

SCHEDULE

The Upper Tribunal for Scotland Social Security Rules of Procedure 2018

PART 5

Hearings

Decision with or without a hearing

22.—(1) Subject to paragraph (2), the Upper Tribunal may make any decision without a hearing.

(2) The Upper Tribunal must have regard to any view expressed by any party when deciding whether to hold a hearing to consider any matter, and the form of any such hearing.

Entitlement to attend a hearing

23. Subject to the power to exclude persons in rule 25(4) (public and private hearings), each party is entitled to participate at a hearing together with any representatives and supporters permitted by rules 13 (representatives) and 14 (supporters).

Notice of hearings

24.—(1) The Upper Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any change to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days prior to the day of the hearing except that the Upper Tribunal may give shorter notice—

- (a) with the consent of the parties; or
- (b) in urgent or exceptional circumstances.

Public and private hearings

25.—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Upper Tribunal may give an order that a hearing, or part of it, is to be held in private if the Upper Tribunal considers that restricting access to the hearing is justified—

- (a) in the interests of public order;
- (b) in order to protect a person's right to respect for their private and family life;
- (c) in order to maintain the confidentiality of sensitive information;
- (d) in order to avoid serious harm to the public interest; or
- (e) because to hold it in public would prejudice the interests of justice.

(3) Where a hearing, or any part of it, is to be held in private, the Upper Tribunal may determine who is entitled to attend the hearing or part of it.

(4) The Upper Tribunal may give an order excluding from any hearing, or part of it—

- (a) any person whose conduct the Upper Tribunal considers is disrupting or is likely to disrupt the hearing;
- (b) any person whose presence the Upper Tribunal considers is likely to prevent another person from giving evidence or making submissions freely; or

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- (c) any person where the purpose of the hearing would be defeated by the attendance of that person.
- (5) The Upper Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.
- (6) When publishing a decision in terms of rule 27(4) (notice of decisions and reasons) following a hearing which was held wholly or partly in private, the Upper Tribunal must, so far as practicable, ensure that the decision does not disclose information which was referred to in a part of the hearing that was held in private.

Hearings in a party’s absence

26. If a party fails to attend a hearing, the Upper Tribunal may proceed with the hearing if the Upper Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) considers that it is in the interests of justice to proceed with the hearing.