



STAJAC

Scottish Tribunals & Administrative
Justice Advisory Committee

Report on Responses to Consultation

Future arrangements for carrying out the functions of the Scottish Tribunals & Administrative Justice Advisory Committee

1. Acknowledgements

The Scottish Tribunals & Administrative Justice Advisory Committee (STAJAC) would like to thank all individuals and organisations who have taken the time to consider and respond to its consultation paper on the future arrangements for carrying out the functions of the Committee.

2. Introduction

The STAJAC was established in November 2013 by the then Minister for Community Safety and Legal Affairs, Roseanna Cunningham MSP. It was established as an interim committee with a lifespan of two years, ending in November 2015. The Committee is non-statutory in nature. It was established to play a vital role in championing the needs of users across the administrative justice and tribunals system in Scotland, to provide external scrutiny of the system in devolved areas, and to highlight any issues to Scottish Ministers.

As part of its remit, one of the functions of the STAJAC is “to recommend how the functions of the Committee should be carried out in the longer term.”

3. Consultation Analysis

The consultation on the future arrangements for carrying out the functions of the STAJAC ran for six weeks from the 8th May until the 17th June 2015.¹ It was a targeted consultation and sent to over 400 stakeholders with an interest in the administrative justice system (identified through their subscription to the Scottish Government newsletter, “Just News”, and/or their attendance at STAJAC’s stakeholder event in April 2014).

3.1. Consultation Questions

The consultation paper asked the following questions:

- Do you agree that there is a need for a committee such as STAJAC?;

¹ <http://www.adminjusticescotland.com/documents/Consultation%20Paper-%20Future%20of%20the%20STAJAC%20Committee%20final.pdf>

- Do you have any comments about the successes and/or limitations of the Committee, as set out in this paper?;
- Do you agree that a future Committee should have the main functions as set out in this paper? Do you have any additional comments on these?;
- Do you agree that a future Committee should have the main characteristics as set out in this paper? Do you have any additional comments on these?;
- Do you agree with our proposals on the membership of a future Committee?; and
- Do you have any other comments on anything in this paper which you think we should take into account?

3.2. Responses

17 responses to the consultation paper were received.² The respondents are listed in the appendix to this paper. The vast majority of responses (14/17 responses, 82%) expressed the view that there is a need for a body such as the STAJAC in Scotland. Two responses (2/17, 12%) expressed a contrary view. One response, from Children’s Hearings Scotland, made no comment on the consultation questions, and instead questioned whether the Children’s Hearings System would be included within the remit of any successor body.

3.3. Key Themes from Consultation Responses

The responses to the consultation paper raised a range of issues, however a key set of themes have been identified and are set out below.

a) The need for a successor body

Permanence

14 of the 17 respondents expressed the view that there is a need for a body such as the STAJAC in Scotland, and a majority of these endorsed the suggestion that a future body should be established on a more permanent footing. Three of these respondents also specifically expressed the view that consideration should be given to this being achieved by making it statutory.

b) Functions and characteristics of a future body

Independence

The majority of respondents were strongly of the view that any successor body should be fully independent of the Scottish Government, and should be seen to be so. One also expressed the view that establishing a successor body on a statutory footing would allow the body to be seen to be at arms-length.

Accountability

² <http://www.adminjusticescotland.com/documents/STAJAC%20Collated%20Consultation%20Responses.pdf>

Four respondents specifically endorsed the suggestion of stronger links to the Scottish Parliament. Overall, it was felt this would increase accountability of the body, but would also strengthen its effectiveness and influence.

c) Membership of a future body

Transparent and Fair Appointments

Throughout the responses there was a consistent message concerning the need for a fair and open appointments system. The suggestion in the consultation paper that the membership should cover a wide range of skills and experience was strongly supported. Generally, respondents expressed a view in favour of a more formal public appointments process. However, one respondent suggested that such an expensive and formal process would be unnecessary.

d) Other comments

Two respondents expressed the view that a body such as the STAJAC was not necessary. The key view expressed by these respondents was that its functions could be carried out by existing bodies and through existing channels. One respondent suggested that such functions would be better carried out through an internal Scottish Courts and Tribunals Service body. Another respondent suggested that the Committee lacked visibility, especially in reserved areas, although it was acknowledged that the Committee has been constrained by time and resources.

4. Recommendations

The STAJAC has carefully considered the responses to the consultation paper, and has submitted its recommendations for carrying out the Committee's functions in the future to the Minister for Community Safety and Legal Affairs, Paul Wheelhouse MSP, for consideration.³

4.1. Summary of Recommendations

The STAJAC has recommended to the Minister that the functions of the Committee should be carried out by a successor body. The Committee has stated that, as is the case with the current arrangements, the primary purpose of a future body should be: to promote the interests of system users and champion an administrative justice and tribunals system that is accessible, responsive and has users' needs at its centre.

It has been recommended that the body should be independent, and seen to be so, from both the Scottish Government and the Scottish Courts and Tribunals Service. The body should also be accountable and this could be achieved through workplans and annual reporting to the Scottish Ministers and the Scottish Parliament. The Committee has recommended that a future body should sit clearly within the remit of the Scottish Parliament's Justice Committee.

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In terms of membership, it has been recommended that this be established through an open and transparent selection process, akin to a public appointments process. This would lend greater legitimacy and transparency to a future body.

Finally, it has been recommended that a future body be adequately resourced – in order that it can be supported by dedicated staff, including modest provision for research. It has also been recommended that a future body has the ability to employ staff and contract in its own right. This could be achieved by lending the body legal personality – a consideration which may have a bearing on how a future body may be established – or through a clear arrangement with the future Committee’s sponsor body, the Scottish Government.

5. Next Steps

The consultation responses indicate that there is support for the functions of the STAJAC to be carried out in the longer term by a successor body. The Committee, after careful consideration of these responses, has made its recommendations to the Minister for Community Safety and Legal Affairs, Paul Wheelhouse MSP. The Chair of the STAJAC, Marieke Dwarshuis, will meet with the Minister in September 2015 to discuss the Committee’s recommendations.

STAJAC

12 August 2015



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Appendix:

Consultation Respondents

Respondents:

The following organisations and individuals responded to the consultation:

- Scottish Courts and Tribunals Service
- SPSO
- Aberdeenshire Council Criminal Justice Social Work Service
- Children’s Hearings Scotland
- Chris Evans, Action for Mental Health
- Lady Smith
- The Law Society for Scotland
- Glasgow City Council Social Work Service
- North Ayrshire Health and Social Care Partnership
- Scottish Independent Advocacy Alliance
- Ann Morton, State Hospital Board for Scotland
- Jessica Burns, Regional Tribunal Judge, Social Security and Child Support
- Capability Scotland
- Accountability Scotland
- John Colledge
- Citizens Advice Scotland
- British Medical Association, Scottish General Practitioner’s Committee