Senior President of Tribunals

Practice Direction

Reasons for decisions

1. This Practice Direction states basic and important principles on the giving of written reasons for decisions in the First-tier Tribunal. It is of general application throughout the First-tier Tribunal. It relates to the whole range of substantive and procedural decision-making in the Tribunal, by both judges and non-legal members. Accordingly, it must always be read and applied having regard to the particular nature of the decision in question and the particular circumstances in which that decision is made.

2. The procedure rules applying in the First-tier Tribunal specify circumstances in which the Tribunal must provide written reasons for its decision. Whilst many decisions are subject to an express requirement for written reasons to be given for them, some are not. In some circumstances written reasons are mandatory only upon request by a party. In every case the Tribunal must be alert to the type of decision it is making and to the relevant requirements of the rules on the giving of reasons, if any such requirements are engaged. It is important to recognise that the giving of reasons may be required in the interests of justice even if not mandated by the rules.

3. In some cases or jurisdictions the Tribunal will be able to give its decision at, or soon after, the conclusion of a hearing by providing a notice of decision and/or by stating its reasons orally.

4. Modern ways of working, facilitated by digital processes, will generally enable greater efficiencies in the work of the tribunals, including the logistics of decision-

making. Full use should be made of any tools and techniques that are available to assist in the swift production of decisions.

5. Where reasons are given, they must always be adequate, clear, appropriately concise, and focused upon the principal controversial issues on which the outcome of the case has turned. To be adequate, the reasons for a judicial decision must explain to the parties why they have won and lost[1]. The reasons must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the main issues in dispute[2]. They must always enable an appellate body to understand why the decision was reached, so that it is able to assess whether the decision involved the making of an error on a point of law[3]. These fundamental principles apply to the tribunals as well as to the courts.

6. Providing adequate reasons does not usually require the First-tier Tribunal to identify all of the evidence relied upon in reaching its findings of fact, to elaborate at length its conclusions on any issue of law, or to express every step of its reasoning. The reasons provided for any decision should be proportionate, not only to the resources of the Tribunal, but to the significance and complexity of the issues that have to be decided. Reasons need refer only to the main issues and evidence in dispute, and explain how those issues essential to the Tribunal's conclusion have been resolved[4].

7. Stating reasons at any greater length than is necessary in the particular case is not in the interests of justice. To do so is an inefficient use of judicial time, does not assist either the parties or an appellate court or tribunal[5], and is therefore inconsistent with the overriding objective. Providing concise reasons is to be encouraged. Adequate reasons for a substantive decision may often be short. In some cases a few succinct paragraphs will suffice. For a procedural decision the reasons required will usually be shorter.

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[1] *English v Emery Reimbold* [2002] EWCA Civ 605 at [16]
[2] *South Bucks v Porter* [2004] UKHL 33 at [36]
[3] *Flannery v Halifax Estate Agencies Ltd* [2000] 1 WLR 377 (CA)
[4] *SSHD v TC* [2023] UKUT 164 (IAC) Annex para 8
[5] e.g. *Jones v Jones* [2011] EWCA Civ 41 at [3]

8. Judges and members in the First-tier Tribunal should expect that the Upper Tribunal will approach its own decisions on appeal in accordance with the well settled principle that appellate tribunals exercise appropriate restraint when considering a challenge to a decision based on the adequacy of reasons[6]. As the Court of Appeal has emphasised, a realistic and reasonably benevolent approach will be taken such that decisions under appeal will be read fairly and not hypercritically[7].

9. As an expert tribunal, the First-tier Tribunal will generally be taken to be aware of the relevant authorities within the jurisdiction being exercised, and to be applying those cases without the need to refer to them specifically, unless it is clear from the language of the decision that they have failed to do so[8]. The Upper Tribunal will not readily assume that a tribunal has misdirected itself merely because every step in its reasoning is not fully set out in its decision[9]. Thus, a challenge based on the adequacy of reasons should only succeed when the appellate body cannot understand the Tribunal's thought process in making material findings[10].

10. This Practice Direction is made by the Senior President of Tribunals without the approval of the Lord Chancellor under section 23(6) of the Tribunals, Courts and Enforcement Act 2007, on the basis that it consists solely of guidance about the application or interpretation of the law, and the making of decisions by judges and members in the First-tier Tribunal.

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Senior President of Tribunals
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[6] *TC* Annex para 13
[7] *DPP v Greenberg* [2021] EWCA Civ 672 at [57]
[8] *TC* Annex para 12; *Yalcin v SSHD* [2024] EWCA Civ 74 at [50-51]; *Ullah v SSHD* [2024] EWCA Civ 201 at [26]
[9] *TC* Annex para 13
[10] *HJ (Afghanistan) v SSHD* [2017] EWCA Civ 2716; *R (Iran) v SSHD* [2005] EWCA Civ 982