



BIRMINGHAM LAW SOCIETY
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**Response to the Consultation on Possible changes to
the Employment Tribunal Rules**

25th June 2024

Response of the Employment Law Committee of the Birmingham Law Society to Possible changes to the Employment Tribunal Rules consultation paper

This response has been prepared by the Employment Law Committee of the Birmingham Law Society. The Society is the largest local law society with some 9,000 members from all branches of the legal profession and practising in all aspects of law. The response represents the collective views of the employment Law Committee whose members include specialists in employment law from all branches of the legal profession.

Tribunal Procedure Committee

Consultation on possible changes to the Employment Tribunal Rules

Questionnaire

We would welcome responses to the following questions set out in the consultation paper. Please return the completed questionnaire by **26 June 2024** to:

Email: tpcsecretariat@justice.gov.uk

Respondent name	Birmingham Law Society Employment Committee
Organisation	Birmingham Law Society

Transfer of rules making power

Question 1: Do you agree with the TPC's proposed approach to the remaking of the Rules? If not, why not?

Comments:

Yes, as it effectively maintains the status quo.

Schedules 2 & 3

Question 2: Do you agree with the TPC's proposed approach to Schedules 2 & 3? If not, why not?

Comments:

Yes - again it effectively maintains the status quo.

Delegation to staff

Question 3: Do you agree that the rules should give the Senior President power to delegate any judicial function under to the rules to staff, subject to a fresh consideration by a Judge? If not, why not?

Yes. It would allow for a more efficient running of the Tribunal system by allowing Legal Officers to exercise more functions which would reduce delay.

This would also mean that the functions of Legal Officers in the Tribunal are consistent with the functions of Legal Officers in the First-tier and Upper-tier Tribunals.

Delegation to staff

Question 4: Should the rules require that the Senior President of Tribunals' power of delegation be exercised through a Practice Direction? If so, why?

No. It should be sufficient for the Senior President's power of delegation to be exercised through a Practice Statement, consistent with the position in other Tribunals. This again would allow matters to be dealt with more efficiently as sign off from the Lord Chancellor would not be required. Further, given that no significant criticism has been made of how the Senior President exercises this power of delegation in other Tribunals through Practice Statements, it is difficult to see why this additional burdensome safeguard should be maintained.

Delegation to staff

Question 5: Do you have any other comment on this draft Rule?

No

Prescribed forms

Question 6: Do you agree with the TPC's proposal to remake regulation 12, while moving the power to prescribe the claim and response forms from the Secretary of State to the Presidents of Employment Tribunals in each jurisdiction? If not, why not?

Yes. This will effectively retain the current position and reflects that post the TPC becoming responsible for the Rules, it is more sensible that the power to prescribe forms rests with the Presidents of the ETs rather than the Secretary of State.

Rule 99 Transfer of Proceedings between Scotland and England & Wales

Question 7: Do you agree with the proposed changes to Rule 99? If not, why not

Yes. It will allow matters to be dealt with more expeditiously.