
STATUTORY INSTRUMENTS

2008 No. 2699

The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Rules may be cited as the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 and come into force on 3rd November 2008.

[^{F1}(2) These Rules apply to proceedings before the Health, Education and Social Care Chamber of the First-tier Tribunal.]

(3) In these Rules—

“the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;

“applicant” means a person who—

- (a) starts Tribunal proceedings, whether by making an application, an appeal, a claim or a reference;
- (b) makes an application to the Tribunal for leave to start such proceedings; or
- (c) is substituted as an applicant under rule 9(1) (substitution and addition of parties);

“childcare provider” means a person who is a childminder or provides day care as defined in [^{F2}section 19 of the Children and Families (Wales) Measure 2010], or a person who provides childcare as defined in section 18 of the Childcare Act 2006 ^{M1};

“disability discrimination in schools case” means proceedings concerning disability discrimination in the education of a child [^{F3}or young person] or related matters;

“dispose of proceedings” includes, unless indicated otherwise, disposing of a part of the proceedings;

“document” means anything in which information is recorded in any form, and an obligation under these Rules or any practice direction or direction to provide or allow access to a document or a copy of a document for any purpose means, unless the Tribunal directs otherwise, an obligation to provide or allow access to such document or copy in a legible form or in a form which can be readily made into a legible form;

[^{F4}“health service case” means a case under the National Health Service Act 2006, the National Health Service (Wales) Act 2006, regulations made under either of those Acts, or regulations having effect as if made under either of those Acts by reason of section 4 of and Schedule 2 to the National Health Service (Consequential Provisions) Act 2006;]

^{F5} ...

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“hearing” means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication;

“legal representative” means [^{F6}a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act];

“mental health case” means proceedings brought under the Mental Health Act 1983 ^{M2} or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984 ^{M3};

“nearest relative” has the meaning set out in section 26 of the Mental Health Act 1983;

“party” means—

- (a) in a mental health case, the patient, the responsible authority, the Secretary of State (if the patient is a restricted patient or in a reference under rule 32(8) (seeking approval under section 86 of the Mental Health Act 1983)), and any other person who starts a mental health case by making an application;
- (b) in any other case, a person who is an applicant or respondent in proceedings before the Tribunal or, if the proceedings have been concluded, a person who was an applicant or respondent when the Tribunal finally disposed of all issues in the proceedings;

“patient” means the person who is the subject of a mental health case;

“practice direction” means a direction given under section 23 of the 2007 Act;

“respondent” means—

- (a) [^{F7}in an appeal against an order made by a justice of the peace, the person who applied to the justice of the peace for the order;]
- (b) in an appeal against any other decision, the person who made the decision;
- (c) [^{F8}in proceedings on a claim brought under paragraph 3 of Schedule 17 to the Equality Act 2010 (disabled pupils: enforcement)—
 - ((i) the local authority or the governing body, where the school concerned is a maintained school;
 - ((ii) the proprietor, where the school concerned is an independent school;]
- (d) ^{F9} ...
- (da) [^{F10}in an application for, or for a review of, a stop order under the National Health Service (Optical Charges and Payments) Regulations 1997—
 - ((i) the supplier, where the Secretary of State is the applicant;
 - ((ii) the Secretary of State, where the supplier is the applicant;
- (db) in any other [^{F11}health service case]—
 - ((i) the practitioner, performer or person against whom the application is made, where [^{F12}NHS England][^{F13}or a Local Health Board] is, or is deemed to be, the applicant;
 - ((ii) [^{F12}NHS England][^{F14}or Local Health Board] that served the notice, obtained the order or confirmation of the order, where any other person is the applicant;]
- (dc) [^{F15}in an application under section 127(5) of the Education and Skills Act 2008, the Secretary of State; or]
- (e) a person substituted or added as a respondent under rule 9 (substitution and addition of parties);

“responsible authority” means—

- (a) in relation to a patient detained under the Mental Health Act 1983 in a hospital within the meaning of Part 2 of that Act, the managers (as defined in section 145 of that Act);
- (b) in relation to a patient subject to guardianship, the responsible local social services authority (as defined in section 34(3) of the Mental Health Act 1983);
- (c) in relation to a community patient, the managers of the responsible hospital (as defined in section 145 of the Mental Health Act 1983);
- (d) ^{F16} ...

“restricted patient” has the meaning set out in section 79(1) of the Mental Health Act 1983;

[^{F17}“special educational needs case” means proceedings concerning—

- (a) an EHC needs assessment within the meaning of section 36(2) of the Children and Families Act 2014, ^{F18}...
- (aa) [^{F19}a detained person’s EHC needs assessment within the meaning of section 70(5) of the Children and Families Act 2014, or]
- (c) an EHC plan within the meaning of section 37(2) of that Act, of a child or young person who has or may have special educational needs;]

“Suspension Regulations” means regulations which provide for a right of appeal against a decision to suspend, or not to lift the suspension of, a person's registration as a childcare provider;

“Tribunal” means the First-tier Tribunal;

“working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 ^{M4};

[^{F20}“young person” means, in relation to a special educational needs case or a disability discrimination in schools case, a person over compulsory school age but under 25;]

Textual Amendments

- F1** Rule 1(2) substituted (29.11.2010) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2010](#) (S.I. 2010/2653), rules 1, **3(2)**
- F2** Words in rule 1(3) substituted (1.4.2011) by [The Tribunal Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/651), rules 1(2)(a), **3(2)(a)**
- F3** Words in rule 1(3) inserted (1.9.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014](#) (S.I. 2014/2128), rules 1(a), **20(a)** (with rule 38)
- F4** Words in rule 1(3) inserted (1.4.2011) by [The Tribunal Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/651), rules 1(2)(a), **3(2)(c)**
- F5** Words in rule 1(3) omitted (1.4.2011) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/651), rules 1(2)(a), **3(2)(b)**
- F6** Words in rule 1(3) substituted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010](#) (S.I. 2010/43), rules 1, **15**
- F7** Words in rule 1(3) substituted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015](#) (S.I. 2015/1510), rules 1, **9(a)(i)**
- F8** Words in rule 1(3) substituted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015](#) (S.I. 2015/1510), rules 1, **9(a)(ii)**
- F9** Words in rule 1(3) omitted (21.8.2015) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2015](#) (S.I. 2015/1510), rules 1, **9(a)(iii)**
- F10** Words in rule 1(3) inserted (29.11.2010) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2010](#) (S.I. 2010/2653), rules 1, **3(3)**

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- F11** Words in rule 1(3) substituted (1.4.2011) by [The Tribunal Procedure \(Amendment\) Rules 2011 \(S.I. 2011/651\)](#), rules 1(2)(a), **3(2)(e)**
- F12** Words in Regulations substituted (6.11.2023) by [The Health and Care Act 2022 \(Further Consequential Amendments\) \(No. 2\) Regulations 2023 \(S.I. 2023/1071\)](#), reg. 1(1), **Sch. para. 1**
- F13** Words in rule 1(3) inserted (1.4.2011) by [The Tribunal Procedure \(Amendment\) Rules 2011 \(S.I. 2011/651\)](#), rules 1(2)(a), **3(2)(f)**
- F14** Words in rule 1(3) inserted (1.4.2011) by [The Tribunal Procedure \(Amendment\) Rules 2011 \(S.I. 2011/651\)](#), rules 1(2)(a), **3(2)(g)**
- F15** Words in rule 1(3) inserted (21.12.2017) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), rules 1, **5(b)**
- F16** Words in rule 1(3) omitted (1.4.2013) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **11(b)**
- F17** Words in rule 1(3) substituted (1.9.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(a), **20(b)** (with rule 38)
- F18** Word in rule 1(3) omitted (21.8.2015) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **9(b)**
- F19** Words in rule 1(3) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **9(b)**
- F20** Words in rule 1(3) inserted (1.9.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(a), **20(c)** (with rule 38)

Marginal Citations

- M1** 2006 c.21.
M2 1983 c.20.
M3 1984 c.47.
M4 1971 c.80.

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

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

(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.

Alternative dispute resolution and arbitration

3.—(1) The Tribunal should seek, where appropriate—

- (a) to bring to the attention of the parties the availability of any appropriate alternative procedure for the resolution of the dispute; and
 - (b) if the parties wish and provided that it is compatible with the overriding objective, to facilitate the use of the procedure.
- (2) Part 1 of the Arbitration Act 1996^{M5} does not apply to proceedings before the Tribunal.

Marginal Citations

M5 1996 c.23.

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