal may decide that it would be helpful to consider them at the same time. If this is decided then the appeals are said to have been consolidated.

Consolidated version of the index and bundle

When all parties have agreed upon the list of documents that will be provided to the Tribunal for it to refer to when deciding the appeal, the full list and copies of all the documents on the list are prepared. The index is the list and the bundle is the copies of the documents themselves.

Directions

Actions that the Tribunal decides should take place in order to progress the appeal. They also provide a timetable by which each action must be done.

Disputed information

This is the information that has been requested and is held by a Public Authority, but which they do not wish to disclose.

Draft of the index to the proposed bundle

In order to agree which documents the Tribunal needs to see in the bundle of documents, one party will prepare a list of documents that they think should be included. This is given to the other parties for them to comment on and to suggest any additional documents that should be included.

Evidence in chief

This is all the facts that the party who relies on a particular witness wants the Tribunal to hear from that witness. It is usually the contents of the witness statement. Normally, rather than repeat the contents of a witness statement out loud, a witness who is attending an oral hearing will be asked if they still agree with their witness statement and, if they do, the Tribunal will read it.

The party who relies upon that witness in support of their case can ask **supplementary questions in chief** (more questions to help their case if anything important has not been covered in the witness statement) but they need to get the permission of the Tribunal first. These questions should be asked before any of the other parties ask their questions of the witness.

Exchange with each other and serve

This means that each party will send their copy of a document to each of the other parties and to the Tribunal.

File

Means that a document has been formally sent to the Tribunal (see also **Lodge and Serve**).

Lodge

This is a formal way of saying that a party has given a document to the Tribunal (see also **File and Serve**).

Oral hearing, or hearing “on the papers”

The Appeal hearing itself can either be an oral hearing (when all parties attend in person to present their evidence and legal arguments to the three-person Tribunal) or on the papers without an oral hearing.

At an oral hearing:

- witnesses can attend to be questioned,
- evidence can be challenged,
- arguments on the law and facts can be explained in person to the Tribunal.

At a hearing on the papers:

- The Tribunal will read the witness statements, but no witnesses will be questioned (generally this means that the evidence is not disputed by anyone)

- The arguments on the law and facts have been written down and are read by the Tribunal.
- The parties do not attend, and are not present at the appeal hearing.

Oral pre-hearing

(See preliminary hearing.)

Order of Joinder

This is the document that the Tribunal issues to show that it has decided that another person or organisation should become a party to the Appeal. It will usually apply to the Public authority to whom the original request for information was made, or the person who made the original request for information if they are not the Appellant. It can sometimes be a third party who has an interest in the issues that are likely to be decided (such as a pressure group).

Partly in public and partly in private

The Tribunal may need to see the information that a public authority does not want to disclose to the applicant before it can decide whether they were right to withhold it. In these cases the Tribunal can arrange for parts of witness statements, parts of the document bundle, and parts of the legal and factual argument to be kept confidential from the complainant and the public. In cases such as this, the part of the appeal hearing that needs to refer specifically to the disputed information can be held in private. The rest of the hearing (or, if the appeal does not deal with withheld information, all of the hearing) would be in public.

Permission to apply for further directions

If a party to an appeal wants to ask the Tribunal to decide upon a point that has arisen in connection with the preparation of the case, e.g.:-

- change the timetable
- change the hearing from an oral hearing to a written hearing

they must write to the Tribunal asking for it to decide the matter.

Possible Directions

This is a directions template which can be used as a guide to show the parties the sort of directions that the Tribunal can make, and the type of directions that they might want to ask for.

Practice Notes

This is guidance on the way that the Tribunal operates, and the way that cases should be conducted. It has been drafted by the Judge to help Tribunal users so that everyone knows what to expect should a certain situation arise, and what procedures will be followed. It is available on request to the Tribunal, or at:

www.informationtribunal.gov.uk/Documents/InformationTribunal_Practice_Notes_010108.pdf

Preliminary hearing

A preliminary hearing takes place to deal with the management of the case and to decide what actions need to be taken to prepare for the full appeal hearing. It is sometimes used to refer to a hearing when directions are made; or occasionally it will be a special hearing to decide an issue that arises before the main appeal can be considered (e.g. whether the case should be in front of the Tribunal at all).

A preliminary hearing will either be in person, when all the parties or their representatives attend before the Judge to discuss the case, or take place by way of a telephone conference (where the Judge and parties can hear and speak to each other).

Telephone hearings are arranged by the Tribunal, which will give the parties an 0800 'free-phone' number to call at a specific time, and a pass code to dial in.

Reply

The formal document the Information Commissioner produces to explain why he disagrees with the grounds of Appeal. It is also the term for the document that anyone who has been joined to the Appeal produces to say whether they agree or disagree with the contents of the grounds of appeal and the Information Commissioner's Reply.

Serve

A formal way of saying that a document needs to be sent to the Tribunal or one of the other parties to the Appeal (see also **File** and **Lodge**).

Skeleton arguments

The outline arguments from each party commenting on the facts and the law from their perspective. They are submitted in advance so that everyone is warned of what points are going to be raised. Each party will then explain their arguments orally in more detail at the hearing.

Statutory materials

Copies of statutes, regulations, codes of practice, and official guidelines which a party says applies to their case.

The “final disposal of this matter”

The issues of the appeal will be decided at a hearing before a (Deputy) Chair and two non-legal members of the Tribunal. The final disposal refers to that hearing and the decision the three-person Tribunal will make based upon the evidence and legal submissions it has read or heard.

The Additional Party

The term that is used for a person or organisation that has been joined to an appeal using an **Order of Joinder**.

Witness

Someone who can provide relevant evidence to the Tribunal that any of the parties to the appeal want the Tribunal to take into consideration when making its decision. A witness can be the Appellant, Respondent, or Additional Party, but may also be another person who is able to provide factual help to the Tribunal.

Witness statements

This is the written-down evidence that a witness intends to give to the Tribunal. It must be signed by the witness and should include a statement that the evidence is the truth. It is not normally necessary to swear that it is true in front of a Solicitor before submitting it to the Tribunal.

It is this written evidence that is used by all the parties to decide whether they agree with that witness's evidence, or whether they want them to appear before the Tribunal to answer questions.

Written submissions

The full arguments from each party commenting on the facts and the law from their perspective. They are submitted in advance. Because they are used at “paper” hearings, where none of parties attend in person, they are detailed and cannot be added to with oral argument.