

Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC)	Thistle House Edinburgh
Minute of Meeting	29 January 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
 Alison Carmichael, Scottish Government (minute- taker) (AC)
 John Wallace, Scottish Government (secretariat) (JW)

APOLOGIES:

John Sturrock, Core Solutions Group

Overview and introductions

The Chair welcomed the new members of the committee (DP and TD) and thanked them for lending their expertise to the group. The committee members introduced themselves.

DP is a Chartered Accountant with 21 years' experience in Local Government Finance. He also ran a construction company. DP has also worked for COSLA and with the Scottish Government on the Scottish Welfare Fund (SWF) implementation. DP is currently a Policy Manager with East Lothian Council.

TD was in private practice as a solicitor until 2004. He was a Director of Edinburgh Solicitors' Property Centre and Deputy Keeper of the Signet (head of the Society of Writers to the Signet). He was a part time first tier tribunal judge in social security appeals until 2013 and also worked with Registers of Scotland 2004-2007, providing liaison between the Registers and the Law Society of Scotland. TD was honorary consul for Hungary in Scotland from 2001 to 2012.

MD informed everyone that this meeting would focus mainly on the committee's response to the Scottish Welfare Funds consultation and the user journeys and scenarios. MD went onto explain that an extension to the deadline for responses to the SWF consultation would be requested. **AP: AC to contact Dorothy Ogle to request an extension of one week for submitting the response.**

1. Remit, name, working practices and further membership

1.1 The amended remit (paper 2.3.1) was unanimously agreed by the committee.

1.2 The committee agreed that they would be called the Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC).

1.3 The committee agreed the section on conflicts of interest in the working practices (paper 2.3.2). Members also agreed that a conflict of interest would not arise if their respective organisations were submitting a response to a consultation the committee were also responding to; but that one would if their organisation were a preferred provider of a service under discussion. SO'N declared that she is a chair of the Homeowner Housing Panel and the committee agreed to have declaration of interests as a standing agenda item at meetings. **AP: MD to include this as a standing agenda item.**

1.4 A short discussion followed on the benefits of having further membership of the committee from the administration of tribunals. AP: **MD to contact a possible further member.**

2. Scottish Welfare Fund Consultation

2.1 A short discussion followed on how to structure the response to the consultation and what the response should be. TM gave an overview of the Social Fund and the creation of the Independent Review Service (IRS). PMcF commented that 40% of the decisions the IRS reviewed were overturned. He added that the SWF currently have a very low number of referrals to 2nd Tier Review when compared to those under the previous arrangements. DP gave an overview of the SWF and the funding arrangements. LW highlighted that although applications to the SWF have decreased applications to food banks have increased significantly as they are easier to access and benefit sanctions do not affect entitlement.

2.2 MD advised that the Principles of Administrative Justice as developed by the Administrative Justice and Tribunals Council (AJTC) in 2010 should underpin the permanent arrangements for 2nd Tier Review and should be referred to in the response to the consultation. Members also agreed that where this review should be situated (SPSO or Tribunal) was of less significance than adhering to these principles.

2.3 SB highlighted that access to independent advocacy services was essential in allowing vulnerable people to make their case and should be included in the principles. The committee agreed. The following AJTC principles for the new system were also agreed:

- users at the centre
- easy to challenge
- quick turnaround
- independency
- transparency
- consistency
- proportionate and effective

- a feedback mechanism

2.4 The committee agreed that the Local Authority Panel with Independent Representation would not be a suitable option for 2nd Tier Reviews and that an IRS type model would be preferable. DP highlighted the importance of case observations to monitor the consistency and transparency of decision making and including this in the response.

2.5 The committee agreed that their recommendations for 2nd Tier Review would be built around the following:

- the characteristics of the IRS
- the AJTC principles of administrative justice
- built-in transparency
- the ability to re-make a decision quickly

2.6 TM agreed to draft the response by 5 February and the chair and members agreed to providing comments by 10 February. **AP: All to provide comments by 10 February.**

3. Housing (Scotland) Bill

3.1 The Committee discussed the provisions in Part 3 of the Bill to move Private Rented Sector Cases from the Sheriff Court to the First-tier Tribunal established by the Tribunals (Scotland) Bill and a possible further move of other housing cases to the new Tribunal in the future. A short discussion followed on the importance of putting the user at the centre, issues in the Sheriff Courts currently hearing housing cases, legal representation and Legal Aid. The Committee agreed that housing cases should be heard by specialists and hearings should be inquisitorial rather than adversarial.

3.2 The committee agreed that all housing cases should be heard by the First-tier Tribunal. LW advised that the issues and the legislation covering Social Housing and the Private Rented Sector are different.

3.3 The Committee agreed that pre-hearing advice and access to advocacy services are critical in housing cases.

3.4 LW agreed to draft a response to the Stage 1 written evidence of the Housing Bill by 12 February. The Committee agreed to provide comments and having a final response ready by 27 February. **AP: MD to submit final written evidence for Stage 1 of the Housing (Scotland) Bill by 27 February.**

4. Administrative Justice Summary – paper 2.5.1

4.1 MD agreed to draft a summary of TMs paper on administrative justice. This summary will be used as a set of principles for the Committee to work from and will be circulated prior to the stakeholder engagement event on 1 April. **AP: MD to draft a summary of TDs paper on administrative justice.**

5. User scenarios and Stakeholder Engagement Event

5.1 The committee agreed that they would focus on one user journey from the following for the flowchart:

- housing
- education
- planning
- social work, social care and health
- licensing

MD advised that the scenarios should not focus on the legal issues but on the person and pen picture and that the processes for complaint/review/appeal of first decisions should flow from there.

5.2 The Committee agreed that the Stakeholder Engagement Event should focus on raising awareness of the Committee, the reach and impact of administrative justice and identifying priorities for the Committee. The Committee also agreed to invite the stakeholders suggested in paper 2.6. MD advised that MSPs should be added to the list. **AP: JW to invite MSPs to the stakeholder engagement event.**

5.3 PMcF suggested that the running order for the event should be changed to include the user scenarios at the end of the other sessions. The Committee agreed. LW suggested that the event should also focus on reminding stakeholders what administrative justice is as more citizens are affected by it than are by civil or criminal justice.

5.4 The Committee agreed that the initial invitations should be sent w/c 10 February. **AP: JW to send out invitations to the stakeholder event w/c 10 February.**

6. Developing a workplan

6.1 MD suggested that the Committee could investigate the costs to local authorities of getting decisions wrong. PMcF commented that this information would be difficult to capture and would need to be high level and representative. PMcF also mentioned that the SPSO had an interest in this area of work and had produced a paper. **AP: PMcF to circulate the paper to members; DP to input. AP: MD to contact the chair of the Accounts Commission for information. AP: JS to contact Caroline Gardiner from Audit Scotland.**

7. AOB and dates of future meetings

7.1 No other business was raised. The dates of future meetings were circulated to members.

7.2 The date of the next meeting is 24 March 2014, venue to be confirmed.