

Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC)	Apex Hotel, Waterloo Place, Edinburgh
Minute of Meeting	30 July 2014

ATTENDEES: Marieke Dwarshuis, Chair (MD)
Professor Tom Mullen, Glasgow University (TM)
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)

OBSERVERS: Linda Pollock, Scottish Government (LP)
Lesley Black, Scottish Tribunals Service (STS) (LB)
John Wallace, Scottish Government (minute- taker) (JW)

APOLOGIES: Shaben Begum, Scottish Independent Advocacy Alliance (SB)
John Sturrock, Core Solutions Group
Tom Drysdale, retired solicitor and tribunal Judge (TD)

1. Welcome and apologies

1.1 **MD** welcomed everyone to the meeting. Apologies were given for **SB**, **TD** and John Sturrock.

1.2 **MD** noted that an email had been received from John Sturrock tendering his resignation from the Committee. **MD** will contact John to accept his resignation and thank him for his contribution to the work of the Committee. JS is happy to still be consulted and offer input as and when he can.

2. Conflicts of interest

2.1 No conflicts of interest were declared.

3. Minutes of meeting 22 May 2014

3.1 The minutes of the last meeting were discussed and agreed.

Action Point 1: JW to send copy workplan and email sent to stakeholders to the Committee.

4. Matters arising (not elsewhere on the agenda)

4.1 **Progress on website:** **JW** advised that the Committee's website www.adminjustice.com was now live and requested feedback before it was advertised to stakeholders.

Action Point 2: ALL to provide feedback on website by 5th August to JW.

4.2 **Information on Tribunals Act implementation:** LP advised that Lady Smith has now been assigned by the Lord President to the role of President of the Scottish Tribunals and that implementation work was on-going.

5. Observers on the Committee

5.1 LP of the Scottish Government and LB of the Scottish Tribunals Service (STS) were observing the meeting.

6. Updates from Committee Members (reactive work)

6.1 **Scottish Welfare Fund (SWF):** DP had circulated a paper on the SWF and advised that the Welfare Funds (Scotland) Bill was introduced to the Scottish Parliament on 10 June 2014. After discussion it was agreed that the Committee would comment on the Welfare Reform Committee's call for evidence as well as the briefing note published by the SPSO.

Action Point 3: All to provide any comments on SWF to DP by 5 August for inclusion in draft paper

Action Point 4: DP to circulate draft paper to the Committee before submission.

6.2 **Tribunals Unification:** TM provided an update on the position of the Tribunals (Scotland) Act implementation. He commented that the timescales for implementation seem unduly long. The process was discussed and LP advised that Sandra Wallace, the Act implementation manager, would be happy to meet with TM and TD to provide an overview of the timescales, process and rationale.

Action Point 5: TM & TD to meet with Sandra Wallace to discuss Tribunals Act implementation (Scheduled for 15 August)

6.3 **Housing:** SO'N circulated a note prior to the meeting on the current position of the Housing (Scotland) Bill which has now been passed by the Scottish Parliament. In its written evidence to the Infrastructure and Capital Investment Committee, the Committee had raised concerns that social housing cases would not be going to the new tribunals. The Infrastructure and Capital Investment Committee had noted these concerns but no amendments have been made to the Bill. No further action is required at this stage.

6.4 **Mental Health Bill:** MD advised that the Health and Sport Committee has made a call for evidence. The closing date is the 22 August.

Action Point 6: MD will contact SB and ask her to draft a response to the call for evidence. This will be circulated to the Committee for comment before it is submitted.

6.5 Health and Social Care Integration (Public Bodies (Joint Working) (Scotland) Act): **PMcF** had circulated some papers in advance summarising the concerns that the SPSO had raised previously about Health and Social Care Integration. In summary, these concerns are around the arrangements for addressing and responding to user complaints. There is nothing outlined in the Act specifically relating to complaints, with regulations currently being consulted upon. However the regulations do not address these concerns and they system remains particularly complex and confusing for users. **PMcF** asked if the Committee wished to comment on the current consultation. The Committee agreed this was an important issue that they should consider, but given its complexity it required more time for consideration. After discussion, it was agreed to (i) provide a brief response to the Scottish Government's current consultation noting the Committee's general concern; and (ii) consider a longer-term approach about how to engage on this issue and raise detailed concerns.

Action Point 7: PMcF to draft a response to the consultation for the Committee's consideration.

Action Point 8: MD and PMcF to liaise on future steps on how to engage with the Scottish Government and Scottish Parliament on this subject.

6.6 Administrative Justice Strategy: **MD** advised that there was nothing to update at this time.

6.7 Justice Digital Strategy: **LW** advised that the Justice Digital Strategy was to launch on 20 August. The Civil Justice Council ICT committee, who have been consulted on the draft Strategy, have suggested that the civil justice side may not be as clear as the criminal justice information, and this has been fed back. **LW** noted that the strategy was in 3 sections: (i) "*Right information, Right time*" - a single platform website for users to look up issues and advice; (ii). "*Fully Digitised Justice Systems*"- with all courts digitised by 2017; and (iii) "*Making Data work for us*" - focusing on improved data analysis. Both **MD** and **LW** will attend the stakeholder event for the launch on 20 August.

7. Updates on proactive work

7.1 Student Placement: **SO'N** provided an amended copy of the draft student placement paper and gave an update about the progress on hiring a student placement and the timescales involved. The three areas of the placements work detailed in the papers were discussed. The approach, work programme and timescales were agreed by the Committee.

7.2 Commissioning research into Tribunals users experience: **SO'N** gave an update and advised that the research plan was developing and that

she had met with Martin McKenna (Chief Executive of the STS) and SG Justice Analytical Services. There will be two phases of research: the first phase being the tribunal users' experience prior to the merger with a follow up at some point in the future of the users' experience post-merger. Given the 'post-merger' phase will be beyond the timeframe of the Committee it may be desirable to consider an intermediate phase.

7.3 It was noted that the STS is very supportive of the Committee's research in this area and keen to consider it alongside their work on improving quality of feedback at tribunals.

7.4 **LW** advised that Nicole Busby is conducting similar research on Employment Tribunals and offered to provide her contact details.

Action Point 9: LW to give MD & SO'N Nicole Busby's contact details.

Action Point 10: MD & SO'N to scope and develop the research plan and circulate it to the Committee by email for comment.

7.5 **LA's and Administrative Justice:** Following the initial steering group meeting, **MD** met with Fraser McKinlay of Audit Scotland who has agreed to commit resources to the project of "Developing excellence in administrative justice in Scotland". **MD** also had a helpful meeting with Ronnie Hinds, the chair of the Local Authorities' Benchmarking Board on how to make the process meaningful for elected council members. The next meeting of the steering group meeting will be on 4 September and **MD** will chair this meeting.

7.6 **PMcF** met with Mark McAteer at the Improvement Service to discuss whether there is information held about the costs to local government of complaint handling. Mark has contacted SOLAR and will support SOLACE and SOLAR ahead of a separate meeting about this. **PMcF** will continue to liaise with the Improvement Service about this.

7.7 **MD** noted that Justice Analytical Services (JAS) role has yet to be defined within the process and that this needed to be clarified.

Action Point 11: LP to liaise with JAS to clarify their role within the project.

7.8 A meeting has been arranged by **DP** between the next President of SOLACE, Angela Leach and **MD** on 6 October.

8. Scottish Tribunals Service

LB gave an overview of the scope and remit of the STS with an emphasis on the breadth of work and number of cases handled by their jurisdictions.

Action Point 12: LB to provide a copy of the information she presented to the committee

8.1 The STS was established in 2010 and currently administers 8 tribunals over 3 sites in Glasgow, Hamilton and Edinburgh. There are currently 102 staff working for STS. The staff work closely with the tribunal members and Presidents of the tribunals to ensure that their time is used effectively.

8.2 **LB** advised that the STS practiced continuous improvement and use value stream mapping to see where improvements can be made. They have also developed a Benefits Realisation Framework and front line staff and judicial members are involved in the drive to improve the service.

8.3 **LW** asked if the Board membership of the SCTS had been confirmed, as the Committee had raised concerns in its evidence to the Justice Committee that it was not user representative enough. **LP** confirmed that the Courts Reform (Scotland) Bill provides that the President of the Scottish Tribunals and a Chamber President who will be on the joint Board. **LP** also noted that the Lord President has given assurances that one of the lay members will have tribunals experience – requirements for lay members are not included in legislation.

8.4 **PMcF** asked whether the increase in numbers seen in MHTS were being reproduced across all of the STS jurisdictions?

Action Point 13: LB to advise the Committee on whether STS has seen increased applications across their other jurisdictions.

8.5 **MD** asked whether key performance indicators for the service would still be set by STS post-merger with the SCS? **LB** confirmed that this would remain the case.

8.6 **MD** asked whether feedback was provided by tribunals to the initial decision makers? **LB** advised that Hearing Clerks were able to provide feedback to members, and the STS organise user groups which Members attend to hear feedback. In addition, **LP** advised that tri-lateral policy meetings were in place where Tribunal Presidents meet with the relevant SG policy teams and the STS to provide feedback about operation of policy.

9. Other Committee Activity

9.1 **Consultation on Fatal Accident Enquiry legislation and Fiends of the Earth call for evidence:** **MD** advised that the Committee had been asked to contribute to a consultation of Fatal Accident Inquiry legislation and to the Friends of the Earth Access for Environmental Justice Campaign. It was decided that as neither of these areas of work had initially been identified in the workplan, that the Committee would regretfully not be able to contribute.

9.2 **Petition PE 1449 – Accountability Scotland:** **MD** advised the Committee about the petition by Accountability Scotland and their

dissatisfaction with the replacement for the Scottish Committee of the Administrative Justice and Tribunals Council, particularly noting they didn't feel there was enough user representation on the Committee. The Committee had been asked by the Justice Committee to respond to the Petition, a copy of the response prepared by MD is contained with the papers for the meeting.

9.3 **Meeting with Minister for Community Safety.** MD appraised the Committee of her positive meeting with the Minister who is encouraged by the work done to date by the Committee. Their next meeting is due before year's end.

10. Any other Business and Date of next meeting

10.1 LW invited Committee members to attend an October event the Citizens Advice Bureaux is running for the Civil Justice Council on the services they provide.

Action Point 14: LW to provide details of the October event.

10.2 LW also advised of a seminar that CAS is supporting by Pascal Pleasance and Nigel Balmour on how people address getting advice on legal problems.

Action Point 15: LW to provide details of the seminar to the Committee.

10.3 SO'N noted that the introduction of fees has seen the number of cases at Employment Tribunals in Scotland fall considerably and stated that it would be useful to remain aware of the situation.

10.4 TM also noted for information that amendments were being considered to the Immigration Act, changing all but three appeal routes to the Tribunal and introducing administrative review in others areas.

10.5 SO'N advised that the Scottish Mediation Network with Strathclyde University would be holding a seminar in September.

Action Point 16: SO'N to circulate details of the seminar.

10.6 MD has been invited to meet with Upper Tribunals Judges Douglas May and Alan Gamble. MD and TD will attend this meeting.

10.7 LW apologised that she would not be able to make the next meeting due to training commitments.

10.8 **The next meeting will be on 2 October 2014 with the venue to be arranged.**