



To: Stakeholders of the Charity Tribunal

4 August 2009

Re: Transfer of work from the Charity tribunal into the unified tribunal system

Dear stakeholder,

We last wrote to you in May regarding the transfer of the Charity tribunal into the unified tribunal structure. The tribunal is due to transfer into the new General Regulatory Chamber (GRC) within the First-tier Tribunal, and the Upper Tribunal, on 1 September. The GRC is a new chamber that will bring together individual tribunals that hear appeals on regulatory issues.

I am writing to provide an update on progress since this time and forward plans for the transfer.

Aims and impacts of the transfer

The transfer is part of a programme of tribunal reform that began with the establishment of the First-tier and Upper Tribunals in November last year. This put in place a new flexible structure where we can build services that are increasingly responsive to the needs of users.

From 1 September most charity proceedings will be heard in the GRC in the First-tier Tribunal. Onward appeals (and some first instance appeals and references) will be heard in the Tax and Chancery Chamber of the Upper Tribunal (formerly the Finance and Tax Chamber). The tribunal rules specify the process for a case to transfer from the First-tier to the Upper Tribunal.

Onward appeals from the Upper Tribunal are made to the Court of Appeal.

Tribunal users will continue to receive a specialist service following transfer, as judiciary and members of the Tribunal will move into the new structure and continue to hear Charity appeals.

Procedure rules - update

Following parliamentary approval of the transfer of the tribunal, I am pleased to advise that the procedure rules have now been finalised, and laid before Parliament. These can be accessed at:

http://www.opsi.gov.uk/si/si2009/uksi_20091976_en_1

Rules were also finalised for other tribunals moving into the GRC in September (Estate Agents Appeals Panel; Consumer Credit Appeals Tribunal, and some functions of the Transport Tribunal).

Consultation outcomes

As you know, the Tribunals Procedure Committee (TPC) ran a public consultation exercise on the draft procedure rules for the GRC, which concluded on 8 May.

Following responses received during this process, the following key amendments have been made to the draft GRC rules as a result:

- Rules 24 and 28 - dealing with appellants' reply after a response to an appeal has been received. At the time of consultation it was intended that this provision would only be specifically included in respect of charities cases, and that the requirement to file a reply would be mandatory in this jurisdiction. Following further consideration, the TPC decided that this should be an optional requirement, and that it should also extend to other jurisdictions. This has been achieved by the introduction of Rule 24, and amendments to Rule 28 and Rule 29 governing secondary disclosure in charities cases.
- Rule 19 - governing transfer of cases to the Upper Tribunal, has been amended in two ways as a result of responses to the consultation. This rule provides for the Tribunal to transfer charities cases to the Upper Tribunal. The amendments made remove the requirement for parties to consent to transfer of appeals. This was amended as it was considered that parties may unreasonably withhold consent in some circumstances and therefore, whilst all parties should be given the opportunity to make representation on whether an appeal should transfer, it will be possible to transfer an appeal without consent.

The amended rule also provides for the tribunal to refer a preliminary issue to the Upper Tribunal. This was added following responses from within the charity jurisdiction to the question of whether references from the Attorney General should automatically, and always, be transferred to the Upper Tribunal. While there was broad support for this the Committee considered that it would be preferable for there to be flexibility in proceedings for this relatively new jurisdiction. The amended rule allows for referral to the Upper Tribunal for decisions on specific issues, whilst still making the substantive decision in the First-tier Tribunal (and still providing for references to be transferred in their entirety, where appropriate).

The consultation also asked whether the tribunal should request all appellants to apply for an internal review in Charity Appeals before lodging appeals with the Tribunal. The draft rules did not make this a requirement and responses supported the approach taken in the rules. Accordingly, the rules have not been amended in this area.

A formal consultation response document, incorporating details of changes made will be published after rules have also been made for tribunals moving into the GRC in January 2010. Ahead of this if you have any specific questions about changes to the rules, or how issues raised in your response were addressed by the committee, please e-mail tpcsecretariat@justice.gsi.gov.uk

I will keep you informed of progress and you can view regular updates on the GRC page of the Tribunals Service website:

www.tribunals.gov.uk/Tribunals/PlannedChanges/generalregulatorychamber.htm

Should you wish to discuss any aspects of the transfer and its implications, please email charitytribunal@tribunals.gsi.gov.uk

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Watson', with a stylized flourish at the end.

MIKE WATSON

Senior Responsible Officer for GRC Implementation