

The Hon Mrs Justice Joanna Smith DBE
Tribunal Procedure Committee
Post point 3.37
102 Petty France
London
SW1H 9AJ



4 December 2023

By email only: tpcsecretariat@justice.gov.uk

Dear Mrs Justice Smith

Consultation on possible amendments to the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 in relation to whether hearings in criminal injuries compensation cases are held in public or private

We welcome the opportunity to respond to the Tribunal Procedure Committee consultation on amending the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 for hearings relating to Criminal Injuries Compensation awards.

Question 1: Do you agree with the proposed change to rule 30? If not, why not?

We agree that the rules should be amended as suggested, to preserve the principle of open justice. Open justice, and the principle that justice must not only be done, but must be seen to be done, is a cornerstone of the justice system in the United Kingdom. Open justice places decision makers under greater scrutiny, and ensures that they are held accountable. While there are undoubtedly concerns about privacy and protection of vulnerable parties, which led to the current default position in relation to CICS appeal hearings, these concerns can be addressed while still maintaining open justice. If rule 30 were to be amended so that hearings relating to criminal injuries compensation awards are heard in public by default, the tribunal judge would still be able to hold a hearing in private, should they deem this to be appropriate. Additionally, there are other protections, already available in the criminal and civil courts in relation to vulnerable parties and cases involving sensitive subject matter, that could be utilised in a tribunal hearing to protect the appellant, while still allowing the hearing to proceed in public.

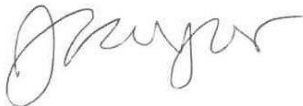
Question 2: Do you have any further comments

If appeals relating to Criminal Injuries Compensation awards do become public by default, it is vital that applicants are aware of their rights relating to anonymity and the special measures available to those who are vulnerable. This can include allowing the party or witness to give evidence behind a screen, or via video-link. As pointed out in the consultation document, there are a number of important reasons why privacy may be necessary in cases of this nature. For example, fear of reprisals from a defendant, cases where sensitive medical evidence is involved, cases involving children, or where the alleged perpetrator has not been prosecuted or convicted. We are concerned that as these appeals have been in private by default previously, tribunal judges, legal representatives, and court staff for example, may not flag the protections available to applicants, as they have not previously been necessary.

We suggest that when the directions notice relating to the appeal is sent to parties, it should include information on the right to request appropriate provisions, should the party feel they need them. It must be clear to those who are without a legal representative, in particular, that they can apply for protections, and how they can do that. Practice Direction 1A details the special measures that are available to vulnerable parties and this should be at the forefront of considerations. We would also suggest that there should be further training of tribunal judges on the issues of vulnerability.

We hope that our comments prove useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alice Taylor', written in a cursive style.

Alice Taylor
Legal Policy Manager