

<b>Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC)</b>	<b>Cosla, Edinburgh</b>
<b>Minute of Meeting</b>	<b>25 February 2015</b>

**ATTENDEES:** Marieke Dwarshuis, Chair (MD)  
Professor Tom Mullen, Glasgow University (TM)  
Sarah O'Neill, Consultant (SO`N)  
Douglas Proudfoot, East Lothian Council (DP)  
Shaben Begum, Scottish Independent Advocacy Alliance (SB)  
Tom Drysdale, retired solicitor and tribunal Judge (TD)

**SECRETARIAT:** Alison Carmichael, Scottish Government (AC)  
John Wallace, Scottish Government (minute- taker) (JW)  
Alan Morrison, Scottish Government (AM)

**APOLOGIES:** Sandra Wallace, Scottish Government (SW),  
Lesley Black, STS (LB)  
Paul McFadden, Complaints Handling Authority, SPSO (PMcF)  
Lauren Wood, Citizens Advice Scotland (LW)

## 1. Welcome and apologies

1.1 **MD** welcomed everyone to the meeting.

## 2. Conflicts of interest

2.1 No conflicts of interest were declared

## 3. Minutes of meeting 16 December 2014

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

3.2 The action points from the previous meeting were reviewed. Actions to be carried forward are **Previous minutes ACTION Point 7: AC to re-send the Social Care Alliance information to the Committee.**

## 4. Meetings with Mr Wheelhouse and Lady Smith

4.1 MD updated the Committee on her meeting with Mr Wheelhouse (Minister for Community Safety and Legal Affairs) with the following areas discussed;

- **Mandatory reconsideration:** Mr Wheelhouse was very aware of this issue through his constituency business and **MD** will engage further with him regarding whether and how to approach either the DWP or MoJ.
- **Health and Social Care Integration:** Although this is out with his remit, he understands the Committee's concerns and would like to be copied into

the CAS letter to Shona Robison MSP.

- **Tribunals Act Implementation:** Mr Wheelhouse understood the Committee's concerns, but commented upon the resource constraints. MD advised that she had received a response to the letter from the Committee and she will copy it to the members. **Action Point 1: MD to copy Mr Wheelhouse's letter to the Committee**
- **The Future of the Committee** and the **Smith Commission Report** were also discussed.

4.2 **TM** updated the Committee on the meeting that he, **MD** and **TD** had with Lady Smith. Discussed were;

- **The Tribunals Act implementation timetable**
- **The Smith Commission Report** – Lady Smith advised the Committee that the Judiciary would be issuing a reply to the Command Paper.
- **The scope and progress of the User Research Project**

## 5. Updates from Committee Members (reactive work)

5.1 **Scottish Welfare Fund (SWF):** A meeting has been held between the Committee, Scottish Government officials and the Northern Ireland Commissioner. The consensus was that the meeting was informative and useful. **SB** commented that the improvement and learning from the continuous and peer review system that is used in Northern Ireland was instructive.

5.2 Dorothy Ogle from the SG has sent an update to LA practitioners offering further engagement. It was decided that **AM** would attend the next meeting on 5<sup>th</sup> March and would feed back to the Committee. The Committee will then decide on how to engage going forward. **ACTION Point 2: DP to arrange for AM to attend the SWF meeting on the 5 March.**

5.3 **Tribunals Reform:** **TD** advised that the meeting with **SW** will need to be rescheduled. **JW** advised that the Tribunals Policy Team was now fully resourced.

5.4 **Housing:** **SO'N** advised that, further to the discussion at the last meeting about the proposed new private sector tenancy, **LW** had spoken to civil servants in both justice and housing, who had given her assurances that the new tenancy will not come into effect until the new first tier housing tribunal was in place. This meant that any cases relating to the new tenancy would go straight to the tribunal and should never come under the sheriff court's jurisdiction.

5.5 **Health and Social Care Integration:** **SB** advised that the last meeting was constructive and that CAS have drafted a letter advising that practitioners will address any issues they can, but there are long-term issues

that require government input and action. Once finalised, it is likely that this letter will go either to the relevant Director or Minister. **ACTION point 3: MD will ask for the letter to be copied to relevant deputy Director in Justice, or the Minister, as appropriate.**

## 6. Update on Proactive Work

6.1 **The mapping project:** The purpose, scope and structure of the mapping exercise were discussed;

- **Purpose:** It was reiterated that the main purpose of the mapping exercise was to inform policy makers of the vast landscape of administrative justice and those bodies which provide a public service, specifically highlighting areas where there is no route of appeal.
- **Scope:** The exercise should touch upon as wide a variety of organisations as possible, to show the administrative justice landscape in Scotland. The Committee are aware that they are unlikely to be able to identify absolutely every area, however the completed map should aid in identifying any gaps.
- **Structure:** It was agreed that, within the report, a number of process maps should be included to show the complex nature of some routes to administrative justice. It was also agreed that a comprehensive list of public service organisations which make administrative decisions should be included, including the decisions they make. The map should be based around the user and their problem, rather than starting with the various bodies.

6.2 **User Research:** SO'N provided an update on the progress with the user research.

- The quantitative research to start first with a pilot (Tribunal tbc) to begin post April 15. The qualitative research is likely to follow in the autumn.
- JAS will fund the qualitative research and STS will lead on the quantitative.
- Questions for the quantitative research have been drafted and STS are looking into the practicalities of using their own staff to do the research.
- **AC** advised that JAS have offered to produce a PID for the quantitative research.

6.3 **Developing excellence in administrative justice:** MD provided an update on the progress to date.

- **MD** advised that the papers (6.2) were in draft form to show the progress to date.
- Detailed information was still required on the costs.

- **MD** suggested that when the process is being described, it should also be mapped from the user perspective as the work must reflect the user experience. Both the user and practitioner maps could then be examined.
- **MD** asked for a wide range of bodies to be covered in the research.
- The project board is due to meet again in March and the final report is on target for publication in May.
- There has been a good level of engagement with SOLACE and COSLA.

## 7. Smith Commission Proposals.

7.1 The Committee discussed the Smith Commission proposals

- It was agreed that the draft clauses relating to Tribunals lacked detail and were heavily caveated.
- The UK Government Command Paper appears to (possibly) retain tight control of the process meaning that the Tribunals could become devolved in a piecemeal fashion.
- There are concerns that there will not be a cohesive and coherent approach as each tribunal will be considered individually, possibly leading to a fragmented approach to further devolution.
- It isn't obvious that further devolution of the administration of tribunals will necessarily lead to an improvement for users
- There are also concerns relating to specialisation of tribunal members and how this could become more difficult with relatively low numbers in Scotland. There could also be a dramatic increase in case numbers which could have a knock on effect on how SCTS would cope.

7.2 It was agreed that the Committee would produce a paper on the proposals and the Command Paper. The Committee will discuss this with the Law Society for Scotland and will suggest separate responses. **ACTION**  
**Point 4: TM, TD & AM to contribute to Committees paper on the Smith Commission report and UK command paper.** This paper is to be presented to the Committee meeting on 29 April.

## 8. Future Options for an Advisory Committee

8.1 The Committee discussed future options for the Committee post November 15. It was noted that Mr Wheelhouse appeared to see the benefit of and a role for a Committee like STAJAC and paper for the Minister's consideration will be submitted before **MD's** meeting with the Minister in June.

8.2 **MD** Noted that the AJTC paper (paper 8.1) provided a good starting point for looking at the future of the Committee.

8.3 **MD** advised that her preference would be for a future Committee to be selected in a fair and open way similar to the Public Appointments process.

8.4 It was decided that the Committee members would each produce a short memo with their ideas on the future of the Committee. A draft would then be circulated at the next meeting and to key stakeholders for comment.  
**ACTION Point 5: Committee members to draft short futures document and forward to MD by March 16**

## 9. Other Committee Activity/Correspondence

9.1 SO'N attended the Launch of Framework for Public Funding of Advice in Scotland. She advised that there seems to be an attempt to take a strategic joined up approach to Advice Services in Scotland which is a positive step.

9.2 The AJF has drafted a letter regarding the Social Fund replacement in England. **ACTION Point 6: MD to forward a copy of the AJF Social fund letter to the committee**

9.3 The Committee are to meet with the Law Society for Scotland Administrative Justice Committee on 13 March. An agenda will be drafted.

## 10.AOB

10.1 No other business was discussed

## 11.Date of next meeting.

11.1 The next meeting will be on Wednesday 29 **April 2015** at **2 pm**. The meeting will be scheduled for 2.5 hours. The venue is still to be arranged.

### **ACTION Point review.**

**C/F ACTION Point 7: AC to re-send the Social Care Alliance information to the Committee.**

**ACTION Point 1: MD to copy Mr Wheelhouse's letter to the Committee**

**ACTION Point 2: DP to arrange for AM to attend the SWF meeting on the 5 March.**

**ACTION point 3: MD will ask for the letter to be copied to relevant deputy Director in Justice, or the Minister, as appropriate.**

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