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| Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC) | Cosla, Edinburgh |
| Minute of Meeting | 24 June 2015 |

ATTENDEES: Marieke Dwarshuis, Chair (MD)
Professor Tom Mullen, Glasgow University (TM)
Sarah O'Neill, Consultant (SO`N)
Paul McFadden, Complaints Handling Authority, SPSO (PMcF)
Shaben Begum, Scottish Independent Advocacy Alliance (SB)
Lauren Bruce, Citizens Advice Scotland (LB)
Tom Drysdale, retired solicitor and tribunal Judge (TD)

SECRETARIAT: John Wallace, Scottish Government (minute-taker) (JW)
Alan Morrison, Scottish Government (AM)

OBSERVERS: Alicia McKay, Scottish Government (AMcK)

APOLOGIES: Sandra Wallace, Scottish Government (SW)
Alison Carmichael, Scottish Government (AC)
Lesley Black, SCTS (LB)
Douglas Proudfoot, East Lothian Council (DP)

1. Welcome and apologies

1.1 MD welcomed everyone to the meeting.

2. Conflicts of interest

2.1 SO`N noted that she is a legal member of the home owner housing panel and private rented housing panel.

3. Minute of meeting 25 February 2015

3.1 TD noted that under action point 1 of the last minute, it was TM that drafted the section on specialisation of tribunal members. It was agreed that this would be changed and the minutes published.

3.2 The action points from the previous meeting were reviewed. All actions have been completed.

4. Future Options for an Advisory Committee (*Paper 10.1*)

4.1 A discussion was held on what should happen with the consultation responses. It was agreed that permission should be sought and the responses should be published on the STAJAC website. A copy of the final

recommendations should then be emailed to all the respondents. **Action Point 1: JW to seek respondents permission to publish the consultation responses and upload them to the STAJAC website.**

4.2 It was also agreed that a summary of the responses should be redrafted to include a short executive summary which will be included in the submission to the minister. **Action Point 2: AM to amend the consultation response to include a short executive summary.**

4.3 It was also decided that a more comprehensive summary would also be drafted. **Action Point 3: AM to complete a more comprehensive summary of consultation responses by 12 August.**

5. Future Options for an advisory committee – revised paper (Paper 10.2)

5.1 The options paper was discussed in light of the responses to the consultation. It was agreed that the research aspect should remain in the recommendations to the Minister. Comments suggested that organisations such as the UK Administrative Justice Institute (UKAJI) are there to do the research into Administrative Justice. **TM** noted that UKAJI have a finite lifespan, and were there to encourage research, not actually do it.

5.2 After discussion it was also decided that the section of the recommendations relating to networking should be redrafted to better reflect the feedback from the consultation where a future Committee would encourage networking. **Action Point 4: AM to redraft the future options paper to include the agreed changes.**

6. Project Updates.

6.1 User Research: AMcK advised that the Scottish Government would continue to fund this strand of research going forward, with the Administrative Justice and Tribunals Policy team taking the lead role with input from the Committee.

6.2 A draft specification for the research has been sent to the head of research at SCTS for comment. **AMcK** is seeking that there will be an early in principle decision on the research going ahead which will then inform detailed consideration of the scope of the project. **AMcK** will keep the committee updated on progress.

6.3 Excellence in Administrative Justice Project with Audit Scotland. - **MD** advised that the project is progressing well and both COSLA and SOLAR have been consulted. **MD** felt that the research should be published alongside the STAJAC mapping report. **MD** noted that there has been some scepticism from some Local Authority leaders. As their buy-in is key to the

success of the project, the report should make clear that there is an awareness of the financial pressures and rationing of resources that have an impact on decisions that they make.

6.4 AM noted that the writing of the report has been challenging and that individual Local Authorities have been commenting on the effects that financial pressures had on decision making processes. It was agreed that getting the tone of the document right would be key. **Action Point 5: MD will send draft Excellence in Administrative Justice report to PMcF, TM, LB & SB for further comment.**

6.5 Mapping Project: AM advised that he has drafted 8 chapters to date and he is on course to meet all of the deadlines. **MD** noted that the work to date was hugely informative and well-constructed. **SO'N** commented on the good work being done and **AM** work was starting to show the enormous scale of the administrative justice landscape in Scotland.

6.6 It was decided that the results of the mapping process will be presented at a STAJAC closing event in October/November. It was also agreed that a closing report would be produced to mark the end of STAJAC's tenure. **Action Point 6: JW to start planning for a final STAJAC event.**

7. Consultations

7.1 Regulations & Statutory Guidance under the Welfare Funds (Scotland) Act 2015 (Paper 10.3): It was agreed that **TM** would look at this consultation with a view drafting a response from The Committee. **Action Point 7: TM to draft a response and pass to the Committee prior to the closing date of 21 August.**

7.2 Tribunals (Scotland) Act 2015 (Paper 10.6): The consultation on the chamber structure was discussed and it was suggested that the Valuation Appeals Committee should sit within the Housing Chamber rather than the Tax Chamber. It was agreed that **TM** would contact **SW** for an explanation of the rationale of what tribunals were included and left out of Schedule 1 of the Act. **TM** would then redraft the consultation response accordingly. **Action Point 8: TM to contact SW for the rationale on what tribunals are and aren't included in the Schedule 1 of the Tribunals (Scotland) Act and then redraft the response if required.**

7.3 SPSO – informal views on practice statement on welfare fund review role (paper 10.4): It was agreed that the Committee should seek an early meeting with representatives of the SPSO. **Action Point 9: SB, TM & LB to arrange meeting with SPSO by 18 July.**

8. Meetings

8.1 Administrative Justice Forum (AJF): LB advised that a colleague from CAS attended the last AJF meeting. It was noted that a number of topics were discussed with no resolution and very few actions points were taken away from the meeting. It was also noted that the majority of the discussions centred on English based issues.

8.2 A presentation on mandatory reconsiderations was provided by colleagues from the Department for Work and Pensions, however no challenge was made on the information given.

8.3 Scottish Tribunals Forum (STF): LB provided feedback on the last meeting of the STF. An issue was identified where the MoJ are considering proposals to delegate further decision making powers to Registrars within the reserved tribunals system. This could have significant service implications if this is implemented in the reserved system prior to the further devolution of Scottish tribunals. It was decided that the Committee would keep an eye on any developments.

8.4 UK Administrative Justice Institute (UKAJI) workshop: TM advised that the UKAJI workshop on 20 May was a success. A report would be issued to all attendees and published on the UKAJI website. TM also advised that UKAJI would be encouraging research in the area of Social Security. LB noted an interest in this. **Action Point 10: TM to provide a copy of the UKAJI workshop report to the Committee.**

9. Other Work

9.1 Health and Social Care integration: PMcF advised that SPSO, SG & CAS had met, however any conversations had been superseded as the Health and Sport Committee at the Scottish Parliament had taken evidence from SPSO on June 10. As a result of this hearing the H & S Committee agreed to take further evidence in the autumn with a view to encouraging the early adoption of an integrated complaint handling system which is clear to all users. The SG will now lay out a more detailed plan. The SPSO will continue to meet with the SG over the summer.

9.2 Cross Party Group on Consumer Affairs (Paper 10.5): STAJAC has been invited to become a member of the group, which is still looking for issues to take forward. It was decided that the Committee would join and that a member of the Committee should attend when there were issues of common interest.

9.3 Scotland Bill 2015: AMcK provided an update on the bill.

- An alternative Clause 33 has been published by the government. This can be viewed on the Scottish Government website.
- The SG are tracking opposition amendments and are taking a watching brief at present.
- Ministers want to be able to set fees; make procedural rules and appoint the judiciary.
- Substantive law will remain reserved.
- Fees are currently paid in Employment, Immigration & Asylum and Gambling tribunals.
- The SG are considering next steps. In particular they are looking at timescales; judicial resourcing and deployment; and administration. They are also working to identify proper resource allocations; as not all tribunals keep separate stats for Scotland and England.
- In the context of employment tribunal cases in the first instance, the SG are also working closely with the MoJ to define a Scottish case as this could have a major impact on tribunal cases, for instance, if fee policies differ in devolved areas.

10. AOB

10.1 MD advised that the MoJ would no longer continue to provide funding support to help with the provision of an expert committee on administrative justice in Scotland. Although the SG argued otherwise, the MoJ and Treasury have taken the position that, as there is Scottish representation on the AJF, there was no longer a requirement to continue the current funding arrangement. This means that any future committee will need to be funded entirely from the SG budget.

10.2 CAS and Shelter will hold a seminar on 7 July regarding Lay Representation. An invitation has been issued to Committee members.

Action Point Review.

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