



# STAJAC

Scottish Tribunals & Administrative  
Justice Advisory Committee

## **Outline of proposed qualitative research into the views, experiences and expectations of tribunal users**

### **1. Purpose and aims of the research**

To carry out research into the views, experiences and expectations of those who use tribunals supported by the Scottish Tribunals Service (STS) , in order to inform future improvements to tribunal systems and processes in Scotland.

Two separate but closely linked strands of research will be undertaken in parallel with a view to providing in-depth empirical data about the expectations and experiences of tribunal users. These are:

(i) a **quantitative** study, run by STS, which will collect data on tribunal users' journey through the tribunals system, and their levels of satisfaction with the service provided. This research will be carried out across all STS tribunals. The aim is to improve STS' understanding of the needs of tribunal users, allowing it to focus improvements in the quality of the service it provides in the areas where users need greater support.

(ii) a **qualitative** study, overseen by the Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC), involving detailed discussions with a small number of users across a range of tribunals, in order to understand in greater depth users' expectations, views and experiences of the tribunal process and the service provided.

Both strands of the research will be overseen by a Research Steering Group chaired by STAJAC, with representation from STS, STAJAC, Scottish Government (both Tribunals Policy and Analytical Services) and the Mental Health Tribunal for Scotland (MHTS).

This research outline sets out in more detail the background, proposed methodology and anticipated outcomes of the **qualitative** research.

## 2. Background and reasons for carrying out the qualitative research

STAJAC 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. A key aspect of its remit is to promote the interests of system users and champion an administrative justice and tribunals system that is accessible, responsive and has users' needs at the centre.

If the administrative justice and tribunals system is to be centred on users' needs, it is necessary to first ascertain and understand what those needs are. At present, little empirical evidence is available about what users need and expect from the administrative justice and tribunals system in Scotland. Most of the research which has been carried out to date<sup>1</sup> is now quite old, and or/is not specifically focused on users of tribunals in Scotland. Moreover, it has tended to focus primarily on users' views and experiences of the service provided by tribunals, rather than on issues relating to the quality and fairness of the tribunal process.

There is now an increasing focus across the entire justice system in Scotland on user-centred justice, through the Scottish Government's Making Justice Work programme. A Justice Quality Measurement Framework has been developed, drawing on the 'user benefit' toolkit formulated by the Scottish Government to produce a set of 'user-centred quality measures' to be applied across the justice system. These measures include looking at things like whether users feel they have been listened to and/or treated with respect, as well as more traditional 'process' measures, such as whether they were satisfied with the service provided or whether they experienced delays. The application of this framework is intended to ensure that the justice system is delivering 'quality assured justice' to its users.

The intention behind the proposed qualitative research is to gather in-depth, rich data to supplement the findings of the STS quantitative study, and so provide valuable insight into the views, experiences and expectations of tribunal users. This will help to inform the future design of tribunal processes to ensure that they are

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<sup>1</sup> Much of the existing research /reviews of previous research was carried out by the Administrative Justice and Tribunals Council and its predecessor, the Council on Tribunals. See for example: Adler, M. and Gulland, J. (2003) Tribunal Users' Experiences, Perceptions and Expectations: A Literature Review, Council on Tribunals: [http://webarchive.nationalarchives.gov.uk/20090608183147/http://www.council-on-tribunals.gov.uk/docs/other\\_adler\(2\).pdf](http://webarchive.nationalarchives.gov.uk/20090608183147/http://www.council-on-tribunals.gov.uk/docs/other_adler(2).pdf);  
Partington et al (2007) Empirical Research on Tribunals: an annotated review of research published between 1992-2007, Council on Tribunals: <http://ajtc.justice.gov.uk/docs/EmpiricalResearch.pdf>;  
Council on Tribunals (2006) Feedback from the Council's User Support Workshops: <http://ajtc.justice.gov.uk/docs/usersfeedback.pdf>;  
Administrative Justice and Tribunals Council/Care Quality Commission (2011) Patients' Experiences of the First-tier Tribunal (Mental Health): [http://ajtc.justice.gov.uk/docs/AJTC\\_CQC\\_First\\_tier\\_Tribunal\\_report\\_FINAL.pdf](http://ajtc.justice.gov.uk/docs/AJTC_CQC_First_tier_Tribunal_report_FINAL.pdf)

focused on users' needs and expectations insofar as possible. The research may also raise questions for those responsible for government policy in relevant areas, particularly with regard to meeting the expectations of users.

STS is also keen to apply the 'user-centred quality measures' to its systems and processes as early as possible. STS wishes to gather users' views, experiences and expectations at each stage of the 'user journey' through the tribunal process, with a view to identifying whether things are going well, and where improvements might be required from the user's perspective.

### ***Definition of 'user' for the purposes of this research***

It is important to be clear what we mean by 'user' in relation to this research. There is potentially a wide range of people who could be described as 'users' of the tribunal system. These might include solicitors, advocates and other advisers/representatives. They could also include 'institutional users' of the tribunal, such as local authorities or pensions administrators. It could also be argued that other stakeholder organisations which are not directly involved in the proceedings are 'users' –for example, local authority housing and environmental health departments can become involved in cases which come before the private rented housing panel (prhp), particularly where a landlord refuses to carry out repairs which have been ordered by a prhp committee.

While research into the experiences of such users may provide useful data, given the available budget and timescale for this research, and STAJAC's priorities, the intention is that this research should focus on the individual user i.e. the individual(s) in respect of whom a decision is made. In most instances, this will be the applicant, with the exception of party to party tribunals where both parties will be users. It may be, however, that in some cases, particularly in relation to the Mental Health Tribunal for Scotland, the individual user is unable to represent him/herself or participate in this research process. In such instances, it may be appropriate for his/her representative/advocate to participate on his/her behalf.

### **3. Anticipated outcomes of the qualitative research**

It is anticipated that the research will lead to a number of positive outcomes. It will produce the following benefits:

- empirical data on the basis of which STAJAC can make recommendations in relation to potential (policy) changes which would lead to an improved experience for tribunal users
- empirical data which will allow STS to measure its current performance and support future improvements in the service it provides to its users
- baseline empirical data against which the impact of any improvements or changes to the system can be measured in the future

- empirical data for policy makers, particularly with regard to the expectations of users and whether these can be met through existing policy solutions
- empirical data for the presidents of the relevant tribunals on the views of users about their particular tribunals, and their needs and expectations, which may help inform improvements in the service they provide to users
- over time, an improved tribunal system focused on the user which will ensure that users experience an improved quality of justice.

#### **4. Proposed methodology**

This will be a qualitative study, running in parallel with the STS quantitative research. The intention is to gather in-depth data on users' views and experiences at various stages of the 'user journey' throughout the tribunal process. It will also gather data about users' expectations before they embark on the tribunal process, and how the process and the eventual outcome compare with those initial expectations.

The research will focus specifically on those who actually make an application to a tribunal. STAJAC is aware that there are likely to be many people who may have recourse to a tribunal, but who do not take up this right, because 1) they are unaware that they have grounds for appeal against the original decision and / or 2) they do not know how to access the appropriate tribunal. There is some evidence in the context of tribunals that ignorance of the grounds of appeal is often more important than a lack of awareness about tribunal procedures.<sup>2</sup> While STAJAC and STS are keen to ensure that people are not deterred from asserting their rights due to a lack of knowledge, confidence or skills, this raises much wider issues, which are not necessarily specific to tribunals as opposed to other civil justice processes. Work on these issues is being taken forward elsewhere by Scottish Government through its work on legal capability as part of the Making Justice Work Programme.

Given the nature of the research, face to face research would be preferred to other methods, such as telephone interviews. This might be done through individual interviews or focus groups, for example. Rather than specifying the method to be used, however, it is proposed that potential contactors are asked to outline their proposed research method in their research tender.

It is envisaged that for the purposes of the research, the 'user journey' through the process will be split into three broad stages:

1. The point at which the user submits his/her application to the tribunal.
2. During the tribunal process - the pre-hearing/hearing stages.
3. The end of the process - once a decision has been issued.

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<sup>2</sup> Adler, M. and Gulland, J. (2003) Tribunal Users' Experiences, Perceptions and Expectations: A Literature Review, Council on Tribunals:  
[http://webarchive.nationalarchives.gov.uk/20090608183147/http://www.council-on-tribunals.gov.uk/docs/other\\_adler\(2\).pdf](http://webarchive.nationalarchives.gov.uk/20090608183147/http://www.council-on-tribunals.gov.uk/docs/other_adler(2).pdf)

Taking into account the numbers of cases dealt with by each tribunal, and the desire to ensure that the widest possible range of tribunals and tribunal users are included, it is proposed that the research is carried out across three different 'groups' of tribunals:

1. Mental Health Tribunal for Scotland (MHTS);
2. Private Housing Panel (prhp) and Homeowner Housing Panel (ho hp);
3. Pensions Appeals Tribunal Scotland (PATS) and the Additional Support Needs Tribunal for Scotland (ASNTS).

It is intended that the final research report will draw general conclusions across all of the three groups, but will also report separately on the findings from each of the groups, drawing out in particular any issues which may arise specifically in relation to those groups and not in relation to the others.

### **The research questions**

The questions which users are asked at each stage of the process should encompass both process and quality of justice issues,<sup>3</sup> and will draw on the 'user-centred quality measures'. These will include questions about the four main areas of the Quality Assured Justice Framework:

1. Fair and equitable justice
2. Improved user experience
3. Improved public confidence
4. Affordable access

There will also be some additional questions relating to the expectations of users and how these compare with their experience of the process and the eventual outcome.

While a similar approach will be taken to each group of users, there may be a need for different/additional questions to be asked in respect of different user groups. MHTS users may be particularly vulnerable, for example, although they may also be more likely to have legal or other representation than other user groups.

Meanwhile, although most tribunals deal with disputes between citizens and central / local government agencies, prhp and ho hp involve private sector 'party-party' disputes. The latter also involve very different groups of users: tenants and homeowners, on the one hand – in themselves two disparate groups - and private landlords and property factors - which may be private factors, local authorities or housing associations - on the other.

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<sup>3</sup> Note: in some cases/types of case, the length of the process may make it difficult for the research to follow the same users from the start to the end of the process. It may therefore be necessary in these instances to ask different users/groups of users about their views and experiences at each stage of the process.

The nature and quantity of research questions to be asked in relation to each group of users will need to be carefully considered by the Research Steering Group, and discussed in depth with the successful research contractor before a final decision is made. The stage/s at which each question should be asked will also require further discussion. However, an overview of the types of questions which might be asked in each of the broad areas identified is set out below.

**1. Fair and equitable justice**

- Do users think they had fair access to the tribunal?
- Did they feel they were treated fairly?
- Did they feel they were treated the same as everyone else?
- What aspects of the treatment they received did they consider to be fair / unfair?

**2. Improved user experience**

- How would users rate the overall service provided by the tribunal?
- How satisfied or dissatisfied were users with the service they received? What aspects of the service were they satisfied/dissatisfied with?
- Did the tribunal explain things to them fully and/or accurately in a way that they understood/found helpful?
- What else would they like to have been told/ what further information would they have liked?
- Did they feel they were treated politely and with respect?
- Did they feel the tribunal really listened to them/heard what they had to say?
- Did they experience delays which inconvenienced them?
- Did they feel their needs were met overall? If not, why not? What could the tribunal do to meet their needs?

**3. Improved public confidence**

- How confident are users that the tribunal which dealt with their case / the tribunal system as a whole makes sure everyone has access to it if they need it?
- How confident are they that the tribunal which dealt with their case / the tribunal system as a whole makes fair, impartial decisions based on the evidence available?
- How confident are they that the tribunal which dealt with their case / the tribunal system as a whole makes sure the system isn't different depending on where in Scotland people live?
- Are they now more/ less/equally confident about these matters than they were before they used the tribunal system?

#### **4. Affordable access**

- To what extent do users understand how to make an application to a tribunal when they have a dispute?
- Did they understand the process?
- Did they have concerns about the cost of the process?<sup>4</sup>
- Did they seek/actually obtain any information, advice or help from the tribunal? If not, why not?
- How helpful was this information or advice in terms of solving their problem?

#### **5. User expectations**

- What do users expect the tribunal process to be like at the start of the process?
- What outcome/resolution do they hope to achieve at the start of the process?
- How did the process/eventual outcome compare with their initial expectations?

#### **Data collection and data protection**

It is envisaged that users' contact details will be obtained from each of the individual tribunals, with the permission of the relevant tribunal president. Permission to contact users in connection with the research will be sought from them at the time they make their tribunal application. It is intended that the principles set<sup>1</sup> out in the access protocol between the Scottish Government and the Scottish Court Service will apply to this research. Those tendering for the research contract will be required to ensure that the research complies with the Scottish Government's social research and ethical guidelines. This will include ensuring that each individual's participation is confidential and anonymous, and that all data is stored securely and marked as confidential as necessary.

#### **5. Budget for the research**

The overall budget for this project is approximately £45-50,000, almost all of which has been allocated to the present financial year (i.e. 2014-15). The project will be funded by STAJAC, with a small contribution from Scottish Government.

#### **6. Contract arrangements**

The research contractor will be contracted by the Scottish Government, on behalf of STAJAC, through the Scottish Government's standard research procurement process.

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<sup>4</sup> No STS tribunals currently charge fees to users, but question about this issue may flag up concerns/perceptions about the cost of taking a case to a tribunal, particularly given the recent introduction of fees in employment tribunals.

***Anticipated timescale***

It is intended that this research will be put out to tender in October 2014 with the research being carried out in early 2015. It is intended that the completed research report will be available by May/June 2015.

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