

Extended material

Chapter 18: Tribunals and public inquiries

Chapter summary

Tribunals are specialist judicial bodies which decide disputes in particular areas of law. The UK has a wide range of tribunals with a huge annual caseload which can yield news and human interest stories. Tribunals adjudicate issues such as asylum and immigration cases, the rents tenants can be charged, whether a patient in a secure mental health hospital is safe to return to the outside world, benefit entitlements and employment disputes. Some tribunals are termed a 'commission' or 'panel'. Some regulate professions and decide, for example, whether doctors or lawyers should be banned from practising because of misconduct. The term 'public inquiry' denotes other kinds of legal investigatory process.

18.1 Introduction

There is a wide range of tribunals. Details in their rules and in those of public inquiries, and in relevant statute are very important for journalists. These laws cover, for example, when tribunals can sit in private or ban publication of specified information relating to their proceedings, and powers an inquiry chair has to restrict reporting.

18.2 Tribunals in the administrative justice system

Most tribunals are official bodies which make decisions determining someone's legal rights. There are more than 70 types of tribunal. The majority rule on disputes between an individual, or a private organisation, and a state agency—for example, about tax obligations, benefit entitlements or immigration status. The annual workload of tribunals in the UK's 'administrative justice' system can exceed 700,000 cases.

Tribunals listed here are among those which may be of particular interest to journalists. See 18.2.2, below, for further detail of this system.

Immigration and Asylum Chamber of the First-tier Tribunal This hears appeals against decisions made by the Home Secretary and his/her officials in asylum, immigration and nationality matters.

Health, Education and Social Care Chamber of the First-tier Tribunal This hears, for example, appeals from people who have been banned from working for organisations concerned with children and vulnerable adults, and includes the First-tier Tribunal (Mental Health) for England, which hears appeals from patients detained under the Mental Health Act 1983 for release from secure mental hospitals. Wales has a separate Mental Health Review Tribunal.

Property Chamber of the First-tier Tribunal This hears, for example, appeals against rent levels fixed by a rent officer for regulated tenancies, disputes over a change to the Land Register, disputes between agricultural tenants and landlords in relation to certain farming tenancies and applications in respect of certain drainage disputes between neighbours. It has recently considered, for example,

disputes about whether landlords, management agents or leaseholders in some blocks of flats are liable to pay the huge cost of fire precautions and re-cladding the blocks after existing claddings were found to be fire hazards. Such risk in privately-owned blocks in various cities was identified as a consequence of the tragedy of Grenfell Tower, London, in 2017 in which 71 council tenants died in a fire which spread rapidly through cladding.

The Tax Chamber of the First-tier Tribunal This hears appeals against some decisions made by Her Majesty's Revenue and Customs (HMRC) relating to, for example, liability for income, corporation or capital gains tax, or for VAT, or to goods seized by either HMRC or Border Force. The case study in 18.2.5, below, refers to this Chamber.

The General Regulatory Chamber of the First-tier Tribunal This has a wide range of roles in hearing appeals including in information rights and data protection cases – for example, it considers appeals - including in cases involving journalists - against decisions of the Information Commissioner about freedom of information requests. This role is outlined in 30.7 in *McNae's*

18.2.1 Other tribunals

Two important tribunals which function outside the First-tier/Upper Tribunal system are:

The Special Immigration Appeals Commission This hears appeals against Home Office decisions to deport, or exclude, people from the UK on national security or public interest grounds and appeals against decisions to deprive people of UK citizenship.

The Investigatory Powers Tribunal Created by the Regulation of Investigatory Powers Act 2000 (RIPA), this investigates and rules on complaints that public authorities—including intelligence, police or other law enforcement agencies—have unlawfully used covert surveillance techniques, breaching people's rights to privacy or other human rights. RIPA stipulates that the tribunal hears cases in secret but it has held some public hearings. For more detail, including about a case in which the Tribunal ruled that police had unlawfully accessed journalists' communications data, see 34.3 and 34.4 in *McNae's* and the Additional Material for ch. 34 on www.mcnaes.com

The employment tribunal system - see 18.5, below – also functions outside of the First-tier/Upper Tribunal framework.

18.2.2 Further detail on 'administrative justice' tribunals

Reforms in the Tribunals, Courts and Enforcement Act 2007 created the First-tier Tribunal as a generic tribunal to merge the administration of most tribunals dealing with appeals against decisions made by state officials. A decision of the First-tier Tribunal may, in some instances, be appealed to, or be reviewed by, the Upper Tribunal, also created by the 2007 Act. The Upper Tribunal's rulings are binding as precedents on the First-tier Tribunal. Appeals on a point of law from Upper Tribunal decisions may in some instances be made to the Court of Appeal, or the Upper Tribunal can transfer some types of case to the High Court.

The First-tier Tribunal is organised administratively into sections, called 'chambers', in which tribunals are grouped according to their field of work. Members (that is, decision-makers) in the First-tier tribunals and Upper Tribunal are, if legally-qualified, known as judges (and include judges who preside in the High Court and other courts). Some tribunals consist of a judge sitting alone as a single member. Others include members who are experts in the relevant field - for example, surveyors, doctors, disability experts.

In 2011 the Government merged the administration of courts and tribunals into Her Majesty's Courts and Tribunals Service, an agency of the Ministry of Justice, and unified the judiciary of courts and tribunals.

18.2.3 Admission to hearings of administrative justice tribunals

Each chamber of the First-tier Tribunal has its own procedural rules, as does the Upper Tribunal. The First-tier rules state that hearings must be in public subject to certain exceptions. For example, the rules of the Health, Education and Social Care Chamber say that hearings in special educational needs cases, disability discrimination in schools cases and mental health cases must be held in private unless the tribunal considers that it is in the interests of justice for such a hearing to be public. An appellant in a criminal injuries compensation case must consent that the hearing should be public, according to the rules of the Social Entitlement Chamber. Upper Tribunal rules state that its hearings must be in public unless it directs otherwise.

The rules for this tribunal system, which are set out in various statutory instruments, can be accessed through a Government webpage - see Useful Websites, below

18.2.4 Prohibitions on disclosure and publication

The procedural rules for the First-tier Tribunal chambers and the Upper Tribunal state that each may make an order to prohibit the disclosure or publication of specified documents or information relating to their proceedings, or of any matter likely to lead members of the public to identify any person these tribunals consider should not be identified. As regards any directive that such a document or information should not be disclosed to another person, the rules state that the tribunal must be satisfied that otherwise disclosure would be likely to cause some person serious harm and that having regard to the interests of justice it is proportionate to give such a direction. The term 'document' embraces anything in which information is recorded in any form.

Rule 14(7) of the Health, Education and Social Care Chamber states that unless the tribunal gives a direction to the contrary, information about mental health cases and the names of any persons concerned in such cases must not be made public.

Such rules are primarily directed to the parties and legal representatives in cases at these tribunals. But the Upper Tribunal has High Court powers, in all matters incidental to its functions, to protect those functions, and - because it and, see below, the First-tier Tribunal are classed in law as a court - breach of their rules or of an order made under them, including any breach by the media in what is published, could be punished as a contempt of court. Punishment for a contempt - as 19.4 in *McNae's* explains - is by a fine for which there is no statutory limit or by a jail term of up to two years. An individual who suffered harm from breach by a publisher of an Upper or a First-tier

Tribunal rule or order could sue the publisher for damages - for example, if private information about the person's health was published. Such privacy rights are outlined in 27.2 and 27.6.1 in *McNae's*.

18.2.5 Journalists' access to documents in 'administrative justice' tribunal cases

Some documents, including evidence, are usually 'taken as read' in tribunal hearings, and so are not read out aloud because they have already been scrutinised by the judge and any tribunal members sitting with the judge. Journalists may need to apply to see such documents, to fully understand the case in order to report it fairly and accurately. In the Civil Procedure Rules which govern civil courts – and in particular in Part 5.4C of those rules, explained in 15.13.4 in *McNae's* - there are rights for anyone to see key documents. A practice direction for the criminal courts sets out procedure whereby journalists can ask to see case documents to help them report cases in those courts, as explained in 15.13.2 in *McNae's*. There is no such right or procedure yet in the rules of the First-tier/Upper Tribunal system. But journalists applying to see case documents in these tribunals can cite the Court of Appeal's judgment in *R (on the application of Guardian News and Media Ltd) v City of Westminster Magistrates' Court* [2012] EWCA Civ 420 which – as set out in 15.13.1 in *McNae's* – established, as a principle of open justice, a presumption in law that journalists should be able to see case documents to help them report cases in any type of court (unless a rule or direction forbids such access).

Case study: In 2018 reporter Gareth Corfield, of technology and science news website *The Register*, won a landmark victory in the Upper Tribunal by persuading it to let him see case documents in a tax appeal case. The appeal was by Aria Technology Ltd (ATL) against a ruling by the Tax Chamber of the First-tier Tribunal, which arose from ATL's wholesale supply of computer hardware equipment to customers in Spain, Luxembourg, Portugal and Canada. The First-tier Tribunal ruled that HM Customs and Revenue (HMRC) 'had established fraudulent tax losses and that there was an orchestrated scheme for the fraudulent evasion of VAT connected with' those transactions, and that ATL knew that the deals were connected to fraud or ought to have known this. Mr Corfield applied to see ATL's notice of appeal, with contained detailed grounds of appeal, and HMRC's response to it. Judge Greg Sinfield granted that application, ruling that the Upper Tribunal has an inherent power to grant a third party access to documents relating to proceedings which are held in its records - and a duty at common law to do so in response to a request unless it considers that they should not be disclosed. The ruling establishes that journalists have a presumptive right of access to documents filed in Upper Tribunal cases. Judge Sinfield pointed out that in the *Guardian News and Media* case Lord Justice Toulson had stated: 'Broadly speaking, the requirements of open justice apply to all tribunals exercising the judicial power of the state'. Thus, Judge Sinfield ruled, the Upper Tribunal had an inherent jurisdiction (power) to determine how the principle of open justice should be applied. He said that this ability to apply the principle was put beyond argument by section 25 of the Tribunals, Courts and Enforcement Act 2007, which provided that, in relation to the production and inspection of documents and all other matters incidental to its functions, the Upper Tribunal had the same powers, rights, privileges and authority as the High Court. Judge Sinfield said that while Part 5.4C of the Civil Procedure Rules (CPR) applied to civil courts, not tribunals, the CPR provided helpful guidance where the Upper Tribunal's

own rules were silent or uncertain in scope. Aria Taheri, ATL's sole director, had objected to Mr Corfield's application to see the documents. Mr Taheri feared that reporting of the case before his appeal was heard could damage his reputation and the business. But Judge Sinfield said: 'In my view, Mr Taheri has not demonstrated that allowing Mr Corfield and *The Register* access to ATL's notice of appeal and grounds and HMRC's response would lead to any unfairness or is likely to cause ATL or any other person real harm.' The judge added: 'I have been given no reason to doubt Mr Corfield's statement that he is required to report the proceedings fairly and accurately' (*Aria Technology Ltd v Commissioner for HM Revenue and Customs, with Situation Publishing Ltd as a Third Party* [2018] UKUT 0111 (TCC)).

As explained in 18.4, below, there is case law that the First-tier Tribunal is a court, which means it exercises 'the judicial power of the state'. This may mean too that the *Aria* ruling can be successfully cited in the First-Tier Tribunal by journalists applying to see case material.

18.3 Examples of disciplinary tribunals

The disciplinary tribunals listed below, being those of regulated professions, are not part of the 'administrative justice' system. But their powers too derive from statutes, and their decisions may mean a person is banned from working in that profession.

The Medical Practitioners Tribunal Service This tribunal of the General Medical Council hears complaints against doctors in its fitness to practise panels.

The Solicitors Disciplinary Tribunal This must, in general, sit in public to hear allegations of professional misconduct against solicitors.

The Bar Tribunals and Adjudication Service has fitness to practise panels, which rule on complaints against barristers, on behalf of the Bar Standards Council.

The Nursing and Midwifery Council has fitness to practise panels which consider complaints against nurses and midwives on its register.

The Teaching Regulation Agency has professional conduct hearing panels to consider complaints against teachers.

The Health and Care Professions Tribunal Service has fitness to practice panels to consider complaints against health, psychological and social work professionals.

Each of these disciplinary tribunals has its own rules on when hearings are held in private, and procedural powers for it to decide whether the professionals or witnesses are named in hearings or to the media. See Useful Websites, below, which provide access to the rules of the tribunals listed above.

As regards a disciplinary tribunal classed as a court, see below, breach of one of its rules or of an order made under a rule – for example, an order banning publication of a person's identity - could

be regarded as a contempt of court. Again, an individual who suffered harm from breach of a rule or order could sue those responsible for damages - for example, for breach of privacy.

A journalist excluded from a tribunal hearing, or who is ordered by a tribunal to restrict what is reported from a case, should ask under what rule the exclusion or order was made, if this is not clear, in case he/she chooses to challenge the decision

Remember! Amendment in 2015 to the Police (Conduct) Regulations 2012 means that the default position is now that a police force disciplinary panel should sit in public when considering alleged misconduct by a police officer or a special constable. But these Regulations are weak in promoting transparency, because they allow the panel chair, as he/she sees fit, to exclude any person from the hearing—so that it can sit in private—and there is no duty to notify the public or media of when and where the hearing will take place.

18.3.1 Journalists' access to documents in disciplinary tribunal cases

A journalist covering a disciplinary tribunal may need to see case documents to report the proceedings fairly and accurately. The journalist can ask the tribunal for access to such documents – for example, witness statements which are 'taken as read' by the tribunal - and can cite the *Guardian News and Media* judgment in support of the application – see 18.2.5, above. If the tribunal is classed in law as a court, that judgment should apply, and citing the judgment may have an effect even if the tribunal is not a court

18.4 Defamation and contempt issues in reporting tribunals

As explained below, the type of privilege which in defamation law can protect media reports of a tribunal's proceedings is determined by whether it is a court. Also, if it is a court, the Contempt of Court Act 1981 applies to media coverage of any of the tribunal's cases which are 'active' under the Act – see 18.4.2, below – and, as set out in 18.4.3, other restrictions apply.

A tribunal is a court if it exercises 'the judicial power of the State'—a definition in section 14 of the Defamation Act 1996 and section 19 of the Contempt of Court Act 1981.

The Upper Tribunal, the Special Immigration Appeals Commission and the Employment Appeal Tribunal were each created by statute to be a 'superior court of record', and so are courts under the 1996 and 1981 Acts. The High Court has ruled that an employment tribunal is a court, because it exercises the requisite 'judicial power' (*Peach Grey and Co v Sommers* [1995] 2 All ER 513).

The Investigatory Powers Tribunal is a type of court but is not required by law to have public hearings.

There is case law that the First-tier Tribunal in the administrative justice system run by Her Majesty's Courts and Tribunals Service, including mental health review tribunals – see 18.2, above - exercise 'the judicial power of the State', and so are courts.

Case study: In 2011 a judge in Exeter ruled that the First-tier Tribunal - which as explained in 18.2, above, encompasses a wide range of tribunals in the administrative justice system - is an 'inferior court'. The judge said that, as a consequence of this ruling, the BBC needed permission to film a hearing in the First-tier Tribunal's Social Security Entitlement Chamber in which a woman was appealing against a decision that she was no longer entitled to 'employment and support' allowance. The woman supported the BBC's request to film the hearing but the judge refused it, saying that section 9 of the Contempt of Court Act 1981 Act banned the broadcasting of any recording of a court's proceedings – see 18.4.3, below on section 9. The BBC unsuccessfully argued that the First-tier Tribunal was not covered by the 1981 Act (*Re: The Appeal of L*, 8 August 2011).

In *Pickering v Liverpool Daily Post* [1991] 1 All ER 622, the House of Lords ruled that a mental health review tribunal is a court. Mental health review tribunals in England are now in the Health, Education and Social Care Chamber of the First-tier Tribunal.

There is little case law on which of the tribunals regulating professions— see 18.3, above - are courts

The Court of Appeal ruled in 1998 that the General Medical Council's disciplinary tribunal (which has since been replaced by the Medical Practitioners Tribunal Service's fitness to practise panels) did not have the requisite 'judicial power' and therefore was not a court (*General Medical Council v BBC* [1998] 3 All ER 426).

But in 2009 the High Court judge Mr Justice Eady said that a media account of the proceedings of the Solicitors' Disciplinary Tribunal enjoyed absolute privilege in defamation law (*Karim v Newsquest Media Group Ltd* [2009] EWHC 3205 (QB); and *Media Lawyer*, 29 October and 21 December 2009). This means he accepted the argument that it was a court.

18.4.1 Privilege

If a tribunal is classed as a court, then under the Defamation Act 1996 a fair and accurate media report of its proceedings held in public, if published contemporaneously, is protected by absolute privilege, and if non-contemporaneous, such a report is protected by qualified privilege under Part 1 of the Act's Schedule 1, with no requirement to publish 'explanation or contradiction'. These defamation defences are explained in 22.5 and 22.7 in *McNae's*.

If a tribunal is not a court but is constituted by or under, or exercising functions under, statutory provision, a media report of its public proceedings will be protected by qualified privilege bestowed by paragraph 11 of Part 2 of Schedule 1 to the Defamation Act 1996 if all the requirements of that defence are met. One requirement is that, at the request of anyone defamed by the published report, a reasonable letter or statement of explanation or contradiction must be published. This means that qualified privilege under Part 2 of the Schedule can apply to reports of the proceedings (and therefore of the decisions of) disciplinary tribunals whose powers derive from statute – see 18.3, above – but which are not courts. This type of qualified privilege also protects fair and accurate reports of the findings or decisions (but not of the proceedings) of the disciplinary committees of certain private associations—for example, in the field of sport, business and learning – if the

particular association meets one of the definitions in paragraph 14 of the Schedule. There is more detail about this 'Part 2' type of qualified privilege in 22.7 in *McNae's*, including in 27.7.2.8 about the Schedule's paragraph 14. The Schedule can be read in full in the Additional Material for ch. 22 on www.mcnaes.com.

18.4.1.2 Proceedings are not always formal

The proceedings of many tribunals are not as formal as those in an ordinary court of law. An appellant might not be represented by a lawyer. Journalists should remember that qualified privilege does not extend to any published matter which is not 'of public interest' and the publication of which is not 'for the public benefit' - see 22.7.1 in *McNae's* —so a flare-up at a hearing of irrelevant, personal abuse may well be such matter.

18.4.2 Contempt of Court Act 1981

If a tribunal is classed as a court, the Contempt of Court Act 1981 applies, which means that the media should not publish material which could create 'a substantial risk of serious prejudice or impediment' to any of the tribunal's 'active' cases. Contempt law is explained generally in *McNae's* ch. 19, mostly in the context of coverage of criminal cases, but some of what is said there applies to coverage of tribunal cases, and see too what is said below. Under the Act a tribunal case is 'active' 'when arrangements for the hearing are made or, if no such arrangements are previously made, from the time the hearing begins. It remains 'active' until 'the proceedings are disposed of or discontinued or withdrawn'.

18.4.2.1 Danger of published material causing prejudice or impediment

Tribunals do not have juries so the risk of media coverage breaching the 1981 Act by what is published is much lower than it would otherwise be. But it is possible that, if the tribunal is classed as a court, matter published about one of its 'active' cases could be ruled to have created 'a substantial risk of serious prejudice or impediment' in respect of lay witnesses or a tribunal member who is not a judge or lawyer or doctor.

In the House of Lords judgment in the *Pickering* case, cited above, Lord Bridge of Harwich - referring to the possibility of media coverage prejudicing a mental health review tribunal hearing - said he would not expect the tribunal members or medical witnesses to be consciously influenced by the media. But he added that editors and publishers 'will be well advised to exercise great care not to overstep the mark in this regard'

18.4.3 Other restrictions

Use of any camera in a hearing of a tribunal classed as a court could be punished as a breach of the the Criminal Justice Act 1925 or a contempt in common law, and unauthorised use there of a device which records sound or even merely taking one into the hearing to use it could be punished as a breach of section 9 of the Contempt of Court Act 1981. This law is explained in 12.1 and 12.2 in *McNae's*. A journalist wanting to use an audio recorder merely as an 'aide memoire' for note-taking could ask any type of tribunal for permission to do this, and could point out that the Chief Coroner's guidance is that coroners should give such permission, if appropriate, for journalists covering

inquests – see 17.10 in *McNae's*. But if the tribunal is a court it would normally be a contempt of court to play, to any section of the public, the audio of any recording of its proceedings unless it permits that.

If a tribunal which is a court holds a hearing in private, it may be ruled to be a contempt under section 12 of the Administration of Justice Act 1960 to report what was said in that hearing in a case concerning mental health, national security, the welfare or upbringing of children, or secret processes and in any other case in which the tribunal expressly prohibited publication of information. That law is explained in 12.7 in *McNae's*.

If the tribunal is classed as a court, contact by a journalist with a witness due to give evidence could be punished as a contempt in common law – see 19.3 in *McNae's* – if it was ruled to amount to improper influence on what his or her evidence might be or was, or to have deterred the witness from giving evidence at all. There was a finding of interference with a witness in respect of an employment tribunal case in *Peach Grey & Co v Sommers*, cited above (although this contempt did not involve the media). Also, to publish the content of a document disclosed from one party to another in a tribunal case, but which has not been aired in its public proceedings nor released with its permission to aid media coverage, could be ruled to be a contempt if it is classed as a court – see in 12.8 in *McNae's*.

18.5 Employment tribunals

Employment tribunals adjudicate on complaints against employers—for example, of unfair dismissal or of ‘constructive dismissal’ in which a person claims that he/she had to quit the job because of improper conduct by another/others in the workplace. They also adjudicate on complaints that employers discriminated on grounds of gender, race or age.

Employment tribunals are based in regional centres. For some types of case an employment tribunal has three members: a lawyer—appointed to be an ‘employment judge’—who is chair and two lay members, one with experience as an employer and one with a background as an employee (for example, a trade unionist). Unfair dismissal claims are now among those which can be decided by an employment judge sitting alone.

18.5.1 Procedure

Employment tribunal hearings in England, Wales and Scotland are governed by rules set out in the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (SI 2013/1237) within a legal framework set out in the Employment Tribunals Act 1996. See Useful Websites at the end of this chapter for these rules. Northern Ireland has its own system of employment tribunals – see the Additional Material for ch. 37 on www.mcnaes.com.

Hearings in employment tribunal cases tend to be informal. A case may have more than one ‘preliminary hearing’ for rulings by an employment judge on whether the case can proceed or on case management. If it proceeds, there is a further hearing, referred to in the rules as the ‘final’ hearing. This may last several days. In it the tribunal first decides on *liability*—whether the complaint against the employer is justified. This decision may be announced in summary on the same day it is

made but may not be revealed until sent out later in a written judgment. If the employer is held liable, subsequently—often after an adjournment of some weeks—there is another ‘final hearing’ in which the tribunal decides the *remedy*—for example, requiring the employer to pay compensation to someone sacked unfairly. If the tribunal finds employment law has been breached, it can also impose a financial penalty on the employer.

Rule 46 of Schedule 1 to the 2013 Regulations permits all or part of a tribunal hearing to be conducted ‘by use of electronic communication’, including by telephone, provided that members of the public attending the hearing are able to hear what the tribunal hears and see any witness as seen by the tribunal.

Appeals on points of law from employment tribunal decisions can be made to the Employment Appeal Tribunal (EAT).

18.5.2 Information about pending cases and judgments

Employment tribunal staff are instructed to provide journalists with the details of the parties in a case and the nature of the claim once it is listed for a hearing. Lists of hearings due to take place can also be obtained a week in advance through the *CourtServe* website. Journalists wanting a copy of a judgment can, if a regional tribunal office refuses to supply it, get it from the public register of judgments which keeps them for at least six years. There is an online archive of the decisions (including judgments) made by employment tribunals since February 2017. The older judgments on the register are kept at Bury St Edmunds County Court. EAT judgments can be read online. See Useful Websites, below.

18.5.3 Admission to employment tribunal cases

Rule 56 of Schedule 1 to the 2013 Regulations states that a preliminary hearing shall be conducted in public if it involves a ruling on a ‘preliminary issue’, or is considering if all or part of a claim or response should be struck out—for example, because it has no reasonable prospect of success. A preliminary hearing can be held in private if dealing with case management or exploring if there can be a settlement. Rule 59 says final hearings shall be in public. But rules 56 and 59 are subject to other rules which empower a tribunal to sit in private.

Rule 50 says that a tribunal can sit in private if it considers this necessary ‘in the interests of justice’, or in circumstances set out in section 10A of the Employment Tribunals Act 1996, or to protect a person’s rights under the European Convention on Human Rights—for example, the right to privacy explained in 27.2 in *McNae’s*.

Section 10A of the 1996 Act says an employment tribunal can sit in private:

- when a witness’s evidence is likely to contain:
 - information which he/she cannot disclose without breaking statutory law or without breaking an obligation of confidence; or
 - information the disclosure of which would cause substantial injury to any undertaking of his/her, or his/her employer’s, for reasons other than any effect on collective negotiations over pay, conditions, trade union membership or representation.

Remember your rights! The rule 50 provision—that an employment tribunal can exclude the public (and therefore journalists too) from a hearing in order to protect a person’s Convention rights—reflects case law developments in recent years. This rule could lead to more instances of people or companies arguing that cases should be heard in private. Journalists wishing to argue against an order to exclude them should remember that, according to rule 50, a tribunal deciding whether to sit in private ‘shall give full weight to the principle of open justice’ and to the right to freedom of expression (in the Convention’s Article 10). *McNae’s* ch. 15 covers open justice, including in 15.1.1 which sets out societal benefits of of open justice, some of which are applicable to tribunal proceedings.

Rule 50 adds that any person with a legitimate interest (which would include a journalist wanting to cover the case) who has not had a reasonable opportunity to make representations against an exclusion order ‘may apply to the tribunal in writing for the order to be revoked or discharged, either on the basis of written representations or, if requested, at a hearing’.

A Minister of the Crown, under the 1996 Act’s section 10 and rule 94 of the 2013 Regulations can direct an employment tribunal to hear a case in private in the interests of national security—if the tribunal has not already decided to do so.

Case study: The High Court has ruled that an employment tribunal is not empowered to sit in private merely because there is to be evidence of a sensitive or salacious nature when sexual misconduct is alleged (*R v Southampton Industrial Tribunal, ex p INS News Group Ltd and Express Newspapers plc* [1995] IRLR 247).

18.5.4 Journalist’s access to witness statements and other case material

In an employment tribunal, as in a civil court, usually a witness’s written statement is his/her **evidence-in-chief**. The witness may give oral evidence too, but a journalist will probably need to see the written statement to understand the case.

Rule 44 of Schedule 1 to the 2013 Regulations says that any witness statement which stands as evidence-in-chief shall be available for inspection during the hearing by members of the public (and therefore journalists) attending it unless the tribunal decides that all or any part of the statement is not to be admitted as evidence. But the tribunal has the power under rules 50 (for example, on privacy grounds) or 94 (national security grounds) to revoke this inspection right.

If a journalist needs to argue for the right to see case documents in an employment tribunal case, to help ensure fair and accurate reporting of it, he or should cite the *Guardian News and Media* and *Aria* cases – see 18.2.5, above

18.5.5 Reporting and disclosure restrictions

Rule 50 empowers employment tribunals, on their own initiative or at the request of a party, to make an order ‘with a view to preventing or restricting the public disclosure of any aspect of those

proceedings' if the tribunal considers this necessary 'in the interests of justice' or in order to protect the Convention rights—including the privacy—of any person, or in the circumstances described in section 10A of the 1996 Act (which are set out in 18.5.3. above).

Such an order can ban indefinitely the disclosure of parts of the evidence and/or the identities of 'specified parties, witnesses or other persons referred to in the proceedings' or in any documents 'forming part of the public record' of the case, including its listing and judgment.

Such an order can, then, permanently prevent a media report of the case from identifying the complainant and/or respondent—for example, the employer. The order could make it illegal to publish any identifying detail—not just a person's name—so care must be taken by journalists to avoid 'jigsaw identification' – a term explained in *McNae's* 10.11.

This power in rule 50 to protect people's Convention rights co-exists with older powers to restrict reporting, explained below in 18.5.5.1, which are set out in the 1996 Act's section 11, relating to cases in which sexual misconduct is alleged, and in section 12, relating to cases in which discrimination on grounds of disability is alleged. These older powers allow employment tribunals to ban temporarily any media report of these types of case from identifying people involved in them. It seems likely that anyone arguing in such cases to be granted anonymity will now seek it under rule 50 in respect of Convention rights, under which the anonymity provided may be of indefinite duration, not temporary. But the media can argue that principles laid down in judgments about these older types of reporting restriction should apply too when tribunals decide if rule 50 restrictions are justified.

18.5.5.1 Anonymity in sexual misconduct and disability cases

Section 11 of the 1996 Act and Rule 50 of Schedule 1 to the 2013 Regulations give employment tribunals discretionary power to make temporary anonymity orders, known as 'restricted reporting orders', in cases involving allegations of sexual misconduct—for example, that a woman was forced to leave her job because her boss sexually harassed her. Sexual misconduct is defined as a sexual offence or sexual harassment or other adverse conduct (of whatever nature) related to sex, or to the sexual orientation of the person at whom the conduct is directed.

In a restricted reporting order, an employment tribunal can prohibit the inclusion in reports of any matter likely to lead members of the public to identify:

- the person making the allegation of sexual misconduct; and/or
- anyone 'affected' by it—for example, the person(s) accused of such misconduct or any witness due to give evidence in such proceedings.

The tribunal can decide in each such case who should have such anonymity, if anyone. It may, for example, decide not to grant anonymity for the accuser, but order it in respect of the person accused to safeguard his/her reputation until judgment on whether the accusation is proved. Such an order cannot specifically bestow such anonymity on an employer that is a company or institution, so its corporate name can be published if this does not identify a person named in the order (*Leicester University v A* [1999] IRLR 352). But in a case where the employing organisation is small—

for example, a small firm—it may be that to preserve anonymity for the person the firm itself cannot be identified in media reports while the order remains in force, because reference to the person's gender or age or job description would in itself be enough to identify him/her to people who know he/she works there.

Case study: In 1997 the Court of Appeal said it was important that tribunals should recognise that their power to make these orders in cases of sexual misconduct was not to be exercised automatically and that the public interest in the media's ability to communicate information should be considered (*Kearney v Smith New Court Securities* [1997] EWCA Civ 1211).

Section 12 of the 1996 Act and rule 50 of Schedule 1 to the 2013 Regulations allow employment tribunals to make restricted reporting orders when considering claims that an employer unlawfully discriminated on disability grounds if evidence 'of a personal nature' is likely to be heard and is likely to cause significant embarrassment if published.

Rule 50 says a restricted reporting order made under sections 11 or 12 of the Act shall specify the person whose identity is protected and may specify particular matters of which publication is prohibited as likely to lead to that person's identification, and that the order should also specify the duration of the restriction. The rule adds that a notice that such an order has been made should be displayed on the notice board of the tribunal with any list of cases taking place and on the door of the room in which the case affected by the order is being heard.

Remember!

The automatic reporting restrictions in the Sexual Offences (Amendment) Act 1992 mean that anyone in employment tribunal proceedings who states that he/she is, or who is alleged to be, a victim of a sexual offence—for example, rape or sexual assault—must not be identified in his/her lifetime in media reports of or referring to the case, unless he/she has given valid written consent for this. This law is explained in 11.1-11.3, 11.5 and 11.7 - 11.8 in *McNae's*, and related ethical considerations are explained in 11.9. This anonymity in the 1992 Act applies irrespective of whether a restricted reporting order under the Employment Tribunals Act 1996 has been imposed or expired.

18.5.5.2 Revocation or lapse of section 11 and 12 anonymity

identify the person formerly covered by the order; but

- anyway, if not revoked, the order only has effect 'until the promulgation of the decision of the tribunal', The 1996 Act says that once the employment tribunal has made a restricted reporting order under sections 11 or 12:
- it can revoke (that is, cancel) the order at any stage—for example, while the case is ongoing or when it makes a verbal announcement of its decision on *liability*—to permit media reports to immediately according to the Act. Under regulations published in 2004, this meant the date when the ruling on *liability* was sent to the parties or, in cases where there needed to be a ruling on *remedy*, the date on which that ruling was sent to them—see the earlier explanation of these terms. The 2013 Regulations replaced those of 2004 and, as explained earlier, require the tribunal to state the duration of a section 11 or 12 order when making it. Under the Act it

can only last until 'promulgation'.

18.5.5.3 Penalty for breach of anonymity

Publishing material which breaches a restricted reporting order made under the Act's section 11 or 12 is a summary offence punishable by a fine. The maximum fine was formerly £5,000 but there is now no specified limit. Any proprietor, editor or publisher held responsible will be liable to pay it. It is a defence for the person or company prosecuted to show that he/she/it was not aware, and neither suspected nor had reason to suspect, that what was published breached the order.

18.5.5.4 National security reporting restrictions

Rule 94 of Schedule 1 to the 2013 Regulations, reflecting section 10 of the 1996 Act, says a Minister of the Crown can order an employment tribunal to conceal the identity of a witness in a case concerning national security issues and order it to keep secret all or part of the reasons for its decision in such a case, or the tribunal can, on its own initiative, take either of these courses of action. When the tribunal has taken such steps, it is an offence to publish anything likely to lead to the identification of the witness or to publish any part of a decision the tribunal intended to keep secret. Again, there is no limit on the fine imposed for this offence.

18.5.6 Challenging reporting restrictions

A journalist covering an employment tribunal case may wish to challenge the imposition or continuation of a reporting restriction made under rule 50 or under the 1996 Act's sections 11 or 12, or the restriction's scope or duration. Rule 50(4) gives anyone 'with a legitimate interest' the right to make a challenge by written or verbal representations, just as it does in the case of an order that a hearing should be in private—see earlier. Again, rule 50 (4) requires the tribunal considering imposing a restriction, or deciding on a challenge to it, to give full weight to the open justice principle and Article 10 rights.

Case study: In 2015 the BBC successfully challenged an anonymity order granted under rule 50 by an employment tribunal judge to a man who had allegedly committed serious sexual assaults. D Roden was claiming he was unfairly and wrongfully dismissed by the BBC from his contract job as a development producer. By the time this contract ended in 2013 the BBC had been told that serious allegations of a sexual nature had been made against him in Glasgow. Police later told the BBC they had information suggesting he posed a risk to young men with whom he came into contact during his BBC work. During the tribunal proceedings it emerged he had not told the BBC that he had been dismissed for gross misconduct from a previous job—with a theatre attached to a college—following distribution of a photo that showed him simulating oral sex with a student in fancy dress. Employment judge Andrew Glennie ruled that Mr Roden should have permanent anonymity in respect of the proceedings because the allegations of sexual assaults were not directly an issue in them and so he would not have any opportunity of gaining a finding which disproved the allegations. In the Employment Appeal Tribunal Mrs Justice Simler heard the BBC's appeal against the anonymity order, which she revoked. She said that the principle of open justice was of paramount importance, and that Judge Glennie was wrong to think that it and the strong public interest in full publication were outweighed by the risk of the public not understanding that the sexual assault allegations

against Mr Roden were unproven. She said there was no evidence to support the claim that if a report of the case were to identify Mr Roden, this could have 'devastating consequences' for him. She added that he had chosen to bring a claim against the BBC in a public tribunal while knowing he had not been honest about the circumstances of his dismissal from a previous job, and the tribunal had dismissed most of his claim. 'The mere publication of embarrassing or damaging material is not a good reason for restricting the reporting of a judgment', Mrs Justice Simler said (*BBC v D Roden*, UKEAT/0385/14/DA).

Case study: In 2013 the Associated Newspapers group successfully argued at an employment tribunal that anonymity orders should cease to apply. The tribunal had rejected a man's claims of constructive dismissal, unfair dismissal and sexual harassment. The complainant had been a managing director. His allegations included that he was obliged by his boss, the group's chief executive, to take part in sex parties against his will. The tribunal, having ruled the claims were 'totally without merit', then ruled that the complainant did not deserve to retain anonymity because any damage to his reputation was because of 'his own actions'. It also ruled that the chief executive should not retain anonymity either, having found that there were 'sexual encounters' from 2001 to 2009 which involved both men having sex with women other than their wives and partners. The tribunal said that the chief executive was responsible for a company ethos which allowed the managing director to rule over employees 'by fear', and that removal of the chief executive's anonymity in reports of the case would let employees know why this was (*Media Lawyer*, 20 August 2013).

Case study: An employment tribunal can take account of previous publicity when refusing to make a restricted reporting order. In 2000 a tribunal refused to make such an order which would have granted temporary anonymity to a businessman accused of sexual harassment. Both parties wanted the order made. But the *Daily Record* successfully argued that both parties had previously willingly given information about the case to the media (*Scottish Daily Record and Sunday Mail Ltd v Margaret McAvoy and others*, EAT/1271/01).

18.5.6.1 An anonymity order can be lifted after a settlement

Where a restricted reporting order is imposed under the Act's section 11 or 12, giving anonymity to some or all of those 'affected' by the case, or anonymity is granted to a person under rule 50, but a settlement is reached without the case proceeding to judgment, the media can apply to have either type of order revoked, even though the settlement means there will be no public hearing of the case's evidence.

Case study: In 2016 Mrs Justice Simler at the Employment Appeal Tribunal upheld a decision by an employment tribunal judge that section 11 and rule 50 anonymity orders should be lifted so that the media could identify the parties in the underlying case. In it John Fallows had brought claims against Sir Elton John, William A Bong Limited and HST Global Limited on 19 August 2015, alleging unfair dismissal and unlawful sex discrimination. His claim included allegations of sexual misconduct. Mr Fallows had been employed by Sir Elton and William A Bong Limited to provide hairdressing services to HST. Sir Elton and the companies, as respondents in the tribunal case, strongly denied Mr Fallow's claims, and he withdrew them

after the case was resolved in a confidential settlement without proceeding to a public hearing. News Group Newspapers, publishers of *The Sun on Sunday*, applied for the anonymity orders – which the tribunal judge had imposed as an interim measure – to be lifted. That application was opposed by Mr Fallows and the respondents. Employment judge Simon Auerbach considered their privacy rights but declined – to preserve open justice and the Article 10 rights of News Group and the public – to make the anonymity permanent. But interim anonymity orders remained in force until an appeal could be heard against his decision to lift them. In the appeal ruling, Mrs Justice Simler noted that News Group had argued that because Sir Elton is a well-known public figure ‘his behaviour as an employer against whom allegations of employee mistreatment and sexual misconduct have been made is a legitimate subject for public scrutiny’. Mrs Justice Simler said: ‘It seems to me (in agreement with the employment judge) that this is a matter of legitimate public interest in this case. The fact that allegations made by Mr Fallows against the respondents to the underlying proceedings have been withdrawn on settlement does not mean that there can no longer be any public interest in the allegations of wrongdoing. There is no suggestion that Mr Fallows now says the allegations were false from the outset (though that is the position of the respondents) and the fact that they are not pursued to a hearing does not mean that they are false and to be treated as never having been made’. She added: ‘It is also right to recognise that the fact of settlement and withdrawal of the claim means that allegations originally made remain untested and have not been adjudicated on. However, the public is to be trusted to understand that unproven allegations made and then withdrawn, are no more than that’. She also said: ‘There is no presumption in favour of non-reporting of settlements or settled proceedings, nor should there be. While there is a public interest in settlement of litigation which is to be encouraged, it does not outweigh the fundamental principle of open justice’ (*Fallows, John, William A Bong and HST Global Ltd v News Group Newspapers Ltd*, UKEAT/0075/16/RN). An appeal against Mrs Justice Simler’s ruling was withdrawn. This meant that the identities of Mr Fallows, Sir Elton and the other respondents could be published in reports of the employment tribunal case having been settled, *The Sun on Sunday* quoted its own spokesman as saying: ‘This case raised a fundamental issue of a free press being able to report legal cases against celebrities with deep pockets and armies of expensive lawyers who want to keep even the fact of such litigation against them from the public. *The Sun on Sunday* does not suggest the claims, which we accept were denied by Sir Elton and which were subsequently withdrawn, are true. We simply wanted to report the fact the case had been settled’ (*Media Lawyer*, 19 July 2016).

18.5.7 Contempt and defamation law affecting coverage of employment tribunals

Employment tribunals and the Employment Appeal Tribunal are classed as courts – see 18.4, above. Therefore, as explained there, media reports of their hearings can enjoy privilege against defamation actions, but parts of the Contempt of Court Act 1981 and other reporting restrictions apply to coverage of their cases. This includes a ban on filming and photography in their proceedings, and a ban on unauthorised use there of audio-recording devices. For the ban on audio-recording in employment tribunals, see *Neckles v Yorkshire Rider Ltd* [2002] All ER (D) 111 (Jan), although that case did not involve the media.

18.6 Public inquiries

Public inquiries can be broadly categorised either as local inquiries, set up routinely in certain circumstances, or those which are set up ad hoc to consider a matter of national concern.

18.6.1 Local public inquiries

Some Acts of Parliament provide that an inquiry hearing must be held before certain decisions are made affecting the rights of individuals or of public authorities. An inquiry might be held, for example, before planning schemes are approved. In some cases, an 'Inspector' appointed by a Minister to chair the inquiry decides the matter at issue. In others, he/she must report to the Minister, who subsequently announces a decision and the reasons for it. Some statutes under which inquiries are held stipulate that they must be held in public. In others, this is discretionary. Local authorities and health trusts also have general statutory powers under which they can fund an ad hoc inquiry into a matter of local (or national) concern, though it will be at their discretion whether it is held in public.

18.6.2 Public inquiries into matters of national concern

Public inquiries initiated ad hoc by Government Ministers have in recent years included:

- the inquiry chaired by Sir Brian Leveson into the culture, practices and ethics of the press, which was established under the Inquiries Act 2005 - see www.levesoninquiry.org.uk/. This inquiry is referred to in 2.1.1 in *McNae's*, about press regulation.
- the Grenfell Tower inquiry, chaired by Sir Martin Moore-Bick, into the fire which killed 71 people in the London block of flats in 2017 – see <https://www.grenfelltowerinquiry.org.uk/>. This too was established under the 2005 Act.
- The Morecambe Bay Investigation, established in 2013 to probe serious incidents which took place in Furness General Hospital's maternity department, and which concluded that clinical care failures may have contributed to the deaths of 3 mothers and 16 babies, and that 'different care' would have been expected to prevent 12 of these deaths. This was held on a non-statutory basis. See - <https://www.gov.uk/government/organisations/morecambe-bay-investigation>

If an inquiry is held on a non-statutory basis, it has no legal powers to compel witnesses to give evidence, but is seen as a flexible option when full cooperation is anticipated, including more flexibility to sit in private. See Useful Websites, below, for a House of Commons Library Briefing Note on public inquiries held on this basis.

For inquiries established on a statutory basis, the presumption in the relevant law is that the inquiry's proceedings are normally in public. This means its chair can only justify it going into private session –excluding the public and journalists - if this is on a ground specified in a rule in that law, or because the law enables a Government Minister to order that particular evidence must be heard in private.

18.6.3 The Inquiries Act 2005

If the inquiry is established on statutory basis this is usually under the 2005 Act. Its section 19 gives both the Minister who has commissioned the inquiry and the inquiry's chair power to restrict who attends it - for example, it can proceed in private. The grounds on which such a restriction can be imposed are worded to be wide - for example, to ensure 'the efficiency' of the inquiry or to protect someone from death or injury or to prevent disclosure of commercially sensitive information. Another ground is to protect national security.

18.6.3.1 Reporting restrictions in the 2005 Act

Sections 19 and 20 of the Act give both the commissioning Minister and the inquiry's chair power to restrict the disclosure and publication of an item of evidence or documents, or of the identity of a witness. The restriction can be specified as temporary, but otherwise continues indefinitely, unless varied or revoked. The grounds on which such a restriction can be imposed are the same as those which can restrict attendance.

Under the Act's section 36, an inquiry chair has power to 'certify' to the High Court that someone has failed to comply with a restriction on disclosure or publication. The High Court would have power to punish non-compliance as contempt of court, by a fine unlimited by statute or by imposing a jail sentence of up to two years.

But the Act's Explanatory Notes state: 'Disclosure restrictions would not prevent a person not involved in the inquiry from disclosing or publishing information that had come into his possession through means unconnected with the inquiry.' See Useful Websites, below, for these Notes.

18.6.3.2 Failure to produce evidence/name a source to an inquiry

Section 35 of the Act makes it a summary offence to fail to obey an inquiry's order for evidence to be provided, with a maximum jail term of 51 weeks. This power to order production of evidence is similar to that in other statutes relating to local inquiries. But under the 2005 Act, an inquiry chair also has power to 'certify' to the High Court that someone has failed to obey such an order. Thus, though the 2005 Act repealed the Tribunals of Inquiry (Evidence) Act 1921 - the statute under which journalists Brendan Mulholland and Reg Foster were jailed in the 1960s for refusing to disclose to the Vassall inquiry their sources of information - there is a prospect of a journalist who refuses to cooperate with an inquiry held under the 2005 Act being punished by the High Court for contempt.

Case study: Lord Saville, chairman of the inquiry established in 1998 under the 1921 Act to investigate the 1972 Bloody Sunday killings in Northern Ireland, threatened three journalists - Alex Thomson and Lena Ferguson of Channel 4, and Toby Harnden of the *Daily Telegraph* - with actions for contempt of court after they refused to name the sources of stories about the killings. The Act gave tribunals wide powers to send for and examine witnesses. In 2000 Harnden was 'placed in contempt' of the inquiry. Lord Saville had ordered him to disclose the identity of a soldier he interviewed in early 1999 about events on Bloody Sunday, but Harnden refused. After the interviews, Harnden had destroyed his notes and tapes, to ensure that they could not be used to identify the two soldiers he had interviewed. Lord Saville initiated contempt proceedings by referring Harnden's refusal to the High Court. But these proceedings were - after a legal battle - eventually dropped in 2004, and Lord Saville announced he would

not bring contempt proceedings against Thomson or Ferguson, despite their refusals (*Media Lawyer*, 19 April and 10 June 2004).

18.6.3.3 Rights to attend and see information at an inquiry

Section 18 of the Act says that its chair must take such steps as he/she considers reasonable 'to secure that members of the public (including reporters) are able...to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry.'

Section 18 also says that the chair must take steps to allow the public and reporters to obtain or view a record of evidence and documents given, produced or provided to the inquiry, subject to any restriction imposed.

Once the public inquiry is over, journalists can make requests under the Freedom of Information Act 2000 for information in evidence or documents not disclosed in public sessions of an inquiry, in that such material will be passed to a public authority, for example, the Government department whose Minister commissioned the inquiry. But requests may be refused under that Act's exemptions. *McNae's* ch. 30 explains the Freedom of Information Act.

18.6.3.4 Recording and broadcasting proceedings

The Act's section 18 says that any recording and broadcast of an inquiry's proceedings must be sanctioned by the chair.

18.6.4 Coverage of public inquiries—defamation law

Reports of public inquiries held under the Inquiries Act 2005 have, under its section 37, the same privilege 'as would be the case if those proceedings were proceedings before a court'. This means that, as regards proceedings held in public, absolute privilege applies under section 14 of the Defamation Act 1996 to contemporaneous reports and qualified privilege applies under Part 1 of Schedule 1 to the 1996 Act to non-contemporaneous reports if the respective requirements of these defences are met, including that the reports fairly and accurately reflect the proceedings. For these defences, see 22.5 and 22.7 in *McNae's*. The Schedule is set out in the Additional Material for ch. 22 on www.mcnaes.com.

Part 1 of the Schedule also applies qualified privilege, subject to the same requirements, to media reports of the proceedings in public 'of a person appointed to hold a public inquiry by a government or legislature anywhere in the world'. Media reports of public inquiries of the type defined in paragraph 11 in Part 2 of the Schedule enjoy qualified privilege subject to the additional requirement to publish 'explanation or contradiction' if this is requested – see 22.7.1.2 in *McNae's*. The 1996 Act does not make clear in Part 2 of the Schedule how what it describes as a person appointed by 'a Minister of the Crown' to run an inquiry differs from what Part 1 of the Schedule describes as a person appointed to do this 'by a government'. But it is an established legal principle that when an event/circumstance is described both generally and specifically in a

statute, the part which is most specific applies.

Also, is the case with administrative tribunals, proceedings of public inquiries are not as formal as those in an ordinary court of law, so if a witness makes abusive and defamatory comments which may be irrelevant to the inquiry's purpose, some extra care must be exercised as regards what is published from such comments if qualified privilege under the 1996 Act is relied on. This is because the defence requires that what is published must be a matter of public interest, the publication of which is for the public benefit—see 22.7.1 in *McNae's*. However, the fact that the witness is being abusive would normally be such a matter, because what this reveals about his or her character may be relevant to the credibility of his or her evidence.

Privilege will not apply to media reports of anything said in a private session of an inquiry.

18.6.4 1. Privilege for reports of an inquiry's findings

The findings of a public inquiry are usually published by a government department, by Parliament or by the relevant local authority.

Under the Defamation Act 1996:

- a fair and accurate media report of such findings, when they have been officially published by a government or legislature anywhere in the world, is protected by qualified privilege under Part 1 of the Act's Schedule 1 (paragraph 7);
- a fair and accurate media report of findings officially published by a local authority anywhere in the world is protected by qualified privilege under Part 2 of the Schedule (paragraph 9).

Recap of major points

- Most types of tribunal adjudicate in disputes in specialist areas of law. Some are regulatory tribunals for professions—for example, doctors or lawyers.
- Employment tribunals can make permanent anonymity orders in some circumstances, but some anonymity orders are temporary.
- Media reports of the public proceedings of tribunals are protected by qualified privilege and, as regards those classed as courts, by absolute privilege when reports are contemporaneous.
- For any tribunal classed as a court, contempt law applies.
- Media reports of the public proceedings of public inquiries are, as regards defamation actions, protected by either qualified privilege or absolute privilege.

Useful Websites

<https://www.judiciary.uk/wp-content/uploads/2018/05/spt-annual-report-2018-v3.pdf>

Senior President of Tribunals Annual Report

www.gov.uk/government/publications?departments%5B%5D=tribunal-procedure-committee

Procedural rules for the First-tier Tribunal and the Upper Tribunal

<https://www.mpts-uk.org/>

Medical Practitioners Tribunal Service

<http://www.solicitortribunal.org.uk/>
Solicitors Disciplinary Tribunal

<https://www.tbta.org.uk/>
Bar Tribunals and Adjudication Service

<https://www.nmc.org.uk/>
Nursing and Midwifery Council

<https://www.gov.uk/government/organisations/teaching-regulation-agency/about>
Teaching Regulation Agency

<https://www.hcpts-uk.org/>
Health and Care Professions Tribunal Service

www.justice.gov.uk/tribunals/employment
Government guidance on employment tribunals

www.gov.uk/government/publications/employment-tribunal-procedure-rules
Procedural rules for employment tribunals

www.courtserve.net/
CourtServe website

<https://www.gov.uk/employment-tribunal-decisions>
Online archive of employment tribunal judgments and decisions

www.gov.uk/appeal-employment-appeal-tribunal
Government guidance on the Employment Appeal Tribunal

<https://www.gov.uk/employment-appeal-tribunal-decisions>
Employment Appeal Tribunal decisions

www.employmenttribunalsni.co.uk/
Northern Ireland's industrial tribunal service

www.legislation.gov.uk/ukpga/2005/12/notes/contents
Government's Explanatory Notes to the Inquiries Act 2005

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02599>
House of Commons Library Briefing Note on non-statutory, public inquiries