

Consultation on Chamber Structure and Schedules Tribunals (Scotland) Act 2014 & Court Reform (Scotland) Act 2014

Response of Scottish Tribunals and Administrative Justice Advisory Committee

This is the response of the Scottish Tribunals and Administrative Justice Advisory Committee to the Consultation issued by the Scottish Government on proposals to amend Schedule 1 to the Tribunals (Scotland) Act 2014, Schedule 4 to the Court Reform (Scotland) Act 2014 and for the organisation of the First-tier Tribunal for Scotland into Chambers.

Question 1 *Have you any comments on the proposal to amend Schedule 1 of the Tribunals (Scotland) Act 2014 and Schedule 4 of the Courts Reform (Scotland) Act 2014?*

We regard the propose amendments as purely technical and welcome them.

Question 2 *Do you have any comments on the proposed Chamber Structure for the First-Tier Tribunal?*

We note that the proposals are very similar to those made in the consultation on the proposals for a new tribunal system for Scotland conducted by the Scottish Government in 2012 (<http://www.gov.scot/Publications/2012/03/8967/downloads>) and to what was set out in the policy memorandum that accompanied the Bill which became the Tribunals (Scotland) Act 2014. We consider that, in general, the structure proposed for the First-tier Tribunal is appropriate, however, we make the points below.

Private Rented Housing panel and Home Owner Housing Panel

We suggest that the table in Annex A is misleading in one respect. The Private Rented Housing Panel and the Home Owner Housing Panel are shown as a single tribunal, whereas, although there is some overlap in the membership of the two panels, they are separate jurisdictions which have been established by different legislation. Each currently has its own staff, budgets etc. To avoid any confusion, they should be presented as distinct entities.

Valuation Appeal Committees

We doubt whether the Tax Chamber is the most appropriate place for the Valuation Appeal Committees. Although they deal with a form of taxation, given the nature of the issues that they deal with, the typical membership of the committees and the nature of the users, we consider that they would be more appropriately located within the Housing Chamber.

Tribunals Omitted

Several Tribunals which deal with devolved matters are not included in the proposed structure, including the Council Tax Reduction Review Panel and the Scottish Solicitors Discipline Tribunal. The Council Tax Reduction Review Panel is not listed in Schedule 1 to the Act, nor was it mentioned either in the 2012 consultation or the Bill memorandum. Nevertheless, it has the essential characteristics of a tribunal: the members are drawn from a judicial panel and to be appointed a person must be “a suitably qualified and experienced tribunal judge and possess personal qualities appropriate to holders of a judicial office. Independence and impartiality are among those qualities.” (*CTRRP Frequently asked Questions Guide*, <http://counciltaxreductionreview.scotland.gov.uk/documents/>

[CTR RP%20FAQ%20-%20Public.pdf](#)). It is also supported by SCTS. It is hard to imagine what policy reasons there would be for excluding it from the new structure. Similarly, it is hard to imagine what policy reasons there would be for excluding the Scottish Solicitors Discipline Tribunal (SSDT) from that structure. Or, putting it more positively, the rationales for including tribunals in the new structure apply just as much to these two tribunals as they do to the tribunals already included in the proposal.

That fact that neither tribunal is currently a listed tribunal is not a major obstacle as the necessary amendments to Schedule 1 could be made. However, further consultation with affected interests would be required before these tribunals could be added to Schedule 1. The fact that SSDT is not currently supported by STS is not a major obstacle either; we are not aware of any aspect of its work or methods which would make it unsuitable for administration by STS.

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