

ADMINISTRATIVE JUSTICE SUB-COMMITTEE

Summary of the meeting of the between the Law Society of Scotland's Administrative Justice Sub-committee (LSoS) and the Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC) held on the 13 November 2014 at 26 Drumsheugh Gardens.

LSoS; D Crossan (audio), P Smith, R Henderson, R Whitecross, A Hastie

STAJAC; M Dwarshuis, T Mullen, T Drysdale

Apologies: M Adler, P Smith, C Gill

Welcome

R Henderson welcomed all attendees and thanked them for their time in attending.

Introductions.

All the attendees introduced themselves, providing a brief summary of their current roles and background.

Work plans.

Both the LSoS and STAJAC provided an outline of their respective work plans:

R Henderson explained that the LSoS's Administrative Justice Sub-committee, being a recently constituted sub-committee of the Law Reform Committee, was still in the process of pulling a work plan together, and this is likely to reflect the particular interests/ knowledge and experience of the members. The sub- committee are taking a portfolio approach and once this has been drafted and agreed, the sub- committee will then consider priority key issues for the work plan. The sub-committees work plan will likely involve cross Society committee working, such as with the Access to Justice Committee.

M Dwarshuis advised that the work plan for STAJAC is approached from two angles. Reactive, looking at and considering what is currently going through, such as tribunal reform, health and social care, welfare reform and housing and pro-active. Pro-active will include a project to raise the awareness of administrative justice, creating a wider understanding of what this means to users and the processes involved. through working with Audit Scotland to evaluate the impact of administrative justice decisions made by local government on users (individual citizens)

In addition, . STAJAC have secured a student placement, who will map out the current administrative justice plandscape, which will help to inform policy work. This may also help to raise awareness amongst SG Ministers and policy makers as to what areas of administrative justice

cross their respective policy responsibility remits.

Working together – LSoS & STAJAC

It was agreed that both the LSoS and STAJAC have a shared interest in tribunal reform and it would be useful to share views, looking in particular at the length of time it is taking for the reforms to be implemented. It was suggested that perhaps the LSoS would like to look at this further and provide views / comments to the Civil Justice Council.

It was also agreed to share views once the Smith Commission publishes the report on further developed powers to Scotland.

It was discussed and agreed that all were concerned about the role of STAJAC going forward, beyond the 2 year life of its remit, further agreeing that it was important that users interests are independently represented and the work of STAJAC continued, and it would not be acceptable for this to fall under the responsibility of the Civil Justice Council. The LSoS agreed (subject to agreement of the full Administrative Justice Subcommittee) to provide comments / views to the Minister. Any committee / body that replace STAJAC will need to be full transparent and independent Employment tribunal fees. It was discussed and agreed that these were of concern. It was suggested by STAJAC that there may be a way of covering these under legal aid (which is devolved) by amendments to regulations and they will be exploring this further, but acknowledge that any suggestion of this may prove controversial, and/or impractical, and/or ineffective. Another reason why cases have dropped may be the compulsory referral to ACAS.

The drop in social security appeal tribunal appeals was discussed. Views were expressed that aspects of the mandatory reconsideration scheme do not meet with basic principles of good administrative justice, such as cases being dealt with in timely manner and equality in process. STAJAC is considering an open letter, which the LSoS may wish to consider endorsing, raising these concerns.

LSoS advised that the Office Bearers have a regular meeting with the Cabinet Secretary and it would be open to the Administrative Justice Committee to raise any significant concerns / views etc direct with the Cabinet Secretary through this meeting. The LSoS, and in particular the Law Reform Department, also has a close relationship with many MP's, MSP's and Peers and have regular meeting with all party leaders.

Concluding remarks

All agreed that the meeting was useful and there should be continued dialogue between the LSoS and STAJAC. It was further agreed that going forward it would be helpful to work closely together, meeting up on a regular basis to share views and updates. A meeting in the first

quarter 2015 was suggested and agreed. Date TBC.

DRAFT