

Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC)	New Register House Edinburgh
Minute of Meeting	22 May 2014

ATTENDEES:

Marieke Dwarshuis, Chair (MD)
 Professor Tom Mullen, Glasgow University (TM)
 Shaben Begum, Scottish Independent Advocacy Alliance (SB)
 Paul McFadden, Complaints Handling Authority, SPSO (PMcF)
 Lauren Wood, Citizens Advice Scotland (LW)
 Sarah O'Neil, Consultant (SO`N)
 Douglas Proudfoot, East Lothian Council (DP)
 Tom Drysdale, retired solicitor and tribunal Judge

OBSERVERS: Linda Pollock, Scottish Government (LP)
 Alison Carmichael, Scottish Government (minute- taker) (AC)

APOLOGIES:

John Sturrock, Core Solutions Group

Welcome and conflicts of interest

The Chair welcomed Linda Pollock to the meeting. No conflicts of interest were declared.

1. Minute of meeting 24 March

1.1 PMcF advised that the word "role" rather than "processes" should be used in paragraph 2.5 of the previous minute. The rest of the minute was agreed as final by the Committee.

AP: AC to amend the minute.

1.2 Further membership - MD asked members for their views on the Scottish Government Tribunals and Admin Justice Division (Sandra Wallace/Linda Pollock) joining Committee meetings as an observer. MD also asked for views on a representative from the Scottish Tribunals Service (STS) joining meetings on the same basis. Members agreed that this was a good idea **AP: MD to contact the Chief Executive of the STS to agree who will attend.**

2. Workplan

2.1 MD asked for comments on the content of the draft workplan and how the priorities identified in it should be taken forward. Members agreed that the workplan was the right length and clearly set out. PMcF commented that, producing a map of the administrative justice and tribunal landscape in Scotland should be a priority.

2.2 PMcF asked LP for an update on the five recommendations for the Scottish Government (SG) made by Scottish Committee of the AJTCs report on the “Right to Appeal”. LP confirmed that the SG has acknowledged receipt of the report and that its recommendations are being considered by the relevant policy areas.

Proactive work

2.3 PMcF suggested that it would be helpful to consider the workplan alongside the remit for the committee to ensure nothing was missing. For example, the “encouraging better decision making” part of the remit could result in developing a practical guide for frontline staff on what it actually means to ‘get it right first time’. LP suggested that it could link in with the work the Committee was hoping to progress with Audit Scotland and local government on the costs on local government of not “Getting Decisions Right First Time”.

2.4 MD asked members to think about how “encouraging the building of networks and sharing of good practice” could be done in a realistic way, and included in the workplan. Members offered to help through links with local authorities, COSLA and practitioner groups, the Committee’s involvement with the Scottish Tribunals and the Administrative Justice Forums and the Nuffield Foundations Administrative Justice Hub.

2.5 TM suggested including in the Committee’s plan:
“To continue to engage with key stakeholders in the civil and administrative justice system”

2.6 SO`N suggested including encouraging ADR in the workplan. MD suggested that the links the Committee have already built with Jacqui Hagerott (Ohio) could be continued to help engage Tribunal Presidents and other stakeholders on ADR.

Action: MD to amend workplan as agreed

Reactive work

2.7 MD asked for members’ views on also including the Public Bodies Act in the workplan, with a focus on health and social care integration. PMcF suggested that the Committee could comment upon the Regulations supporting the Act; and that this would be picked up under the heading about health and social care integration.

2.9 MD suggested adding to the workplan that the STAJAC should be recommending to Ministers what should be in place in the long-term, post STAJAC. Members agreed. MD also asked members if any further suggestions from the stakeholder event should be added? TD advised that the Traffic Commissioner’s non-publication of decisions was a suggestion from his table that could be included, and the Committee concluded this could be followed up in the context of looking at learning from review/appeal decisions.

Action : MD to amend workplan as agreed

Next steps

2.10 MD suggested that one member leads on each area of reactive work, where appropriate with the support of another member.. Members agreed to the following responsibilities:

- Scottish Welfare Fund – DP
- Tribunals unification – TM and TD
- Housing – SO`N AND LW
- Mental Health Bill – SB
- Health and social care integration – PMcF
- Administrative Justice Strategy – MD
- Justice Digital Strategy – LW

Members agreed that a reminder for updates on their areas of work four weeks in advance of Committee meetings would be useful.

Action: MD to send reminder to members to provide updates at next meeting

3. STAJAC Funding/ Proactive work

3.1 MD asked for suggestions on how the Committee's funds could be put to best use. TM suggested work on feedback loops, such as interviewing stakeholders and system users to see if feedback loops could be improved. LW suggested work to identify where there were issues/forks in the user journey. Mapping the administrative justice and tribunals system was also suggested by members.

3.2 There followed a discussion about commissioning and procurement processes, from which the following actions:

Actions:

- **AC to ask Debbie Headrick for more information on student placements via Scottish Crime and Justice Research Centre**
- **AC (with input from SO`N and MD) to provide further information on costings for commissioning of work and/or student placement/internship for next meeting.**
- **SO`N to draft a brief on the skills set and main duties for a student placement.**
- **SO`N to draft outline for work that could be commissioned (eg a user survey before/after STS/SCS merger)**

4. Roundtable discussion – LAs and administrative justice (paper 4.2)

4.1 PMcF and DP commented that the meeting with Audit Scotland, the Accounts Commission, Improvement Service and SOLACE on 7 May had been positive and that there was buy-in from all attendees for exploring the costs of administrative justice decision making to local government. PMcF advised that whole system cost

and typical cost approaches for complaints and appeals had been discussed. PMcF added that the main challenge could be the lack of available information on costs; and that the SPSO had already encountered this through their own research. PMcF highlighted the importance of unpicking the processes for the user. MD advised that the Audit Scotland have provisionally offered a person from their team to lead this work; with governance arrangements to be agreed . MD advised that a further meeting was planned with Audit Scotland on 23 June..

Actions: :

PMcF to discuss the availability of information on costs with the Improvement Service.

LP to chase SG Analytical Services on their commitment to this project.

5. Administrative Justice Forum – roundtable discussion, London

5.1 TM advised that the main topic discussed was feedback to decision makers and that Sir Jeremy Sullivan, Senior President of Tribunals was receptive to this. TM also advised that the DWP were looking to improve decision making, including feedback, which was encouraging. TM also informed the Chair and members that the Land Registry has contracted out their complaints handling function. LW advised that a member of the House of Commons Justice Committee had attended the meeting and indicated that administrative justice was on the committee’s radar. MD advised that Tribunal Presidents were keen to find out what happened with any (systemic) feedback they did provide. TM suggested that informal sessions could be held with Tribunal judges to understand more about their views.

6. Overview of Tribunals Act implementation path

6.1 LP confirmed that the Tribunals Bill had received Royal Assent on 15 April and that principles of “fairness and accessibility” had been included in the Act. LP explained that the Act was a framework which would require a lot of secondary legislation to protect the specialisms of the jurisdictions coming into the new structure. LP also explained that the Transfer of Functions Orders for the tribunals listed in the Act would be done, one-by-one, for each jurisdiction.

6.2 LP advised that a Project Board has been set-up for implementation of the Act, and that this would report into the SG Making Justice Work programme. As part of the project, five separate workstreams are envisaged. These are:

- Policy
- Judicial Governance
- Appointments
- Rules for the Upper Tribunal, and

- Judicial postings (terms and conditions, standardised lengths of appointments etc.)

AP: LP to circulate the Implementation Plan once it has been approved by the Project Board.

6.2 LP confirmed that the first jurisdictions to be brought into the new structure would be those housing related – i.e. the PHRP, HOHP and the new jurisdictions created by the Housing Bill, currently before the Scottish Parliament. It is envisaged that it will take up to two years to create the structure and bring in the first tribunals. Thereafter, mental health and then each of the other tribunals supported by the STS would be transferred into the new system, taking around 6-8 months each. Focus would then move onto the tribunals listed in the act (i.e. those devolved tribunals which are not currently supported by the STS).

AP: LP to circulate to the committee, the information note that was sent to all judicial members.

6.3 TM asked for an update on what planning there was in the event of a ‘yes’ vote in the independence referendum. LP advised that the SG intended that all reserved tribunals should be transferred into the Scottish structure, but that this would be done over a transitional basis.

7. STAJAC website

7.1 AC circulated screenshots of the website. The Chair and members agreed that the font and colours must be accessible to the partially sighted. AC advised that font should be a minimum of Ariel 12.

Action: AC to check the accessibility of the background colour and typeface.

7.2 The Chair and members agreed that the launch of the website should coincide with the publication of the workplan.

8. Face to Face Legal Services and Their Alternatives

8.1 SO`N advised that this seminar coincided with the launch of a book on “Global Lessons from the Digital Revolution” written by Roger Smith and Alan Paterson from Strathclyde University. SO`N informed the Committee that the main focus of the seminar was the “Rechtwijzer” (the Dutch Legal Aid Board’s conflict resolution project).. SO`N explained that the main aim of the “Rechtwijzer was about “unbundling” legal and aftercare services. SO`N also advised that care had been taken to ensure that the interactive parts of the “Rechtwijzer” provided information

with the users` needs in mind; not from the service providers` perspective which is the case with many public service websites.

9. Justice Digital Strategy (paper 4.3)

9.1 MD confirmed that she had met with an SG official to discuss the Justice Digital Strategy. MD noted her initial thoughts were that the main focus appeared to be on further developing and implementing systems to increase the efficiency and effectiveness the criminal justice system; and there was not an obvious link to administrative justice in the strategy. MD went on to say that there could be concerns about how the strategy will impact the user experience, and that it will be important to ensure that user needs are on the agenda..

Action: LP to contact SLAB and the SG lead official on the strategy to highlight these comments and provide links to LW.

10. Socio Legal Studies Conference

10.1 MD advised that she had attended this and found it of interest. MD explained that she attended session based upon academic research on asylum tribunals, culture in courts and first decision makers` awareness of the law. MD advised that future seminars would be of interest to policy makers.

11. AOB

11.1 MD summed-up the key areas from the workplan for the next meeting:

- proactive work and potential of a student placement
- update on the Audit Scotland work on the costs of administrative justice decision making to local government;
- update from PMcF on health and social care integration and what this means, and
- update from the SG on the Administrative Justice Strategy

12. Date of next meeting

The date of the next meeting is **30 July 2014**, venue to be confirmed.