



Council Tax Reduction Review Panel

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Practice note 1/2015

The purpose of this practice note is to provide guidance for all users of the Council Tax Review Reduction Panel in order to assist with the proper management of hearings before the panel, preparation for hearings and matters arising after the hearing of review applications.

The following Procedural Guidance applies to all applications pending before the CTRRP at any stage prior to final decision, with immediate effect, and is promulgated by me in terms of regulation 70C (6)(a) of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 and regulation 90D (6)(a) of the Council Tax Reduction (Scotland) Regulations 2012, as amended.

**D.W. Ferguson
Senior Convener
Council Tax Reduction Review Panel
Scottish Courts and Tribunals Service**

9th November 2015

Procedural Guidance

1. Instructions

This guidance is to be read along with, and is intended to be complementary to, Regulation 90D(6) of The Council Tax Reduction (Scotland) Regulations 2012 and Regulation 70C(6) of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012, as inserted by The Council Tax Reduction (Scotland) Amendment (No 2) Regulations 2013.

2. The overriding objective

(1) The overriding objective of this guidance is to enable the panel to deal with the proceedings justly.

(2) dealing with the proceedings justly includes—

(a) dealing with the proceedings in ways which are proportionate to the complexity of the issues and to the resources of the parties;

(b) seeking informality and flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are on an equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party's case without advocating the course they should take;

(d) avoiding delay, so far as compatible with the proper consideration of the issues.



3. Representation

- (1) A party may act in person or be represented by any person.
- (2) Where a representative begins to act for a party, the representative should notify CTRRP and the other party of that fact as soon as practicable.
- (3) A representative acting for a party may on behalf of that party do anything that the Regulations and this guidance require or permit that party to do.
- (4) Where a representative ceases to act for a party, the representative should notify CTRRP and any other party of that fact and, if known, of the name and address of any new representative as soon as practicable.
- (5) Notification under paragraphs (2) and (4) may be given orally at a hearing, but should otherwise be given in writing.
- (6) If the convener is satisfied that there is a good and sufficient reason, he/she may refuse to permit a particular person to assist or represent a party at a hearing.

4. Invalid appeals

No review application can be admitted for hearing if it is invalid, due to being outwith the jurisdiction or otherwise not competently brought before the CTRRP

Any application considered to be potentially invalid shall be placed before the senior convener (or other convener on the authority of the senior convener) for a ruling. However, nothing in this rule prevents a convener considering any review application to decide at a later stage that an application is invalid. A ruling that an application is invalid is a final decision and disposes of the review application.

5. Exclusion of persons from the hearing

The convener has complete discretion as to the presence of any person at an oral hearing other than the parties themselves. Any person, including parties, found to be disruptive, in the view of the convener, can be excluded from the hearing and the application determined in their absence or the hearing adjourned, as considered appropriate in all the circumstances.

6. Issue of decisions

A decision containing a brief summary of the reasons for the decision will usually be issued by the convener immediately following an oral hearing unless he or she decides that the decision should instead be issued by post, in which case it will be issued as soon as possible after the hearing.



7. Adjournment

- (1) Where a party applies for an adjournment of a hearing of an application, he or she should—
 - (a) if practicable, notify all other parties of the application for adjournment;
 - (b) give full reasons why an adjournment is necessary; and
 - (c) produce evidence of any fact or matter relied upon in support of the application for adjournment.
- (2) The convener will not adjourn a hearing of an application at the request of any party unless satisfied that it is appropriate for the just determination of the proceedings.
- (3) The convener will not, in particular, usually adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that—
 - (a) the evidence relates to a matter in dispute;
 - (b) it would be unjust to determine the case without permitting the party a further opportunity to produce the evidence; and
 - (c) where the party has failed to comply with a request for the production of evidence, he or she has provided a satisfactory explanation for that failure.

8. Set aside

- (a) If, following a final decision in a review application, any party seeks to have that decision set aside and a new hearing fixed instead, any such application should be made in writing within 14 days of the date of issue of the decision and must be signed by or on behalf of the party in question and accompanied by all evidence referred to in support of the request to set aside.
- (b) Full reasons for the application for setting aside must be given and these should relate to the absence of a party at an oral hearing or the non-availability of evidence before the convener who decided the application, which evidence was otherwise available but was not included in the hearing papers. Reasons for non-inclusion of the evidence must be provided. A decision cannot be set aside because a party does not accept or agree with the decision that was issued.
- (c) If it is practicable to do so, an application for set aside will be placed before the convener who reached the decision to determine whether the decision should be set aside. Otherwise, the matter will be placed before the senior convener for determination.
- (d) It is a matter for the discretion of the convener as to whether a set aside request should be granted but consideration shall be given to the matters referred to in (b) above, the overriding principle being the interests of justice.



(e) Any party who is dissatisfied with the set aside decision of the convener can request that the matter be looked at again by the senior convener. A request for a set aside decision to be looked at again should be made within 7 days of the set aside decision having been issued.

The senior convener's decision in respect of such requests shall be final.

(f) Where a request is made for a decision to be looked at again, and that decision was made by the senior convener, one of the other conveners will discharge the function of the senior convener referred to in paragraph (e). The decision of that convener in respect of the request shall be final.

9. Paper decisions

(a) Where all parties have indicated that they do not require an oral hearing and opt for a decision on the papers, once the full submission and hearing papers have been received from the local authority and copied to the applicant, the parties will be advised that the matter will be determined on the basis of the papers only. That determination will not be made earlier than the expiry of 14 days from the date of the letter from CTRRP advising of this. No actual date for determining such cases will be advised.

(b) It is permissible for either party to submit further evidence within the 14 day period referred to above. However, if fairness requires additional material to be copied to the other side for any further comments, the determination of the application will be put back a further 14 days. Material submitted later than the 14 day period may not be taken into account.

(c) At the discretion of the convener considering a paper case, it can be adjourned in order to clarify any matter or otherwise if it is considered in the interests of justice to do so. In such an event, the convener shall direct parties to address the issue in question, request any additional documentation and direct whether the case can continue to be considered on the papers or, alternatively, that an oral hearing should be held and advise the applicable time limits.

10. Full Findings and Reasons

Any party is entitled to request a full statement of reasons after a decision has been issued which finally determines the application, from the convener who made that decision. Such a request should be made in writing to CTRRP within 14 days of the date of issue of the final decision.