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IMMIGRATION DIRECTORATES' INSTRUCTIONS

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**CHAPTER 12
SECTION 8****DIRECTIONS****1. INTRODUCTION**

The appellate authorities have powers under Rule 45 of the AIT (Procedure) Rules 2005 to require both parties to the appeal to provide full documentation prior to the final hearing, including skeleton arguments.

The appellate authorities commonly issue two types of directions:

- pre-hearing directions, automatically issued to both parties when a case is first listed. Typically, such directions will require documentation to be provided by a certain time before the hearing;
- directions specific to the individual case, often issued after a first hearing.

Under Rule 15, failure by either party to comply with directions by the deadline set can result in the appeal being determined without a hearing.

2. PRE-HEARING DIRECTIONS

Pre-hearing directions are not a demand for extra information, nor do they mean that the AIT has found the paperwork wanting. They are, in theory, a means of making sure that both parties put in all their documents at an early stage, and in a user-friendly format.

Pre-hearing directions to the Secretary of State are likely to require, by a certain date, a paginated and indexed bundle of documents to be relied upon at the hearing. Our appeal bundle will usually satisfy the directions already, and we should only supplement it when necessary. There is no need to send anything that we have already sent. Directions may require a skeleton argument. Unless the request relates to specific points, we should simply refer to the reasons for refusal letter and any supplementary letter(s). It is not necessary for caseworkers to provide or refer to precedent cases. What is being sought is the paperwork on which our decision is based: the evidence backing up our assertions.

3. CASE-SPECIFIC DIRECTIONS

The second type of direction is specific to the individual case and is often given at a case management review hearing. Case-specific directions are equivalent to the requests we have always received for explanations, submissions and consideration of further issues. Our response is now likely to be requested in the form of a skeleton argument. Where a contribution is required on a policy issue, the appropriate policy directorate should be consulted. Presenting Officers and Case Owners should follow their operational guidance on how to respond to directions.

4. SKELETON ARGUMENTS

We will have already provided a skeleton argument in the form of the reasons for refusal letter. We should only need to provide a separate skeleton argument when asked to do so on specific issues identified by the appellate authorities.

There is no set format for a skeleton argument. The skeleton should simply and briefly set out what each issue is and what our stance is on that issue, referring to any known relevant precedents or documentary evidence. It is not a formal presentation. Presenting Officers and Case Owners should follow their operational guidance on the drafting of skeleton arguments.

5. PRESENTATION

All documents provided in response to directions should be paginated and indexed to follow on.

6. DEADLINES

We must comply with directions by the deadline stated, in fairness to all concerned and to avoid the possibility of sanctions.

If the deadline is unreasonable or impossible to meet the Tribunal should be advised of this following Appeals Directorate or New Asylum Model operational guidance as appropriate.

7. UNUSUAL DIRECTIONS

Any directions made under Rule 45 which appear to go beyond what the Rule allows should be referred to a senior caseworker. Where a direction is unreasonable or impossible we should point out where it fails to meet the criteria of Rule 45. Further advice may be obtained from AJRU.

8. PENALTIES

Under Rule 15(2)(c), the AIT may determine the appeal without a hearing if we fail to comply with a direction. The AIT must be satisfied, having regard to all the circumstances including the extent of the failure and any reasons for it, that it is appropriate to do so.