

<b>Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC)</b>	<b>Apex Hotel, Waterloo Place, Edinburgh</b>
<b>Minute of Meeting</b>	<b>02 October 2014</b>

**ATTENDEES:** Marieke Dwarshuis, Chair (MD)  
Professor Tom Mullen, Glasgow University (TM)  
Paul McFadden, Complaints Standards Authority, SPSO (PMcF)  
Sarah O'Neill, Consultant (SO`N)  
Douglas Proudfoot, East Lothian Council (DP)  
Shaben Begum, Scottish Independent Advocacy Alliance (SB)

**OBSERVERS:** Sandra Wallace, Scottish Government (SW)

**SECRETARIAT:** Alison Carmichael, Scottish Government (AC)  
John Wallace, Scottish Government (minute- taker) (JW)

**APOLOGIES:** Tom Drysdale, retired solicitor and tribunal Judge (TD)  
Lesley Black, STS (LB)  
Lauren Wood, Citizens Advice Scotland (LW)

## 1. Welcome and apologies

1.1 **MD** welcomed everyone to the meeting. Apologies were given for **LB**, **LW** and **TD**.

## 2. Conflicts of interest

2.1 No conflicts of interest were declared.

2.2 Papers 6.2.1 & 6.2.2 were discussed and it was agreed that the Committee would complete the relevant details relating to any potential conflicts of interest on form 6.2.1. These will then be collated and uploaded to the STAJAC website in time for the next meeting.

**Action Point 1: JW to collate and publish conflict of information by 4 December 2014**

## 3. Minutes of meeting 22 May 2014

3.1 The minutes of the last meeting were discussed and agreed.

## 4. Updates from Committee Members (reactive work)

4.1 **Scottish Welfare Fund:** **DP** advised that the Committee's evidence was submitted on time. Margaret Burgess MSP, The Minister for Housing and Welfare is due to give evidence in early November. **DP** noted that the SG met with the SPSO over the summer to discuss the Bill, legislation and practical reporting.

4.2 **DP** advised that the SG are continuing to redress inconsistency in administering the fund and are holding good practice workshops and looking

at the commonality of IT systems and that the SG are starting to look at the lessons learned from the interim scheme in relation to regulations & guidance. There will also be a consultation on the level of guidance and **DP** will discuss this further with SPSO. **MD** stated that she would like the committee to input to the regulations before reaching consultation stage.

**Action Point 2: DP to discuss level of guidance with SPSO.**

**Action Point 3: DP to arrange meeting with Dorothy McVey of the SG.**

4.3 **Tribunals Unification:** **TM** advised that he and **TD** had met with **SW** to discuss the Tribunals (Scotland) Act. **SW** advised that progress was being made and that the appointments workstream had met and that the judicial evaluation workstream was due to commence at the end of October. The next order to be laid is likely to be the commencement of the Lord President powers and the creation of Scottish Tribunals. This is scheduled for April 2015 to coincide with the merger of the Scottish Tribunals Service with the Scottish Courts Service.

4.4 **TM** noted that he still felt that the overall timescales were too long and that the Committee should recommend what is best for Tribunal users irrespective of any resource issues. **MD** stated that the Committee would have to identify where it would benefit users if the pace of implementation could be increased. **SO'N** advised that the benefits for users would include an easier and more direct appeals route, and the introduction of clearer external review mechanisms for complaints against tribunal members. It was agreed that this was a subject that should be taken forward with the Minister for Community Safety, Rosanna Cunningham MSP when **MD** meets with her in December.

**Action Point 4: TM to draft a letter highlighting main issues to the Minister by 20 November with input from SO'N.**

**Action Point 5: AC to arrange a meeting between the Minister and MD.**

**Action Point 6: MD to discuss a range of subjects with the Minister including timescale for Tribunals (Scotland) Act implementation.**

4.5 **Housing:** **SO'N** advised that the bill received Royal Assent on 1 August 2014 and the first provisions are due to be enacted in November. The SG aims to have all of the housing jurisdictions enter the new housing chamber of the First-tier Tribunal by December 2016. **SW** noted that the Tribunals policy team were working closely with housing colleagues to ensure that a smooth transition would be made to agreed timescales.

4.6 **Mental Health Bill:** **SB** advised that the Committees submission had been received and that broadly, other respondents raised similar concerns as

STAJAC relating to Advance Statements and Named Persons. **SB** also advised that Colin MacKay (Mental Welfare Commission) and Dr Joe Morrow (Mental Health Tribunal for Scotland) had both given evidence before the committee and they had also raised similar issues. **MD** remarked that it would be unlikely for STAJAC to be called to give evidence at the next session in light of this.

4.7 **Health and Social Care integration:** **PMcF** advised that there had been discussions between SPSO and CAS regarding the lack of a holistic approach to, and provision for complaints within the Act and supporting regulations. **PMcF** noted that CAS aimed to bring stakeholders (including the committee) together to identify the issues and hopefully clarify the SG approach. **MD** felt that CAS bringing the stakeholders together was ideal and that the Committee should identify key issues that could be raised with the Minister. **SB** advised that the Health and Social Care Alliance had produced an interesting paper on this issue.

**Action Point 7: SB to forward the Social Care Alliance document to the Committee**

**Action Point 8: SB and PMcF to draw together a briefing note for issues to raise with minister in this context – for 20 November**

4.8 **Administrative Justice Strategy:** **MD** advised that there was nothing new to note from the Committee. **SW** noted that certain factors had meant that work on the strategy had not progressed as quickly as she would have preferred, but there would soon be new staff in place attention would turn to look at requirements for the strategy.

**Action Point 9: SW to provide a short presentation at the next meeting on the Administrative Justice Strategy and decide what input from the Committee into the strategy would be useful.**

4.9 **Justice Digital Strategy:** **MD** advised that she attended the launch event on 20 August and felt that there was an insufficient understanding of the scale and complexity of the process with resourcing likely to be an issue. **TM** raised the concern on whether administrative justice was implicitly included in the Justice Digital Strategy or whether it was only about digitizing the courts and if this was the case, whether administrative justice should have its own digital strategy. **SW** advised that administrative justice was included in the strategy and that in general, tribunals were further along the digital road than the courts.

**Action Point 10: LW to seek clarification on where administrative justice fits within the Justice Digital Strategy**

## 5. Updates from Committee Members (proactive work)

5.1 **Student Placement: SO’N** advised that Alan Morrison was successful at interview and that, subject to Scottish Government checks, should take up his position towards the end of October, or early in November. He will be in position for a maximum of 51 weeks and will be working on **i)** the mapping of the administrative justice and tribunals landscape. **ii)** Previous AJTC work regarding areas where there are no right of appeal and **iii)** Feedback mechanisms. He will also be asked to provide general policy and administrative support to the committee, including helping to draft responses from the committee to consultations. **MD** advised that Alan will contact all Committee members by the end of November to introduce himself and get an overview of each members portfolio area.

5.2 **Commissioning research into Tribunals users experience: SO’N** advised that paper 6.5.1 provided the current thinking on the user research with STS doing the quantitative research and the Committee leading on the qualitative research. The tribunal Presidents are broadly supportive of this research but issues have been raised around ethics, data sharing and identifying the user, primarily around MHTS as this tribunal deals with care and treatment as well as justice. Some similar issues arise in relation to ASNTS. After a discussion the Committee decided that, these issues notwithstanding, an effort should be made to include MHTS in the research as the user experience could be captured, however it may be advantageous to split the research for MHTS and ASNTS from the rest.

**Action Point 11: SB to look at the methodology that can be utilised to include MHTS& ASNTS in the research programme.**

**Action Point 12: AC to liaise with Justice Analytical Services to establish timescales for commissioning the research.**

5.3 It was noted that any questions relating to the fairness of the decisions of the tribunals would have to be carefully worded.

5.4 **Developing excellence in administrative justice – Audit Scotland:** **MD** advised that a draft outline had been produced and that dedicated staffing had been allocated to the project by Audit Scotland. The next meeting is at the end of November and they plan to produce a report by the end of May 2015. A decision will need to be made along with Audit Scotland on what to do with any findings.

5.5 **MD** also advised that COSLA had contacted her with relation to this research and she would be meeting with them.

5.6 **PMcF** advised that the project outputs had evolved and that best practice guidance would be identified as well as a methodology for local

authorities to use to assess costs and impact of failing to get administrative justice decisions right first time. He advised that independent external administrative justice (tribunals, SPSO) would not in general be included in the research. **MD** noted that as the work would take the form of case studies, and if the case study included a route to justice that included the SPSO or a tribunal then they would be included. **MD** also noted that the calculation of cost will be worked out per case study rather than overall.

5.7 **MD, PMcF** and **DP** are on the steering group and when Alan begins his mapping work he should be able to use data from this research.

5.8 **DP** reminded the committee that a meeting had been arranged between the next President of SOLACE, Angela Leitch and **MD** on 6 October which will help to inform on how to engage with SOLACE relating to developing the work going forward.

## 6. Other Committee activity

6.1 **Scottish Tribunal Forum:** **MD** provided an update on the feedback discussion at the last STF. Concerns were expressed that feedback could impact on impartiality. **TM** noted that the Committee should look to promote the positive aspects of feedback in the future.

6.2 **Meeting Upper Tribunal Judges:** **MD** had a positive meeting with Douglas May of the Upper Tribunal, Administrative Appeals Chamber.

## 7. Correspondence

7.1 **Law Society – Administrative Justice Committee:** **MD** advised that she would be looking to meet with members of their committee at the earliest opportunity to establish areas of common interest.

**Action Point 13: JW to liaise with the Law Society on meeting dates**

7.2 **Govan Law Centre – Educational Appeal Committee training:** **MD** advised that the Committee would be unable to contribute this work but asked members if they would like to participate under their own auspices.

7.3 **Nuffield Foundation – Administrative Justice Institute.** **MD** advised that Alan will be in touch with the Foundation once he is settled in his role.

## 8. Any Other Business

8.1 No other business was raised.

## 9. Date of next meeting.

9.1 The next meeting will be **4 December 2014 at 10 am:** venue tba.

**Action Point 14: JW to identify dates for Committee meetings in 2015.**

**Action Point review.**

**Action Point Carried Forward: LB to provide a copy of the information she presented to the committee meeting on 30 July 2014**

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