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**PRACTICE DIRECTION No. 1**

**Application by a Party to a tribunal to give Directions** (**“the Application”)**

This Direction is issued under section 74(1)(a) and 75(2) of the Tribunals (Scotland) Act 2014 which provides that the President of Tribunals may issue directions as to the practice and procedure to be followed in proceedings at the First-tier Tribunal.

This Direction applies in relation to proceedings in respect of **homeowner** applications before the Housing and Property Chamber of the First-tier Tribunal for Scotland commenced, or in progress, on or after 26 February 2018.

The previous practice direction No. 1 dated November 2016 is revoked.

1. Where any application is made to the tribunal to give directions relating to the conduct or progress of the proceedings in terms of rule 16(1) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (SSI 2017/339) (“the Chamber Rules”) it must be made by using the attached form.
2. The application form must be signed and dated. Where the application is to be served by email, rule 7 of the Chamber Rules applies: the application form must be signed by attaching the electronic signature of the party or representative who is making the application. Electronic signature has the same meaning here as in section 7 of the Electronic Communications Act 2000.
3. At the same time as lodging the application with the Chamber, a copy must be served on all other parties to the proceedings or their representatives (“the receiving parties”) by first class post or by email. For the avoidance of doubt “party” includes “*any homeowner, property factor, tenant, former tenant, landlord, former landlord, third party applicant, former residential occupier, lessor, lessee, letting agent and any other person permitted by the First-tier Tribunal to be a party to proceedings”* unless the contextrequires otherwise (see: rule 1(2) of the Chamber Rules).

The application must be served on the receiving party by applying rule 6 of the Chamber Rules, which states:

*“(1) Where any formal communication requires to be served on any person, it is deemed to be served if—*

*(a) it is sent to the proper address of the person—*

*(i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000); or*

*(ii) by a postal service which provides for the delivery to be recorded; or*

*(b) it is sent to the email address provided by the person.*

*(2) Where a formal communication is served as mentioned in paragraph (1) it is to be taken to have been received 48 hours after it is sent unless—*

*(a) the proper address is outwith the United Kingdom; or*

*(b) the contrary is shown.*

*(3) Where any formal communication requires to be served upon the parties, it is deemed to have been served on a party if it is served on a person who is acting as the representative of that party.*

*(4) A member of staff of the Scottish Courts and Tribunals Service may send a formal communication on behalf of the First-tier Tribunal.*

*(5) Where a party, a representative or an interested party provides an email address, the First-tier Tribunal is to communicate using that address until the party, representative or interested party requests that another method of communication be used.”*

1. On receipt of the application, the receiving party may make a counter application or representations on the proposed Direction (see: rule 16(1)). Such counter application or representations must be received by the Chamberno later than 7 days from the date the application was served on the receiving party
2. If more than one Direction is sought by a party, a separate application must be completed and submitted for each Direction sought.

Lady Smith

President of Tribunals

26 February 2018

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**Application by a Party in a homeowner application to the tribunal to give Directions in terms of rule 16(1) of schedule 1 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**See Guidance note for further information on completing this form.**

Name of Parties

|  |  |
| --- | --- |
| Homeowner: | Click here to enter text. |
|  |  |
| Property Factor: | Click here to enter text. |
|  |  |
| Chamber Reference: | Click here to enter text. |

Direction Sought:

|  |
| --- |
| Click here to enter text. |

Reasons for seeking a Direction:

|  |
| --- |
| Click here to enter text. |

Please tick the box to confirm that the Application has been duly served on the other parties or their representatives.

Signed by party/representative making the application:

**Signature…………………………………Date………………………………..**

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**Guidance note**

Sample Directions may include those matters referred to in rule 16(3) of schedule 1 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

For ease of reference, rule 16(3) is narrated below:

Directions of the First-tier Tribunal may, in particular—

(a) relate to any matter concerning the preparation for a hearing;

(b) set time limits for something to be done;

(c) vary any time limit given in a previous direction;

(d) provide for—

(i) a matter to be dealt with as a preliminary issue;

(ii) a party to provide further details of that party’s case, or other information or document which appears to be necessary, in the opinion of the First-tier Tribunal, for the determination of the application;

(iii) witnesses to be heard; and

(iv) the manner in which evidence is to be given; and

(e) require a party to lodge and serve—

(i) a statement of evidence to be put forward at the hearing;

(ii) a paginated and indexed bundle of all the documents to be relied on by that party at the hearing;

(iii) a skeleton argument which summarises the submissions to be made at the hearing and cites all the authorities to be relied on, clearly identifying any particular passages to be relied on; and

(iv)a list of witnesses the party wishes to call to give evidence.

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On completion, the signed application should be returned to First-tier Tribunal for Scotland (Housing and Property Chamber) by post or email.