

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR



THE UPPER TRIBUNAL ORDERS THAT:

- (a) No one shall publish or reveal the name or address of the Appellant who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of her or any member of her family in connection with these proceedings.
- (b) Save for the cover sheet, this decision may be made public (rule 14(7) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI No 2698)). That sheet is not formally part of the decision.

**THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)**

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

**MRS JUSTICE FARBEY, Chamber President
Upper Tribunal Judges Jacobs and Ramshaw**

Decided following an oral hearing conducted by Cloud Video Platform on 14 December 2020

Representatives

EB	Sean Waters of the Mental Health Practice
Trust	Did not take part
Lord Chancellor	Jack Holborn of counsel, instructed by the Government Legal Department

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

DECISION OF THE UPPER TRIBUNAL

On appeal from the First-tier Tribunal (Health, Education and Social Care Chamber)

Reference: MP/2020/20948

Decision date: 18 September 2020

Although the decision of the First-tier Tribunal involved the making of an error on a point of law, it is NOT SET ASIDE under section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007.

REASONS FOR DECISION

1. This is the decision of a three-judge panel of the Administrative Appeals Chamber appointed by its President to deal with an urgent and important issue of the conditions that have to be satisfied before the consultant member of a panel of the First-tier Tribunal in a mental health case must conduct a Pre-Hearing Examination (PHE from now on) of the patient.

2. We are grateful to the parties for their co-operation in ensuring that this case was heard so quickly and to Mr Waters and Mr Holborn for their clear and practical arguments.

A. Background

3. The Senior President of Tribunals has given two practice directions dealing with PHEs. We call the first direction of 19 March 2020 PPD and the amended direction of 14 September 2020 APPD. They are set out in the Appendix to this decision. They were made against the practical difficulties of conducting a PHE which suddenly arose at the beginning of the Covid-19 pandemic. PPD provided that it would not be practicable to carry out a PHE:

8. During the Covid-19 pandemic it will not be ‘practicable’ under rule 34 of the 2008 Rules for any PHE examinations to take place, due to the health risk such examinations present.

That direction is not in issue before us. This case concerns APPD, which provides:

8. For the duration of this Pilot Practice Direction it shall be deemed not practicable under rule 34 of the 2008 Rules for any pre-hearing examinations to take place, unless the Chamber President, Deputy Chamber President or an authorised salaried Judge direct that in the exceptional circumstances of a particular case it shall be practicable for such a pre hearing examination to take place, having regard to the overriding objective and any health and safety concerns.

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

The issue for us is the interpretation of that paragraph and, in particular, whether the reference to exceptional circumstances introduces a new element into rule 34.

B. The applications for a PHE

4. EB was liable to be detained under section 3 of the Mental Health Act 1983. She has now been discharged, which is why we have not set aside the tribunal's decision despite it being made in error of law.

5. EB applied to the First-tier Tribunal on 10 August 2020 and the hearing was fixed for 2 October 2020. Her solicitor applied for a PHE on 17 September 2020:

Details of the request with reasons: Permission is sought for a Prehearing examination.

The reason for the application is —

1. Ms B... is only 19 years of age.
 2. She is very keen to have a Tribunal hearing but also is very anxious about the hearing.
 3. She finds it particularly difficult to speak to, and put her point across to, a group of people even on a video link.
 4. Ms B... fears that her nerves may get the better of her at the Tribunal and that she will have to leave the hearing prematurely without being able to give evidence to the Panel.
 5. She finds it much easier to communicate on a 1:1 basis and so if she has a Prehearing examination she is confident that she would be able to participate in the Tribunal to the best of her ability and so she is more likely to have a fair hearing.
6. The application was refused by Judge Holdsworth on 18 September 2020 on these grounds:

2. The Amended Pilot Practice Direction applies; this highlights the purpose of a PHE. I also note the background factors that are listed in this Direction.
3. There is no identified disputed issue in the proceedings about the patient's mental condition that, if resolved in the patient's favour, would tend towards her discharge from section (and even if there is one, independent medical evidence would be sufficient to ventilate the issue at the hearing and provide sufficient information for the panel to resolve the dispute).
4. In essence, the argument here is that a PHE will facilitate the patient's engagement and participation in the hearing and that she will get a fair hearing. That is not the purpose of Rule 34 examination, The concerns that have been raised about the patient's engagement or participation in the proceedings can be addressed in ways other than via a PHE. Tribunal panels are skilled and experienced in putting patients at their ease during a hearing and ensuring that they are able to participate fully in the process. A patient's evidence can be presented in writing as well as orally, and can also be 'voiced' by the

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB v DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

representative. The Tribunal Rules allow the Tribunal to be very flexible in the management of a hearing to ensure that is fair in accordance with the principles of the overriding objective, which includes the patient's participation; for example, the Rules allow the patient to give her evidence in the absence of the other witnesses. I am confident that the panel listed to hear this case will deploy all of its skills, ingenuity and flexibility, to ensure that the patient feels relaxed and unhurried when giving evidence and that he has a fair hearing.

5. The Practice Direction and the recent communication from the DCP makes it clear that PHEs remain the exception during the pandemic, and I am not persuaded that there is anything about this case in terms of the overriding objective which points towards the necessity of a PHE.

6. I have had regard to the overriding objective in considering the application and conclude that the tribunal can provide a fair hearing with the patient able to fully participate in the proceedings without a PHE relying on the flexible approach that tribunals have taken since the implementation of video hearings.

7. I am therefore not persuaded that the circumstances of this case, as outlined in the application, are exceptional and necessitate a PHE.

7. Two further applications for a PHE were refused on 23 September 2020, first by Judge Chamberlain and then by Judge Gledhill. Both adopted Judge Holdsworth's reasoning. Judge Keates then gave EB permission to appeal to the Upper Tribunal on 28 September 2020.

C. Legislation and practice directions

8. The Tribunals, Courts and Enforcement Act 2007 authorises the making of tribunal procedure rules and the giving of practice directions:

22 Tribunal Procedure Rules

(1) There are to be rules, to be called 'Tribunal Procedure Rules', governing—
(a) the practice and procedure to be followed in the First-tier Tribunal, and

(b) the practice and procedure to be followed in the Upper Tribunal.

(2) Tribunal Procedure Rules are to be made by the Tribunal Procedure Committee.

23 Practice directions

(1) The Senior President of Tribunals may give directions—

(a) as to the practice and procedure of the First-tier Tribunal;

(b) as to the practice and procedure of the Upper Tribunal.

...

(3) A power under this section to give directions includes—

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

- (a) power to vary or revoke directions made in exercise of the power, and
 - (b) power to make different provision for different purposes (including different provision for different areas).
- (4) Directions under subsection (1) may not be given without the approval of the Lord Chancellor.

Schedule 5 provides for the making of rules:

28 Process for making Rules

- (1) Before the Committee makes Rules, the Committee must—
 - (a) consult such persons (including such of the Chamber Presidents) as it considers appropriate,
 - (b) consult the Lord President of the Court of Session if the Rules contain provision relating to proceedings in Scotland, and
 - (c) meet (unless it is inexpedient to do so).
 - (2) Rules made by the Committee must be—
 - (a) signed by a majority of the members of the Committee, and
 - (b) submitted to the Lord Chancellor.
 - (3) The Lord Chancellor may allow or disallow Rules so made.
 - (4) If the Lord Chancellor disallows Rules so made, he must give the Committee written reasons for doing so.
 - (5) Rules so made and allowed—
 - (a) come into force on such day as the Lord Chancellor directs, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
 - (6) A statutory instrument containing Rules made by the Committee is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (7) In the case of a member of the Committee appointed under paragraph 24, the terms of his appointment may (in particular) provide that, for the purposes of sub-paragraph (2)(a), he is to count as a member of the Committee only in relation to matters specified in those terms.
9. The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (SI No 2699) provide:

2 Overriding objective and parties' obligation to co-operate with the Tribunal

- (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB v DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

- (2) Dealing with a case fairly and justly includes—
 - (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;
 - (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
 - (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
 - (d) using any special expertise of the Tribunal effectively; and
 - (e) avoiding delay, so far as compatible with proper consideration of the issues.
- (3) The Tribunal must seek to give effect to the overriding objective when it—
 - (a) exercises any power under these Rules; or
 - (b) interprets any rule or practice direction.
- (4) Parties must—
 - (a) help the Tribunal to further the overriding objective; and
 - (b) co-operate with the Tribunal generally.

34 Medical examination of the patient

- (1) Where paragraph (2) applies, an appropriate member of the Tribunal must, so far as practicable, examine the patient in order to form an opinion of the patient's mental condition, and may do so in private.
- (2) This paragraph applies—
 - (a) in proceedings under section 66(1)(a) of the Mental Health Act 1983 (application in respect of an admission for assessment), unless the Tribunal is satisfied that the patient does not want such an examination;
 - (b) in any other case, if the patient or the patient's representative has informed the Tribunal in writing, not less than 14 days before the hearing, that—
 - (i) the patient; or
 - (ii) if the patient lacks the capacity to make such a decision, the patient's representative,wishes there to be such an examination; or
 - (c) if the Tribunal has directed that there be such an examination.

10. The Senior President of Tribunals' two practice directions dealing with PHEs were given under section 23.

D. How APPD affects rule 34

11. For present purposes, rule 34 has four elements: it (a) imposes a duty to examine the patient, (b) qualifies that duty by reference to practicability, (c) identifies the cases to which it applies (rule 34(2)), and (d) specifies the purpose of the examination.

12. The rule is a rule of procedure. It was made by the Tribunal Procedure Committee, allowed by the Lord Chancellor, and contained in a statutory instrument, which was subject to annulment by either House of Parliament.

13. APPD was made by the Senior President with the approval of the Lord Chancellor. The Tribunal Procedure Committee was not involved in its making, it was not contained in a statutory instrument and so was not subject to any form of Parliamentary procedure. It follows that nothing in it can have the effect of overriding or changing the terms of rule 34. As Hale LJ explained in the context of a legal aid assessment under the Civil Procedure Rules in *A Local Authority v A Mother and Child* [2000] EWCA Civ 339, reported as *Re C (Legal Aid: Preparation of Bill of Costs)* [2001] 1 FLR 602:

21. Unlike the Lord Chancellor's orders under his 'Henry VIII' powers, the CPR themselves and the Remuneration Regulations, the Practice Directions are not made by statutory instrument. They are not laid before Parliament or subject to either the negative or positive resolution procedures in Parliament. They go through no democratic process at all, although if approved by the Lord Chancellor he will bear ministerial responsibility for them to Parliament. But there is a difference in principle between delegated legislation which may be scrutinised by Parliament and ministerial executive action. There is no ministerial responsibility for Practice Directions made for the Supreme Court by the Heads of Division. As Professor Jolowicz says, *loc cit*, p 61, 'It is right that the court should retain its power to regulate its own procedure within the limits set by statutory rules, and to fill in gaps left by those rules; it is wrong that it should have power actually to legislate.'

...

23. ... In any event, there is nothing in section 74A of the County Courts Act 1984 or in the Civil Procedure Act 1997 to confer power upon those making practice directions to revoke or amend rules or regulations made by statutory instrument. Indeed such powers are not expressly conferred on the rule making body. The rules must be confined to the purposes for which the power to make them is granted. The only express power to revoke or amend other legislation in consequence of the CPR is that given to the Lord Chancellor by section 4 of the Act.

24. In my view, therefore, there is no need to consider whether or not the Practice Direction about Costs is inconsistent with the Remuneration Regulations, because the Practice Direction has no power to override the Regulations. The question of implied amendment or repeal simply does not

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

arise. In fact, however, it is comparatively easy to reconcile them as the judge did.

14. If APPD had the effect of overriding or changing the rule, it would (as Mr Waters submitted) to that extent be unauthorised. But it has to be interpreted, if possible, so as to be valid. We accept Mr Holborn's submission that that is possible, although our explanation differs slightly from his argument.

15. APPD can only affect the practicability qualification, which is all that it purports to do. Practicability is a matter of fact and judgment. In the context of an unprecedented health emergency, it was reasonable for the Senior President to conclude that there is scope for it to operate as a matter of practice or procedure.

16. Paragraph 8 of APPD begins by deeming that PHEs are not practicable. It is not limited to any particular form of PHE, so it applies to those that would be conducted face-to-face and (as Mr Holborn submitted) to those that would be conducted remotely. It then provides that the deeming provision does not apply if an authorised judge directs that 'in the exceptional circumstances of the particular case it shall be practicable'. The reference to the particular case emphasises, as would be the case in any event, that an individual judgment is required in each case. It is in that particular case that the 'exceptional circumstances' must be found. Whether they exist must be judged by reference to the general deeming provision. That provision reflects the reality that the pandemic has reduced the potential for face-to-face PHEs to vanishing point. Circumstances are exceptional if, contrary to the deeming, a PHE is practicable.

17. The paragraph goes on to refer to the overriding objective and any health and safety concerns. It is convenient to deal first with health and safety. A risk to anyone involved (Tribunal members, patients and staff) would be relevant under rule 34 even if there had been no pandemic. It was reasonable for the Senior President expressly to direct in the circumstances of a pandemic that an authorised judge should have regard to it.

18. As to the need to have regard to the overriding objective, nothing in APPD can be read as narrowing the statutory purpose of a PHE which is the examination of a patient in order to form an opinion of the patient's mental condition. It applies, as Mr Waters submitted, to any aspect of the patient's condition that would be relevant to any of the statutory conditions for detention. Nor can it be read, as Judge Holdsworth read it, to refer to all aspects of fairness, including involvement in the hearing. Anything that goes beyond practicability is outside the permissible scope of APPD. Any change to the existence of the duty under rule 34, the cases to which it applies and the purpose of the examination are outside the terms of APPD and it would be wrong for a tribunal to deploy paragraph 8 of APPD to refuse a PHE for any reason not related to practicability.

19. The overriding objective would be relevant, as Mr Holborn submitted, to the extent that the resources available to the tribunal might have an impact on the practicability of conducting a PHE. It is likely that this would be relevant even without APPD. In the context of PHEs conducted remotely through digital platforms (i.e. video-conferencing), the availability of the requisite technology is a relevant

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB v DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

consideration. Where that exists, a PHE need not necessarily have (and may well not have) any material impact on the tribunal's resources.

E. Conclusion

20. The First-tier Tribunal misinterpreted APPD by failing to take account of the limited permissible scope of the effect of paragraph 8 on rule 34. Its decision was made in error of law and, were it not for the fact that EB has now been discharged, we would have set it aside.

**Authorised for issue
on 16 December 2020**

**The Hon Mrs Justice Farbey
Chamber President**

**Edward Jacobs
Phyllis Ramshaw
Upper Tribunal Judges**

APPENDIX

PILOT PRACTICE DIRECTION: HEALTH, EDUCATION AND SOCIAL CARE CHAMBER OF THE FIRST-TIER TRIBUNAL (MENTAL HEALTH)

Background

1. During the Covid-19 pandemic, it may be necessary for tribunals to adjust their ways of working to limit the spread of the virus and manage their workloads appropriately. I have therefore decided to issue this Practice Direction on a pilot basis for a period of six months, although it may be reviewed within that period should it become inappropriate or unnecessary and may be revoked at any time.
2. The Lord Chancellor has approved the issue of this Practice Direction in accordance with s23 Tribunals, Courts and Enforcement Act 2007.

Interpretation

3. In this Practice Direction.:
 - (a) 'the 2008 Order' means the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008;
 - (b) 'the 2008 Rules' means the Tribunal Procedure (First-tier Tribunal)(Health, Education and Social Care Chamber) Rules 2008;
 - (c) 'the Act' means the Mental Health Act 1983
 - (d) 'the Composition Statement' means the Practice Statement entitled: 'Composition of Tribunals in relation to matters that fall to be decided by the Health, Education and Social Care Chamber on or after 16 December 2015' dated 18 December 2015.
 - (e) 'mental health case' has the meaning given in rule 1(3) of the 2008 Rules;
 - (f) 'registered medical practitioner' has the meaning given in paragraph 1(2) of the Qualifications for Appointment of Members of the First-tier Tribunal and Upper Tribunal Order 2008, as amended;
 - (g) 'Standard Composition Arrangements' means the composition arrangements set out in the Composition Statement.

Composition

4. While this Pilot Practice Direction remains in force, the provisions of the Composition Statement that apply to mental health cases shall be amended so that a judge alone shall make every decision (including decisions that dispose of proceedings) unless the Chamber President, Deputy Chamber President or such other salaried judge as may be authorised by the Chamber President or Deputy Chamber President, considers it to be inappropriate in a particular case, in which event a two or three person Panel may make the decision.

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

Disposal of proceedings without a hearing

5. In cases where:

- (a) a reference has been made under section 68 of the Mental Health Act 1983 (duty of managers of hospitals to refer cases to tribunal); and
- (b) the patient is a community patient aged 18 or over

the Tribunal should suggest to the patient or their representative (as appropriate) that the proceedings are dealt with on the papers, unless, having regard to the overriding objective, it considers this to be inappropriate.

6. If the patient/their representative agrees in writing that they do not require a hearing, the Tribunal may determine the matter on the papers in accordance with Rule 35(3) of the 2008 Rules.

Pre-hearing Assessments

7. Rule 34 of the 2008 Rules requires that in certain circumstances, an appropriate member of the Tribunal must, so far as practicable, examine the patient in order to form an opinion of the patient's mental condition.

8. During the Covid-19 pandemic it will not be 'practicable' under rule 34 of the 2008 Rules for any PHE examinations to take place, due to the health risk such examinations present.

Involvement of Non-Legal Members not on a panel

9. If the composition arrangements for a case are altered from what they would have been under the Standard Composition Arrangements, the tribunal may seek the advice of one or more non-legal members to assist with its decision-making, provided the advice is recorded and disclosed to the parties.

Sir Ernest Ryder

Senior President of Tribunals

19/03/2020

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB V DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

Amended Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental Health)

Background

1. On 19 March 2020, Sir Ernest Ryder, Senior President of Tribunals, issued a Pilot Practice Direction setting out how the Health, Education and Social Care Chamber of the First-tier Tribunal (Mental Health) might adjust its ways of working during the Covid-19 pandemic, to limit the spread of the virus and manage its workload appropriately. That Practice Direction is due to expire on 18 September 2020.

2. Having reviewed the Practice Direction, I have decided to extend it to 18 March 2021 and make the amendments at paragraphs 4 and 8. This is to ensure the continued efficient working of the Chamber and the delivery of justice, particularly in the event of any localised or national changes. For ease of reference, the full text of the Practice Direction as now amended, is set out below. The Practice Direction may be reviewed again prior to its expiry should it become inappropriate or unnecessary, and may be revoked at any time. The Lord Chancellor has approved the amendments in accordance with s23 Tribunals, Courts and Enforcement Act 2007.

Interpretation

3. In this Pilot Practice Direction:

- (a) 'the 2008 Order' means the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008;
- (b) 'the 2008 Rules' means the Tribunal Procedure (First-tier Tribunal)(Health, Education and Social Care Chamber) Rules 2008;
- (c) 'the Act' means the Mental Health Act 1983;
- (d) 'the Composition Statement' means the Practice Statement entitled: 'Composition of Tribunals in relation to matters that fall to be decided by the Health, Education and Social Care Chamber on or after 16 December 2015' dated 18 December 2015.
- (e) 'mental health case' has the meaning given in rule 1(3) of the 2008 Rules;
- (f) 'registered medical practitioner' has the meaning given in paragraph 1(2) of the Qualifications for Appointment of Members of the First-tier Tribunal and Upper Tribunal Order 2008, as amended;
- (g) 'Standard Composition Arrangements' means the composition arrangements set out in the Composition Statement.

Composition

4. While this Pilot Practice Direction remains in force, the provisions of the Composition Statement that apply to mental health cases shall be amended to

UPPER TRIBUNAL CASE No: HM/1456/2020
[2020] UKUT 362 (AAC)
EB v DORSET HEALTHCARE NHS TRUST AND THE LORD CHANCELLOR

include that a judge alone may make any decision (including decisions that dispose of proceedings) as directed by the Chamber President, Deputy Chamber President or an authorised salaried Judge in accordance with Amended Pilot Practice Direction: Panel Composition In The First-Tier Tribunal And The Upper Tribunal.

Disposal of proceedings without a hearing

5. In cases where:

- (a) a reference has been made under section 68 of the Mental Health Act 1983 (duty of managers of hospitals to refer cases to tribunal); and
- (b) the patient is a community patient aged 18 or over

the Tribunal should suggest to the patient or their representative (as appropriate) that the proceedings are dealt with on the papers, unless, having regard to the overriding objective, it considers this to be inappropriate.

6. If the patient/their representative agrees in writing that they do not require a hearing, the Tribunal may determine the matter on the papers in accordance with Rule 35(3) of the 2008 Rules.

Pre-hearing Assessments

7. Rule 34 of the 2008 Rules requires that in certain circumstances, an appropriate member of the Tribunal must, so far as practicable, examine the patient in order to form an opinion of the patient's mental condition.

8. For the duration of this Pilot Practice Direction it shall be deemed not practicable under rule 34 of the 2008 Rules for any pre-hearing examinations to take place, unless the Chamber President, Deputy Chamber President or an authorised salaried Judge direct that in the exceptional circumstances of a particular case it shall be practicable for such a pre-hearing examination to take place, having regard to the overriding objective and any health and safety concerns. An 'authorised salaried judge' means either:

- a. a salaried, or former salaried, judge of the Health, Education and Social Care Chamber; or
- b. a salaried, or former salaried, judge assigned to the Chamber

who has been authorised by the Chamber President or Deputy Chamber President to exercise the functions in this paragraph.

Involvement of Non-Legal Members not on a panel

9. If the composition arrangements for a case are altered from what they would have been under the Standard Composition Arrangements, the tribunal may seek the advice of one or more non-legal members to assist with its decision-making, provided the advice is recorded and disclosed to the parties.

The Rt. Hon. Sir Keith Lindblom

Vice President of Tribunals and Acting Senior President of Tribunals

14 September 2020