

Administrative Justice Council Meeting

Friday 13th July, Freshfields

Name	Position	Organisation
Attendees		
Sir Ernest Ryder (Chair) (SPT)	Senior President of Tribunals	
Andrea Coomber (AC)	Director	JUSTICE
Maurice Sunkin (MS)	Professor of Public Law and Socio Legal studies	U.K. Administrative Justice Institute and Essex University
Paula Stevenson (PS)	Head of Devolved Tribunals	Scottish Government
Caroline Sheppard OBE (CS)	Chief Adjudicator	Traffic Penalty Tribunal
Lady Anne Smith (AS)	President of Scottish Tribunals	Scottish Tribunals
Claire Blades (CB)	Market Development Manager (Legal Services)	Citizens Advice (UK)
David Slade (DS)	Justice Policy: Constitutional Affairs and Inter-Governmental Relations	Welsh Government
Daniel Flury (DF)	Deputy Director, Tribunals	HMCTS
Michael Reed (MR)	Principal Legal Officer	Free Representation Unit
Richard Mason (RM)	Deputy Director for Administrative and Civil Justice	MoJ
Tim Gilling (TG)	Director	Centre for Public Scrutiny
Donal Galligan (DG)	Director	Ombudsman Association
Lindsey Poole (LP)	Director	Advice Services Alliance
Paula Waldron (PW)	Policy Lead, Administrative Justice	MoJ
Warren Seddon (WS)	Director of Insight and Public Affairs	Parliamentary and Health Service Ombudsman
Angela MacDonald (AM)	Director General for Customer Service, Cross-Government's Complaint Forum	HMRC
Pf. Robert Thomas (RT)	Professor of Public Law	University of Manchester
Dr. Naomi Creutzfeldt (NC)	Senior Lecturer and Academic	Westminster Law School and University of Oxford
Lucy Scott- Moncrieff (LSM)	Founding & Managing Director	Scott-Moncrieff
Karen Ashton (KA)	Head of Public Law and Community Care	Law Centres Network
Ronan Toal (RT)	Barrister	Garden Court Chambers
Dr. Natalie Byrom (NB)	Director of Research and Learning	Legal Education Foundation
Rhian Davies Rees (RDR)	Head	Welsh Tribunals
Rosemary Agnew (RA)	Scottish Public Service Ombudsman	Scottish Public Services Ombudsman

Katrin Shaw (KS)	Director of Policy, Legal and Governance	Public Service Ombudsman for Wales
Mr Justice Michael Supperstone (MS)	Judge in Charge of the Administrative Court	
Brian Thompson (BT)	Senior Lecturer in Law	Liverpool University School of Law
Jo Hickman (JH)	Director	Public Law Project
Ray Burningham (RB)	Consultant	
Iain Christie (IC)		Civil Mediation Council
Paul Yates (PY)	Head of Pro Bono	Freshfields
Mr Justice Peter Lane (PL)	President of the Immigration and Asylum Chamber of the Upper Tribunal	
Paul McFadden	Deputy Ombudsman	N. Ireland Ombudsman
Heidi Bancroft (HB)	Secretary to the AJC	JUSTICE
Stefanie Harding (SH)	Deputy Private Secretary to the SPT (observer)	
Apologies:		
Kathryn Stone OBE	Parliamentary Commissioner for Standards	Parliamentary Commissioner for Standards
Dame Hazel Genn	Professor of Socio-Legal Studies	University College London
Michael Henson-Webb	Head of Legal	MIND
Nicholas Taynton	Deputy Head of Service	Information, Advice and Support Services Network
Clare Irvine	Head of Tribunals & Judiciary Branch	Department of Justice NI
Marie Anderson	Ombudsman	Northern Irish Ombudsman
Richard Guyatt	Former Chair	Compulsory Purchase Association
Ken Butler	Welfare Benefits and Policy Advisor	Disability Rights
Sir Wyn Williams	President of Welsh Tribunals	Welsh Tribunals

1) Welcome and introductions

The SPT welcomed members to the first meeting of the Administrative Justice Council.

2) Chair's Update

The SPT gave a brief background about the Administrative Justice Council. He informed the Council that in the meeting they would be hearing about some of the work that had already been done, particularly by the Pro Bono and Academic Panel and also from some of the specialist groups such as the Ombudsman Association. It was proposed that working parties would look at specific issues, bringing back papers to the Council so they would be in a position to respond to government policy initiatives. The Government had agreed to provide funding for the Council on the basis that it was independent of government and he had agreed to Chair on that basis. JUSTICE had been willing to provide a Secretariat function.

The Secretariat had set up a Steering group, Academic Panel and Pro Bono Panel and they had all had their first meetings. The Academic Panel and Pro Bono Panel would present the priorities they had identified in their meetings.

3) Academic Panel

Naomi Creutzfeldt (NC), co-chair of the Academic Panel gave a summary of the priorities identified by the panel. The panel had met and they had focussed on setting the agenda, priorities and themes they would like to focus on. The proposals had been circulated with the papers and they would be keen to get some feedback from the Council. They had received some funding for a couple of workshops and would apply for further funding for the other key topics they had identified. They hoped to hold a few workshops with a conference at the end of the year. The panel would like to involve members in the workshops and they would be in touch with the details.

Natalie Byrom (NB), Director of Research and Learning at the Legal Education Foundation gave an update on the work they had been doing on scoping the establishment of a civil and admin justice lab in the UK to develop a better structure for the academics to gain access to data.

Maurice Sunkin (MS), gave some background on UK AJI which had been a project established at Nuffield to kick start research in administrative justice and to bring together academics, practitioners, policy making and users to identify research in this area.

Members gave some suggestions on areas of research the Academic Panel may want to look into including the gaps in ombudsman schemes, areas not currently in scope in the Public Service Ombudsman Bill and research into the cost effectiveness of early intervention.

Action – The Council to email further suggestions on potential areas of research to HB.

4) Pro Bono Panel

Paul Yates (PY) gave an introduction on the work of the Pro Bono Panel. It was made up of big city law firms who, through practice, had hands on experience through advising and challenging administrative decisions from public bodies. In their meeting, they had identified six priority areas and would be grateful for a steer from the Council on the areas they should prioritise.

- NB – the Legal Education Foundation had produced a paper on artificial intelligence in administrative decisions and the rule of law which she would be happy to share;
- LSM – any areas that would encourage getting it right first time and put additional pressure on organisations would be beneficial;
- PW – there was little work on effective remedies such as improving the hand-over in ombudsman and tribunals;
- CB – the impact of digitalisation and effectiveness in automated triage were areas that could have a positive impact for users.

Action – The Council to send additional comments on the priority areas to HB.

5) Update on the Tribunal Reform Programme

Daniel Flury, the Deputy Director of Tribunals at HMCTS gave an update on the tribunals reform programme. He informed the Council that the purpose of the programme was to make it simple, accessible, modern and affordable in a way that enhanced access to justice. There were three strands – modernising the processes applications and administration; modernising hearings; and modernising the processes around tribunals. He gave an update on recent developments:

- HMCTS had piloted a form for the Social Security and Child Support Tribunal which would be revised in line with feedback and rolled out across England and Wales;
- They had built a prototype for alternative dispute resolution which they hoped to proof next month. They hoped to have the larger system ready by late October;
- They intended to roll-out paperless hearings in smaller chambers (such as tax chambers) in the autumn;
- They would be expanding the caseworker role and embedding it in the HMCTS structure over the next year.

The SPT updated the panel on his involvement in the programme. He had just completed a road-show around the UK where he had spoken to more than 200 judges, panel members and judicial associations.

The Council asked DF some questions about the reform programme. As more information became available the Council would be updated and they could decide on what specific areas they would like to focus on.

6) Update on Welsh Tribunals

Rhian Davies Rees, head of Welsh tribunals, gave an update on tribunals in Wales:

- There were six devolved tribunals in Wales which were created by statute of UK parliament (except the Welsh language tribunal);
- They had recently created the President of Welsh Tribunals role which had brought greater consistency across tribunals;
- The tribunals which didn't fall under the Welsh remit, would be brought under one unit.

The SPT updated the Council on a recent agreement with Sir Wyn Williams (President of Welsh Tribunals) that, in accordance with the Wales Act 2017, judges may be cross deployed between the two jurisdictions.

7) Update on Tribunals in Scotland

Lady Anne Smith, the President of Scottish Tribunals, gave the Council some background on the Scottish tribunals system. She informed members that 20 years ago, the Scottish Parliament acquired the power to make laws in a wide range of areas through the devolution settlement set out in the Scotland Act 1998. However, the Scottish Parliament was not given power to legislate in some

of the major policy areas including immigration, tax, employment, social security and criminal injuries. That meant they had to quickly develop a two track system of tribunals in Scotland with the tribunals that deal with disputes arising in relation to these main policy areas continuing to be administered by Her Majesty's Courts and Tribunals Service (HMCTS) as part of a UK system and, after 2007, judicially led by the Senior President of Tribunals (the reserved tribunals). Under the devolution settlement, Scotland developed its own law in some areas and they developed the need for there to be tribunals in those areas. Those tribunals were supported directly by Scottish government.

AS informed the Council that following a 2008 report, it was recognised that Scotland needed to establish a tribunal system that was cohesive and independent of government. The recommendations of the report were accepted and there was legislation in 2014 to set up a new tribunal structure in Scotland: the Tribunals (Scotland) Act 2014. AS gave an update on where they were with the transferral of tribunals in Scotland. It included a project that had been underway to transfer the reserved tribunals into Scottish judicial leadership and administration whilst leaving the underlying substantive law reserved to Scottish parliament.

AS informed the panel about a new building for tribunals in Glasgow which was co-hosted by HMCTS and SCTS (Scottish Courts and Tribunals Service) which amongst other things, included a very good vulnerable witnesses area. They had also secured funding for a new courts and tribunal building in Inverness.

Action – Members to email questions or comments on tribunals in the devolved administrations to HB.

8) Ombudsman

a) Update on Ombudsman landscape

Donal Galligan, the Director of the Ombudsman Association, gave an update on the ombudsman landscape. He informed the Council that ombudsman reform was making progress across the UK apart from in Westminster, where it was currently not a priority for the government. In Scotland, Northern Ireland and Wales, there was a clear move towards ombudsman having their own complaints standard authority role, having their own initiative powers and having a holistic jurisdiction. In Northern Ireland they had been expanding their jurisdiction to bring schools under the ombudsman scheme. In the ombudsman landscape, the devolved administrations had been successful and England should be taking the same approach.

RA pointed out that it was important to look at uniformity across the UK but they also needed to look beyond the UK as it was out of step with the way ombudsman were developing in Europe and internationally, where there was a lot more focus on initiatives in wider systemic failures.

b) Caseworker Competency Framework

DG updated the Council on the Ombudsman Association's Caseworker Competency Framework. The framework flowed from the Service Standards Framework and set out commitments on what could be expected from caseworkers. It was developed through consultation and a working group. He informed the Council that whilst in continental Europe caseworkers were normally legally qualified,

they weren't in the UK (where there was deliberately a lay approach) and this was sometimes a criticism and an area the framework hoped to address. He covered some of the areas in the framework including the differing levels of competencies.

DG updated the Council on the two stages of the framework. The first had been a mapping exercise and the second was a working group with a cross-section of their members. There was a six week consultation on the document which had recently closed including two workshops and a conference. The responses would be considered at the end of July and they would have a final document by September.

c) Ombudsman and Tribunals' Familiarisation Programme

DG suggested a familiarisation programme between ombudsman and tribunals. It would have the following benefits:

- Shared understanding and cross reference (senior and caseworker level). Understanding different routes and better awareness of jurisdictions;
- Sharing best practice;
- Greater familiarisation through shadowing, seminars, sitting in on cases and a sharing of identity (to have a collective administrative justice system).

The SPT agreed that this would be an area that the Council should welcome and be engaged in. This initiative could create improved understanding and that it would lead to a piece of work to develop a protocol for cross-referrals and exchange of casework. He invited DG to put together a skeleton on how the programme could work through JUSTICE.

Action – DG to work with members and JUSTICE to develop a skeleton programme.

9) Priorities for the Council/Business Plan

The SPT drew the Council's attention to the draft Terms of Reference (TOR), which had been agreed by the Steering Group. The Steering Group needed to have the Council's acceptance that it was moving in the right direction. He informed the Council that the meeting was the opportunity to flag up any concerns about the content of the TOR or business plan or they could send their comments to HB. They would develop a final product to present to the Council at the next meeting.

Action: a) Comments to be sent to HB on the TOR and business plan; b) HB to produce final draft in line with comments.

10) Resources

The SPT gave the Council an update on resources for the AJC including staffing, venues, travel expenses and the website.

Steering Group – the SPT informed the Council that they needed to nominate two further positions for the Steering Group. He recommended that one of the representatives was from a user group. It was also agreed that in addition to the two members, there should be a representative from the Pro Bono Panel. Members could nominate themselves or another member.

Action – The SPT asked for nominations to be sent to HB.

11) AOB

There was no other business.

12) Day of next of meeting

The SPT informed the Council that the next meeting would take place on 25th January.

Heidi Bancroft
Secretary to the AJC