JUDICIAL COLLEGE

TRIBUNALS
TRIBUNALS
EDITION 1 — 2020
TRIBUNALS

Editorial 2020 Edition 1

EDITORIAL

By Christa Christensen

It gives me great pleasure to welcome you to this first edition of 2020 and to introduce you to a wide variety of fascinating articles in this Edition. This variety is the life blood of the Journal and a tribute to the Editorial Board; I am very grateful to each member of the Board for the wisdom and thoughts that they bring to the creation of each edition.

The Additional Support Needs jurisdiction of the Health and Education Chamber of the First-tier Tribunal for Scotland gives the context for a fascinating article by May Dunsmuir, Chamber President. May describes how since January 2018 children between the age of 12 and 15 can make a reference relating to educational support decisions by education authorities in Scotland. The majority of such children have autism with debilitating sensory sensitivities. By working with children and understanding their needs, May has been instrumental in creating changes to the physical environment in tribunals to ensure that such children do not experience the barriers of sensory overload. The article sets out how this has been achieved to date on many practical levels. This innovative project has recently been the topic of a Law in Action programme (Supporting Evidence) by Joshua Rozenberg on Radio 4. It includes an interview with May Dunsmuir.

HHJ Andrew Hatton, Director of Training for Courts at the Judicial College, writes of the ground-breaking Pre-Application Judicial Education Programme (PAJE). This is a joint project between the judiciary, Judicial Office, Judicial College, Ministry of Justice, Bar Council, Law Society & Chartered Institute of Legal Executives. Its aim is to demystify both the application process and the role of judge to encourage candidates from under-represented groups to become interested in entering the judiciary. Andrew describes how the joint working created a series of videos, podcasts and workshops that commenced in the autumn of 2019. This is a topic that the Journal will wish to revisit once the PAJE programme has matured.

Staying with the theme of expanding routes into the judiciary, Judge John Aitken, President of the Social Entitlement Chamber, writes of the exciting career opportunities arising for Tribunal Case Workers and Registrars. John also reminds us that tribunals are already leading the way in improving judicial diversity.

The Journal is always keen to publish articles that highlight innovative ways of using digitalisation and technology platforms to resolve disputes. Steve Harriott (Chief Executive Officer) and Michael Hill (Executive Assistant) of the Dispute Service describe a scheme operating under the Housing Act 2004 relating to security deposits taken under an Assured Shorthold Tenancy. The article explains how the Dispute Service handles the adjudication of disputes through a digital process when landlords and tenants are unable to reach an agreement over the distribution of the deposit at the end of the tenancy. Readers can see some practical examples of how this works.

CONTENTS

Continued...

Upper Tribunal Judge Paula Gray contributes her regular ETBB Corner. Paula provides a reminder of the breadth of topics addressed in the ETBB and how helpful this can be to all judges whose life experiences may not be reflective of those appearing in their courts and tribunals. The ETBB can assist in ensuring that judges do not unwittingly ascribe their own experiences to the way other people have acted. Paula also writes of her experience of participating in the Lord Chief Justice's diversity and communication strategy amongst school students. Readers can learn of the second live 'Question Time' for school students that took place in December 2019.

A popular theme for the Journal is to expand our readers' understanding of the wide variety of tribunals and how they operate.

A popular theme for the Journal is to expand our readers' understanding of the wide variety of tribunals and how they operate. I am therefore delighted to publish a piece by Cindy Carroll, Deputy Chairperson of the International Protection Appeals Tribunal (IPAT) based in Dublin. The IPAT was established in accordance with the International Protection Act 2015 under which it operates a statutory quasi-judicial function. Its functions include the determination of appeals of persons in respect of whom an international protection officer has recommended that they should not be given a refugee declaration and should be given a subsidiary protection declaration. Cindy writes of the history of asylum appeal, the functions of IPAT, its structures and how its members are recruited and trained.

The Change Network meeting convened in November 2019 by Sir Ernest Ryder, the Senior President of Tribunals, is the topic of his contribution in this edition of the Tribunals Journal. Ernest details the important work being done across many different stakeholders in the tribunal sector on topics ranging from communications, engagements and training in preparation for Reform implementation.

Christa Christensen is Chair of the Editorial Board Back to contents

Pre-Application Judicial Education (PAJE)

A NEW PROGRAMME TO BOOST JUDICIAL DIVERSITY By Andrew Hatton

Recent Judicial Diversity statistics revealed that 32% of court judges and 46% of tribunal judges were women and that 7% of court judges and 11% of tribunal judges were from a black, Asian or minority ethnic background (BAME). The Pre-Application Judicial Education (PAJE) programme, launched in April 2019, is a government-funded scheme aimed at encouraging greater judicial diversity to better reflect the society it serves. The programme seeks to support talented lawyers from under-represented groups to feel more equipped, confident and prepared when considering applying for a future judicial role in courts, tribunals or as coroners.

The PAJE programme is the first joint initiative of the Judicial Diversity Forum (JDF), a body made up of the Judiciary, the Ministry of Justice (including the Judicial Office and the Judicial College), the Judicial Appointments Commission (JAC), The Bar Council, The Law Society of England and Wales and the Chartered Institute of Legal Executives. The JDF is committed to delivering actions that attract applicants for judicial roles from all backgrounds in order to achieve a more diverse judiciary.

The PAJE programme was over two years in the planning and involved significant input from the Judicial College. The aims and objectives of the programme included:

- demystifying the role of the judge
- demystifying the application process
- allowing people to better self-assess their suitability for a judicial role
- encouraging candidates from under-represented groups to be more aware of the application process, of the work involved in being a judge and of the multiplicity of judicial roles.

The programme was designed to offer participants the opportunity to develop their understanding of the role and skills required of a judge, through a series of digital resources. The preparation of those resources was a task assigned to the College. The aims and objectives above informed the content of the digital material prepared by the College.

In December 2018 four extremely enthusiastic judges joined your author and Ellis Jones, the College's Digital Training Team Manager (who is also a Justice of the Peace), to take part in two days of filming in a hearing room at the Birmingham Employment Tribunal kindly loaned for the purpose. The exercise was scripted in part but had a significant element of extemporary development. The judges who were filmed were DJ(MC) Tan Ikram (Deputy Chief Magistrate), District Tribunal Judge Julia O'Hara, Senior Coroner Kally Cheema and Kate Brunner QC, a Recorder and fee-paid Upper Tribunal Judge.

The result was ten short engaging online videos involving the judges talking about their work and about the Judiciary.

The result was ten short, engaging online videos involving the judges talking about their work and about the Judiciary. The videos cover a number of topics such as general judgecraft, decision-making, judgment writing, judicial ethics, unconscious bias, resilience, equality and diversity, authority and communication, and dealing with litigants in person. All of the films are intended to give the viewer an insight into some of the issues faced by judges. The digital material was later expanded by the addition of four podcasts addressing the appointment process, judicial conduct, judicial roles and the structure of the judiciary, and the rule of law and separation of powers. The films and podcasts are available to everyone to view on an unlimited basis on the UK Judiciary YouTube page. Most of the films have had well in excess of 1,000 viewings since they were made available at the end of April 2019. The viewing of the videos is a pre-requisite for the next stage of the process. There are, of course, many other useful and instructive resources available on the Courts and Tribunal Judiciary website, which potential workshop delegates are also encouraged to view and read.

Shortly after April 2019, PAJE welcomed applications for places on a series of judge-led workshop courses, which started in September 2019. Significantly more people applied than places were available in the first round of workshop courses. As the PAJE programme is focussed on providing additional targeted support to those who are eligible for judicial appointments from the following underrepresented groups – all BAME lawyers, all women lawyers, all lawyers with disabilities and/or solicitors and chartered legal executives (both with a litigation and non-litigation background) and those from a non-litigation background including academic and non-practising barristers – applications to join the workshop courses from individuals coming within those groups were prioritised. A sifting process was developed by the JDF, to further select the delegates to the appropriate number, based on the answers given to a series of questions relating to the digital materials and what individual delegates hoped to achieve from the workshops.

Participation in the workshop courses is intended to enable lawyers to further explore the realities of being a judge as well as any perceptions (or misperceptions) they may have on barriers to a judicial career. The workshops are not intended to provide coaching on how to approach a JAC selection exercise, but they do seek to explain the types of skills and experience needed and enable delegates to think about how those skills may be demonstrated in order to meet the JAC competency framework.

Each workshop course consists of four sessions, each session lasting for two hours, on a fortnightly basis. They all take place in the evening, beginning at 17:30 or 18:00. Participants sign up for an entire course of four workshops and are expected to attend all four in order to complete the course. A certificate is awarded at the conclusion of a four-workshop course.

The first workshop courses were held in the autumn of 2019 in London (two different workshop courses), Manchester and Bedford. Further workshop courses are being run in the first three months of 2020 in London (two different workshop courses), Cardiff and Leeds. All of those are fully subscribed. Further workshops are planned throughout 2020.

The workshops are led by judges specifically trained in facilitation skills. Even those judges with experience of facilitating small groups have attended a training day delivered by Michelle Austin, one of the College Educational Development Advisers, and your author in order that they may better understand the PAJE process. Those facilitators were chosen following an expressions of interest competition. A further such competition concluded in late 2019; it is likely that even more facilitators will be needed later in 2020. Each of the workshops is administered and helpfully supported by representatives from the three professional bodies. The venues are also supplied or arranged by the professional bodies.

As pre-reading before the workshops begin, delegates are encouraged to make themselves familiar with the Equal Treatment Bench Book (ETBB), the Bangalore Principles of Judicial Conduct and the Guide to Judicial Conduct. All of those publications are regularly referred to during the workshops.

Both workshop one and workshop two are dedicated to 'Judgecraft': Workshop one concentrates on exercising authority, decision making and communicating decisions in writing and orally; workshop two concentrates on recusal, avoiding the appearance of bias and handling difficult situations in the courtroom or tribunal room. Workshop three is dedicated to both judicial ethics and dealing with unfamiliar areas of law. Each of those three workshops is based around the exploration of a series of scenarios. The delegates are presented with the scenarios relevant to

each workshop on the evening in order to prevent over-preparation but also to encourage spontaneous thought and open discussion amongst the delegates. Time is allowed at the end of each workshop for a question and answer session. The first part of workshop four is dedicated to exploring equality and diversity involving, for example, discussions on aspects of the ETBB dealing with the need for reasonable adjustments and the judicial role in meeting those reasonable adjustments, and also involving discussion of the current measures available to encourage diversity in the judiciary, such as work shadowing schemes. The second part of workshop four involves an examination and discussion of the JAC competency frameworks.

...evaluation provided by delegates has been incredibly positive about the PAJE programme, the workshops, the materials and the issues discussed...

All of the workshops involve a mixture of small group analysis of scenarios or issues and then a wider, plenary discussion with the precise method being very much dependent on the group and the views of the facilitators. Each workshop has approximately twenty delegates. Ideally there are two facilitators present at each workshop.

The evaluation provided by delegates from each workshop has been incredibly positive about the PAJE programme itself, about the materials used and the issues discussed at the workshops and also about the quality of the facilitation. Almost every delegate has stuck with the course and attended each of the four workshops they were scheduled to attend.

When the programme was launched, the Lord Chief Justice said:

> "This programme is an important part of the support offered to talented and diverse lawyers with judicial aspirations…Promoting diversity and appointing on the basis of merit are mutually reinforcing because the wider the pool the greater the availability of talent, the greater the competition for places and the greater the quality of appointments."

It is hoped that the digital materials and the workshop will, at the very least, help lawyers from under-represented groups who are interested in becoming a judge to prepare for the process and to feel more confident about applying.

HHJ Andrew Hatton is Director of Training for Courts at the Judicial College

Back to contents

Exciting Career Opportunities

FOR TRIBUNAL CASEWORKERS AND REGISTRARS

By John Aitken

When the first thought for this article was conceived the process of qualifying as a solicitor in England and Wales was very much the same as it was for all the solicitors reading this. The qualifying landscape is about to change raising new and interesting opportunities for Registrars and Tribunal Caseworkers (TCWs). The Solicitors Regulation Authority (SRA) will be introducing a new, independent centralised assessment for all would-be solicitors, the Solicitors Qualifying Examination (SQE) which will fundamentally change the process of qualification as a solicitor.

The SRA states that the SQE is a single, national licensing examination that all prospective solicitors will take before qualifying from autumn 2021 and to qualify a person will need:

- a degree in any subject (or equivalent qualification or work experience),
- to pass both stages of the SQE assessment – SQE 1 focuses on legal knowledge and SQE 2 on practical legal skills,
- to have two years' qualifying work experience,
- to pass the SRA character and suitability requirements.

The question now raised for me, as the Chamber President of a jurisdiction that has benefitted positively and considerably from the involvement of TCWs and Registrars, is could the work undertaken by a TCW be qualifying work experience and is it possible for all trainee legal advisers, who wish, to include Tribunal work as part of their qualifying work experience?

My answer to both questions is a resounding yes. If Tribunals do not embrace this opportunity, we will be missing out on the advantages of being involved in the training of future solicitors whether or not on qualification they decide to pursue a judicial career and we will miss the chance to expand judicial diversity.

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I would like to share the stories of two exceptional women in SSCS which I hope will explain my enthusiasm for the nurturing and encouragement of Registrars and TCWs.

Recent statistics show that 11% of tribunal judges are BAME (compared to 15% of the general population) and only 46% of tribunal judges are women (Judicial Diversity Statistics, 2019). The tribunals are already leading the way in improving judicial diversity. According to Judicial Diversity Statistics, 2019, 63% of tribunal judges were from a non-barrister background compared with 33% of court judges.

Leanne Lees was appointed as a TCW in SSCS in 2017 and she qualified as a solicitor in September 2019. Esther Kibwana has just been appointed as a District Tribunal Judge in SEC having not previously held a fee-paid judicial post. Their stories are inspirational and written in their own words.

Leanne Lees

“I have worked for HMCTS since December 2007. I began as an Assistant to the Regional Director’s Personal Assistant (I know, it’s hard to imagine such a role existing now). Last September I qualified as a solicitor, I am now a Family Legal Adviser and a Registrar in the Social Security and Child Support Tribunal (Social Entitlement Chamber). I can’t recall what sparked my initial curiosity in the law, but I always thought that I would enjoy a legal career. However, when, at school, I expressed an interest in becoming a lawyer, it was suggested that I may wish to consider being a secretary instead. The seed of doubt was planted, and as a result I did not pursue my legal career. Although I’m sure the comment was made with good intention, it set me back years. I attended University to study Events Management, which was great but was more of a hobby that I enjoyed doing on a weekend.

In 2007 the Courts Service still offered opportunities for legal scholarships. I was thrilled to be accepted for a scholarship as without it there is no way I would have been able to go back to University. I completed a Post Graduate Diploma in Law and the Legal Practice Course part-time in the evenings while continuing to work full time.

...when, at school, I expressed an interest in becoming a lawyer, it was suggested that I may wish to consider being a secretary instead.

Unfortunately, by the time I completed the Legal Practice Course (LPC) I was informed that HMCTS was no longer recruiting Trainee Legal Advisers. This was the only post that would allow me an opportunity to complete my professional training and qualify with HMCTS. In any event, by the time I finished the LPC I was expecting my daughter and it was not the end of the world to stay where I was. During this time, I was working as a Communications Manager, and when I returned from maternity leave I continued in this role. This role was based at Petty France in London. I generally travelled to London a few days a week, worked from home and hot-desked in Leeds the rest of the time. On return from maternity leave I had been given a desk in York House in Leeds and this is when I first became aware of the Social Security and Child Support (SSCS) Tribunal.

When the Tribunal Caseworker role was advertised I knew it was a role I would greatly enjoy. It sounded like an amazing opportunity to gain some legal experience that would help me qualify in the future. I did not get the post, but the person who did decided not to accept it and I was next on the list. I am delighted that the role was not for them as it is not an exaggeration to say that it has changed my life.

While working as a Tribunal Caseworker, I was incredibly supported by the judiciary and my confidence soared. After much discussion it was agreed that I could complete a period of recognised training with HMCTS. I was allocated a Training Principal who notified the Solicitors Regulatory Authority of my period of recognised training, which included training in SSCS, the Family Court and the Magistrates' Court. I believe this was the first time that Tribunal work has been recognised in this way. There is now another Trainee Legal Adviser also completing a training seat in SSCS.

I was admitted to the roll of solicitors on 16 September 2019 and soon after I submitted a portfolio to become a Legal Adviser. This was not an easy process as the route I had followed was a new one. After a bit of to-ing and fro-ing my portfolio was approved. I also received a letter of authorisation from the Chamber President, Judge Aitken, to confirm that I had been authorised to exercise the functions within the Practice Statement 'Delegation of Functions First-tier Tribunal (Social Entitlement Chamber)' with effect from 16 September 2019. Although it has pretty much taken ten years to qualify, and there have been many obstacles along the way, I am grateful for the support and opportunities HMCTS has given me. I hope that others in the organisation will have the same opportunities in the future as without support their aspirations and potential may never be realised. HMCTS has introduced legal apprenticeships, which are providing some new opportunities to gain legal qualifications.

As for the future - my next goal is a fee-paid judicial position. As I have only qualified within the last six months, I have a bit of a wait until I am eligible to apply, but in the meantime I'll be making the most of any opportunities that come my way to continue to learn and develop. After all, it turns out the only person who can place a limit on your dreams is yourself."

Esther Kibwana

"I was born and raised in Nairobi, Kenya. I did not always want to do law, but I knew very early on that I wanted to have a career and be independent. My best friend's mother was a very successful lawyer and a single mother of 4. There is no one I admired more as a young impressionable teenager! I knew I wanted her independence and I thought that being a lawyer would give me that.

I came to Sheffield University with the expectation that I would return to Kenya and work at a local law firm. I defied expectation and decided to complete the Legal Practice Course. I went to see the careers' adviser at the University who mentioned that there were vacancies at the local Magistrates' Court. Like most law graduates I desperately needed a job and preferably one that offered a training contract. I applied and was successful and there began my career in the legal profession. I was admitted to the roll of solicitors two years later.

Six years later, I was looking for development opportunities and the amalgamation of Court Services into Her Majesty's Courts Service, which later became Her Majesty's Courts and Tribunal Services (HMCTS), provided opportunities to work in other government departments. The Courts were upgrading IT systems and I pursued secondment opportunities within two different projects; one as a subject matter expert and the other as a deployment manager, both based at the head office in London. I learnt a great deal from both opportunities, but I also discovered that I was not averse to venturing into completely new fields.

So, when I saw an advert in 2011 for a pilot in the Social Entitlement Chamber for Registrars to work in the Social Security and Child Support (SSCS) jurisdiction, I jumped at the opportunity. I was one of two Registrars appointed and needless to say it was a steep learning curve not least because it was a completely new jurisdiction and I had little knowledge of social security legislation.

The role involved dealing with case management of appeals under powers delegated by the Chamber President with oversight from the Regional Tribunal Judge (RTJ). There was naturally some scepticism about the role and our capability, bearing in mind that case management had until then been conducted entirely by Tribunal Judges, salaried and fee-paid. At that time in the NE Region there was a significant backlog of over 3000 appeals waiting for case management. By the end of 2012 the backlog had been cleared.

I took maternity leave soon after starting the Registrar role and returned 12 months later to find a very energetic new RTJ. She was keen to progress the Registrar role, and I suggested that extending our delegated powers would enable us to deal with more substantial case management work. She could see not only our abilities in the work we produced, but also the potential. She approached the Chamber President who agreed to extend our powers.

At the time, I was attending the Magistrates' Court as a Legal Adviser one week and would sit as a Registrar in the

alternating week. That was then reduced to attending two days every alternate week and eventually to one day a week when resources within the Magistrates' Court permitted it. I'm probably pointing out the obvious when I say that maintaining competence in a jurisdiction whilst attending only once every week is near impossible. As a result, I decided to pursue a further secondment to the SSCS Reform programme which allowed me to have involvement in shaping the modernisation of SSCS.

My experience is that the Registrar role has had the full commitment of the judiciary. I received immeasurable support and guidance. The RTJ considered Registrars part and parcel of the judiciary which is testament to the success of the initiative in the NE Region. However, the judiciary has had to be creative in providing training to Registrars. Unlike other HMCTS lawyers, Registrar training is still not funded by HMCTS or the Judicial College. The judiciary write and deliver the training in their own time. The way in which training is delivered also varies between regions, and the success of the Registrar initiative has been limited in many regions, primarily owing to a lack of provision of Registrar resources on a regular basis to tribunals. The Registrar role has received firm backing by HMCTS in the NE Region, and when I was promoted to the role of Legal Team Manager at the Magistrates' Court, I was surprised but delighted to receive support to continue the Registrar role.

The role also provides a mechanism for increasing judicial diversity as Registrars tend to be from diverse backgrounds.

It is worth noting that five Registrars in the NE Region have been successful in acquiring judicial posts. Looking to the future, it is important that the Registrar role is recognised as a viable development and career opportunity for HMCTS lawyers and that it receives the funding, training and resource it deserves. The role also provides a mechanism for increasing judicial diversity as Registrars tend to be from diverse backgrounds.

Having recently been appointed as a Salaried Tribunal Judge, I look forward to the next chapter in my career with excitement. I hope that my path inspires others to pursue a judicial career and I hope I can give the same support and guidance as I have received."

Finally...

It has been an honour and privilege to know that Tribunal work has contributed in some way to promoting and assisting the careers of these two able, competent and determined women. We must not miss the chance of expanding the diversity of the judiciary which we may do if we fail to recognise the value of TCWs and Registrars and work towards promoting their careers by including Tribunal work in their training.

John Aitken is President of the Social Entitlement Chamber Back to contents

Question Time

INCREASING AWARENESS OF THE JUDICIARY IN SCHOOLS By Paula Gray

This year the Lord Chief Justice has had at the heart of his diversity and communications strategy increasing knowledge about, and awareness of the judiciary amongst school students. He, as well as the Courts and Tribunal Judges who form the cadre of Diversity and Community Relations Judges, have been visiting schools to speak to the pupils about judges and what they do, both as part of their civic education and in the hope that some, perhaps from less traditionally legal backgrounds, may consider law as a career.

As part of that strategy I participated in the second live "Question Time" for school students which took place on 16 December. Children from twelve secondary schools in London and Essex came to the Royal Courts of Justice, and were first given a tour of the building including the Judicial Robes Exhibition. They then were seated in court 4, the Lord Chief's Court, where the "Question Time" Panel joined them on the Bench. We were an all-female panel after a male District Judge had to withdraw. Lady Justice Simler chaired the panel, which comprised HHJ Barbara Mensah,

HHJ Sarah Venn and myself. The President of the QBD, Lady Justice Sharpe, happened to be in the vicinity and opened the event, making a fifth female judge. There is a live recording on both the Courts and Tribunals Judiciary website and YouTube, which is worth watching not only to hear Ingrid Simler explain to the 14 and 15-year-old pupils that not all judges are women (!) but also the thoughtful and perceptive questions which were put to us. I make no similar observation about my responses!

There is a live recording on both the Courts and Tribunals Judiciary website and YouTube, which is worth watching not only to hear Ingrid Simler explain to the 14 and 15-year-old pupils that not all judges are women (!)...

The students asked probing questions about our personal journeys to the Bench, about the most interesting cases we had heard, the most difficult parts of our job and other questions which we simply could not answer, because their interest value lay in the fact that they were political questions; this gave us the opportunity to explain about the importance of judicial independence from the legislature and the executive. Afterwards the pupils were given a sandwich lunch in the Great Hall, where we were happy to join them and converse more personally.

The event was extremely well received by the students, many of whom expressed their intentions of looking into law as a career, which was gratifying. A number of their teachers were keen to explain to us the all-round value of such a day for these pupils; the outing to such a historic and important institution, the willingness of the judges to speak personally and frankly to them about the possibilities as well as the difficulties of a legal career, and how this experience might frame further discussions and classes.

We are hopeful that the initiative will be rolled out further, to encompass Courts outside London, where the local judges will no doubt be as challenged and delighted as we were by another group of charming, bright, and sassy teenagers.

Paula Gray is an Upper Tribunal Judge (Administrative Appeals) Back to contents

The digitisation of ADR

TENANCY DEPOSIT PROTECTION

By Steve Harriott and Michael Hill

Tenancy Deposit Protection

Under the Housing Act 2004, all security deposits taken under an Assured Shorthold Tenancy must be protected with one of the three government authorised Tenancy Deposit Protection (TDP) providers[1].

Two types of protection are available for security deposits:

- an Insurance backed scheme which requires the agent/landlord as the deposit holder to pay the scheme provider a small fee to register the deposit whilst allowing the agent/landlord to hold the deposit for the duration of the tenancy
- a Custodial scheme which is free to use but requires the agent/landlord to transfer the deposit to the scheme to hold for the duration of the tenancy.

The TDP providers operate using the fees paid by landlord/agent members under the Insured scheme, or the interest earned on deposit monies held in the Custodial model.

As well as enabling agents and landlords to meet their legal obligations and protect tenancy deposits, the legislation dictates that TDP schemes must offer free dispute resolution for those landlords and tenants who are unable to reach an agreement over the distribution of the deposit at the end of the tenancy.

This article describes how one of the scheme providers, The Dispute Service, handles its adjudications.

[1] These are Tenancy Deposit Scheme (TDS), Deposit Protection Service (DPS) and MyDeposits.

Adjudicating disputes – the digital process

The Tenancy Deposit Scheme (TDS) is a not-for-profit organisation which provides tenancy deposit protection to letting agents and landlords in England and Wales. TDS adjudicates on about 17,000 disputes per year and receives over 100 applications a day at the busiest times of the year.

TDS is subject to strict Key Performance Indicators which govern how long it has to publish adjudication decisions and pay the parties. The latest six-month figures from the Ministry of Housing, Communities and Local Government show TDS resolved disputes in an average of eight calendar days from the day the adjudicator receives the final papers[2].The digitisation of TDS' ADR service with streamlined processes and an online evidence portal has contributed to TDS' ability to resolve disputes effectively and efficiently for the parties. Either party can raise a dispute with TDS and both parties agree the decision is legally-binding at the outset.

The digitisation of TDS' ADR service with streamlined processes and an online evidence portal has contributed to TDS' ability to resolve disputes effectively and efficiently for the parties.

The process of raising a dispute involves five steps.

1. The burden of proof for any deposit deduction rests with the agent/landlord and therefore they must submit their claim to TDS before the tenant can respond. If the tenant raises the dispute with TDS, the agent/landlord is emailed and invited to respond to the dispute submitting their claims and supporting evidence. The agent/landlord can submit claims under set headings; cleaning, damage, redecoration, gardening, rent arrears and other. Documentary evidence can be uploaded directly to our online portal. Typical types of evidence include a tenancy agreement, check-in, check-out report, photographs and bank statements. The tenant will then be able to view the evidence online and respond to the claim. TDS is the only one of the three deposit schemes that also allows the agent/landlord to raise a dispute. If the agent/landlord raises the claim, they will submit all of their evidence at this stage before the tenant is invited to respond.
2. Each party is given 14 days to upload details of their case and their evidence. Extensions to the 14-day deadline are at TDS' discretion and the portal can be opened or closed for response to be submitted by the Dispute Resolution Executive (DRE).
3. When the period for evidence collection has expired, the case is forwarded to a DRE who ensures both parties have responded correctly, and all of the evidence has been successfully uploaded. The DRE also ensures TDS has the correct contact details for both parties. The DRE reviews the reasons for the dispute to determine whether they can assist the parties in resolving the dispute before it is sent to an adjudicator. Around 46% of cases are resolved without being passed to an adjudicator.
4. Where the case is sent to an adjudicator, he/she will usually complete the decision in 28 calendar days. The adjudicator can download or view all of the evidence online and is also able to publish the written report on line to all parties as soon as the decision has been made.
5. Post-adjudication, the case is passed back to the DRE who arranges for payments to the parties to be made via BACS to the bank accounts for which they have provided details.

...the TDS' online evidence portal enables the parties to submit their evidence easily [...] It is self-managed meaning the parties are ultimately responsible for uploading the correct evidence...

Benefits of digitisation

Efficiency

The digitisation of TDS' dispute resolution process has allowed the organisation to deal with large numbers of disputes quickly and fairly offering the parties faster resolutions to their disputes, and subsequently, faster repayment of the monies they are owed. Until November 2013, TDS had dealt with all deposit disputes by requiring parties to submit physical bundles of paper evidence. The office was filled with boxes of paper which related to disputes and all of these had to be scanned or sent to the remote-working adjudicators for a decision to be made. Not only was this slower, there was also a higher risk of loss of evidence or personal information and room for mistakes to be made.

Ease of access

By structuring the evidence that is required – including photographic evidence – to ensure all of their evidence is

[2] MyDeposits resolved cases in an average of 22 days in the same period and DPS resolved them in 27 calendar days.

uploaded for the adjudicator to view. It is self-managed meaning the parties are ultimately responsible for uploading the correct evidence, rather than TDS doing it for them and being liable if a document is not uploaded. The system is straightforward to use meaning most users are able to complete the process themselves. If a customer contacts TDS with difficulties in using the online portal, one of our operations team contacts them to help guide them through the process or upload their evidence for them and confirm it has all been uploaded.

All of the evidence and documents are stored on our online evidence portal and can therefore be accessed by both parties, the DRE and the adjudicator at the click of a button.

Fairness

The digitisation process means the DRE, the adjudicator and the parties can all view the evidence at the same time without any difficulty. It is transparent meaning both parties can view all of the evidence submitted and are aware of exactly what documents the adjudicator is relying upon to make their decision.

Administration

TDS' online system allocates a reference number to each dispute and tracks the number of days it has been in each stage to ensure it is dealt with within the required KPIs. There are a number of stages on the disputes database and each dispute will automatically change stages dependant on the number of days they have been in their current stage. This is to assist with the DRE and ensure that cases are dealt with in a timely manner. For example, after 14 days in 'awaiting tenant evidence', the case will automatically drop into 'awaiting pre-adjudication review'. The system therefore recognises the tenant has had their 14 days to respond and the case is now ready for a DRE to review.

All of the evidence and documents are stored on our online evidence portal and can therefore be accessed by both parties, the DRE and the adjudicator at the click of a button.

Cost savings

Another benefit is the cost saving made by the digitalisation of ADR. A free online portal allows parties to submit evidence without having to incur the costs or printing and posting evidence. Similarly, TDS are able to access the evidence and pass a case to an adjudicator without having to print evidence and post it. When dealing with circa 17,000 cases per year, this would be a costly process.

Another cost saving comes from the time saved in being able to access the disputes immediately when evidence is submitted. Our Dispute Resolution team are able to deal with more cases and work more efficiently, allowing us to provide a quicker service.

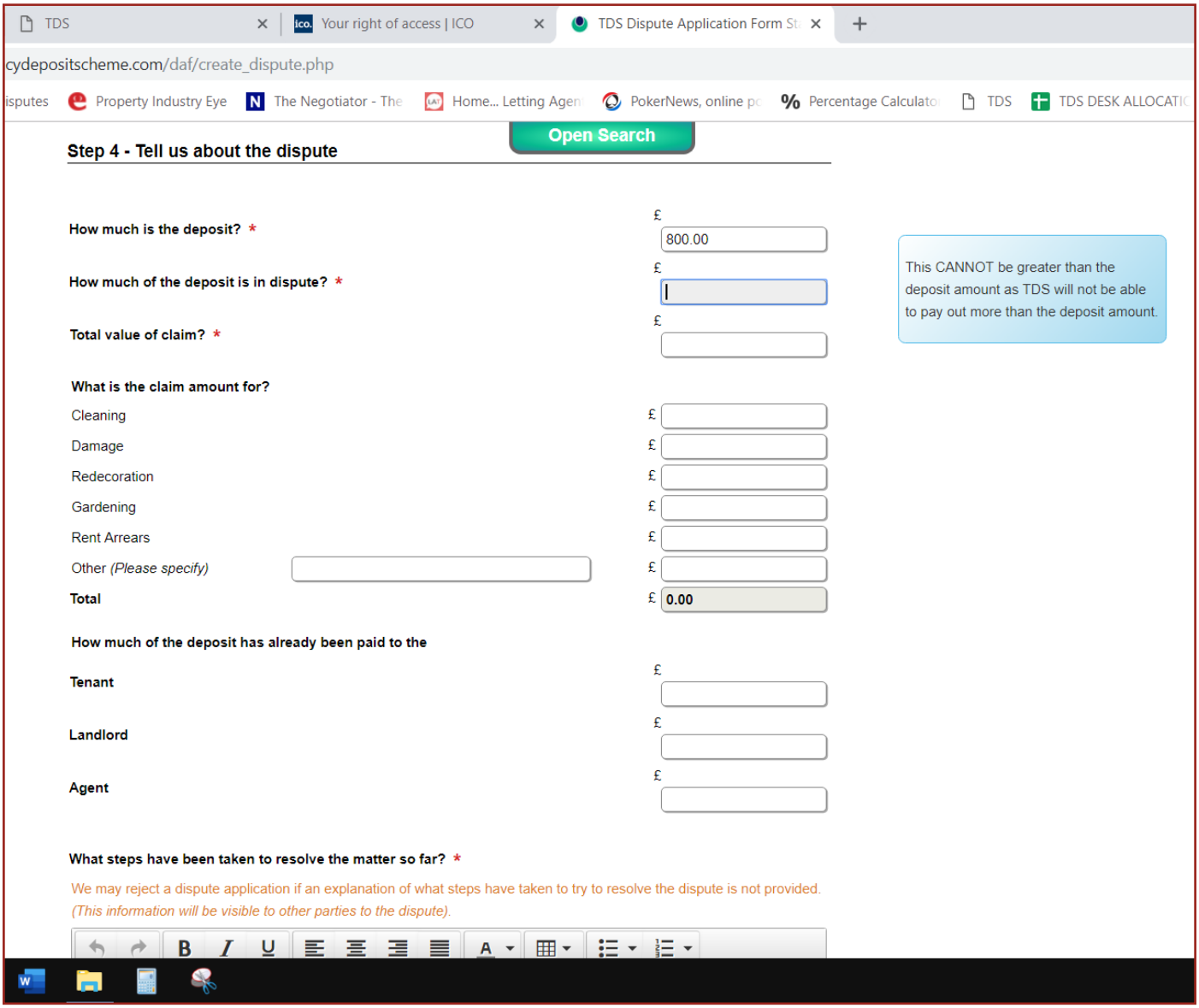
Conclusion

The digitalisation of the ADR system has not only improved the speed and ease of resolving disputes, it has also streamlined the process making it easier for DREs and colleagues to handle the disputes.

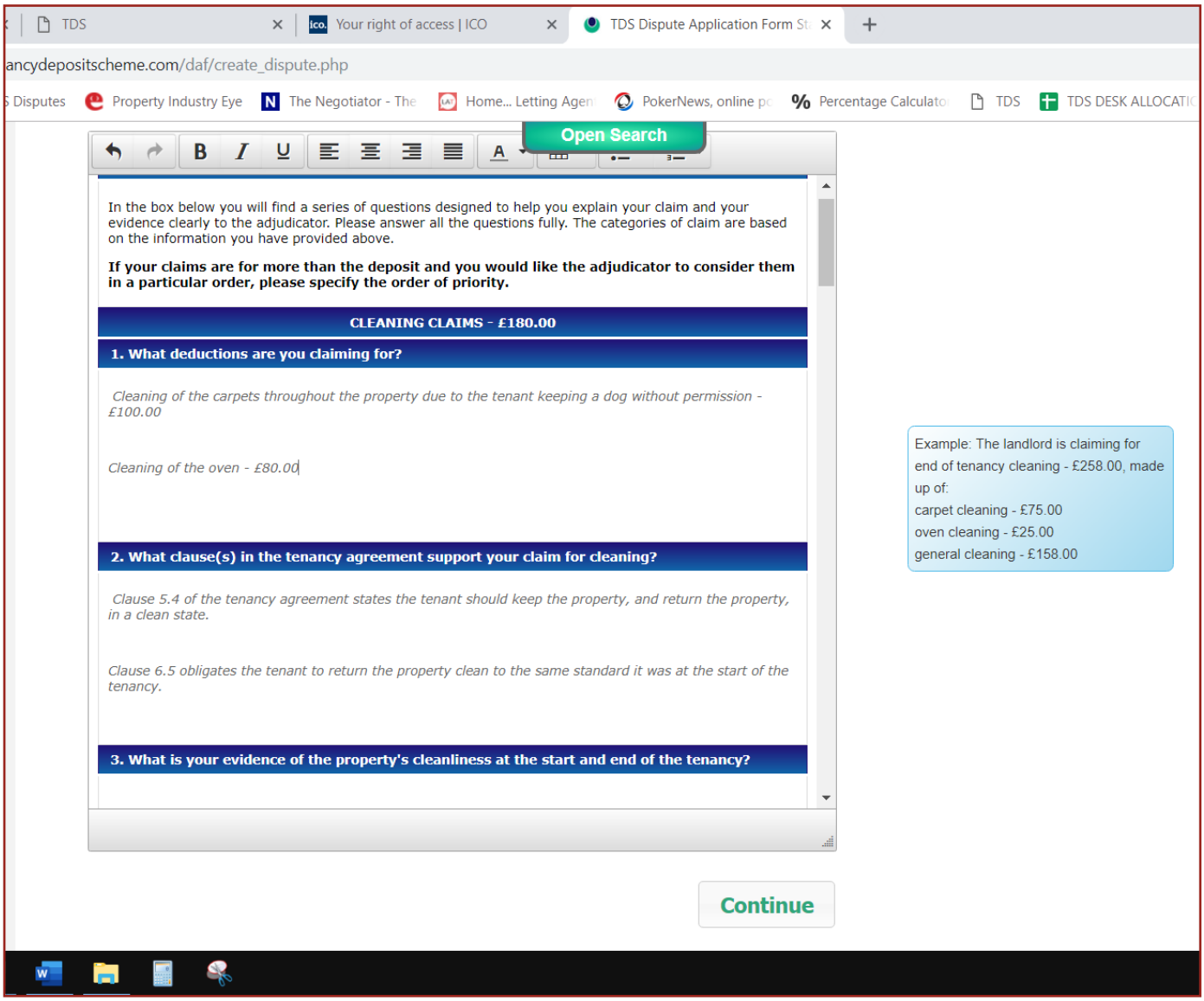
The digitalisation of the ADR system has not only improved the speed and ease of resolving disputes, it has also streamlined the process making it easier for DREs and colleagues to handle the disputes. TDS' system has correspondence templates which can be sent to the parties at the click of a button. The system also tracks email correspondence so TDS can be satisfied that emails, containing invitations to respond to disputes or adjudication reports, have been either successfully delivered, or opened by the recipient. TDS is focused on improving the system to ensure it is as easy as possible for parties to raise/respond to a dispute and submit their evidence. The focus remains on resolving disputes fairly, professionally and efficiently allowing parties access to a final decision on their dispute and repayment of the monies they are rightfully owed. The digitisation of the ADR service has allowed TDS to improve the speed of resolving disputes and reduce the manpower required to do so but it is not TDS who is the main beneficiary – it's our customers who are benefitting from the improved service. The question now is whether this is a model that could be adapted for use in other contexts.

The details entered in the following screen shots are all fictional and for illustrative purposes only.

Screenshot 1: Details of the dispute page with pop-ups to assist users.



Screenshot 2: Details of the dispute questions with guidance for the parties.



Screenshot 3: A sample adjudication report.

The tenancy agreement identifies the tenants' obligations during, and at the conclusion of, the tenancy. Whilst TDS takes account of the general obligations of the tenants as contained in the main body of the tenancy agreement, these are not considered to be absolute as they are dependent on the claimants presenting objective evidence to support any claim.

TDS considers that all parties are entitled to rely upon check-in and check-out reports as being the primary documents recording the condition of a property at the start, and at the end, of a tenancy. A comparison of these reports should show if a property had been returned in the same condition, and standard of cleanliness, that it was in at the start of the tenancy, and thus enable me to ascertain whether the tenants fulfilled their contractual obligations in this respect. A landlord is not entitled to betterment and must allow for fair wear and tear, although the scope of this does not extend to cleaning.

Cleaning

The landlord claims £250.00 for cleaning asserting the property was professionally cleaned at the commencement of the tenancy and has been returned cleaned to a domestic standard only. An invoice totalling £264.00 has been provided in support of the claim for cleaning of the property throughout including the carpets, hard floors and windows internally.

The tenants dispute the claim on the basis the property was professionally cleaned at the end of the tenancy. An invoice has been provided in support of the assertion to show the property, including the carpets, was professionally cleaned at the end of the tenancy at a cost of £220.00.

The check-in report shows the property and the carpets were professionally cleaned at the start of the tenancy. The check-out report states the property has been domestically cleaned and notes a number of minor omissions including limescale, an unclean kitchen sink and a dirty washing machine soap drawer.

Whilst I note the comments in the check-out report that the property has only been domestically cleaned, I am persuaded by the tenants' invoice that the property was professionally cleaned at the end of the tenancy. The check-out report only notes a limited number of minor omissions which does not include any carpets, hard floors or windows and therefore I consider the landlord's claim for full cleaning throughout the property to be unjustified.

In the circumstances, I consider a compensatory award of £25.00 is reasonable for the extent of the cleaning shown to be the tenants' responsibility.

Award to landlord: £25.00

Damage

The landlord claims £241.00 for damage to the property consisting of six claims. No quotes or invoices have been provided in support of the claims made.

The tenants dispute all of the claims in full for a number of reasons which I have considered in full.

Of the six claims made against the tenants' deposit, I am satisfied an award is justified in respect of four of the claims. I am not persuaded any award is justified towards a replacement bulb in the kitchen given that three bulbs were not working at check-in and only two bulbs were not working at check-out. I am also not persuaded an award is justified towards the rust build up to the heated towel rail in the bathroom. Whilst the check-out report does note rust, this is attributed to the landlord or to fair wear and tear and I am unable to conclude the tenant has caused wilful damage or neglected the item.

***Screenshot 3* continued...**

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***Screenshot 3* continued...**

With regards to the remaining four claims, my awards and reasoning are laid out below:

Scratch to kitchen worktop – The check-in report records the worktop to be clean with '*minor surface marks*'. The check-out report records a scratch and the embedded photograph shows the scratch. I consider this to exceed the scope of fair wear and tear and award the landlord **£10.00**, as claimed, which I consider to be reasonable.

Creased curtains – The landlord claims £50.00 for cleaning of the curtains and the tenants assert they were placed in storage at the start of the tenancy and cleaned and hung up at check-out. The tenants state any creases would drop out.

The check-in report records the curtains to be in good, clean order and the check-out records creases.

I consider the £50.00 claimed to be excessive for cleaning of the curtains given that they are not shown to be dirty. I do, however, make a compensatory award of **£20.00** to the landlord for ironing of the curtains which I consider would have reasonable for the tenants to carry out given that they were stored for the duration of the tenancy.

Window sealant – The landlord claims £40.00 towards treating the window sealant of mould spots. The tenants' state there was a mould issue in the property and they purchased a dehumidifier to rectify this.

A comparison of the check-in and check-out report supports mould spots have appeared over the tenancy however I have not been provided with any evidence, such as a specialist report, to detail the cause of any mould formation. In the circumstances, I am not persuaded the tenants should bear the cost of treating the window but consider a compensatory award of **£10.00** is justified for wiping down the mould spots.

Chips to door – The landlord claims £90.00 for repair of the door which is chipped at check-out. Whilst the tenants note they reported issues with the door and that a contractor attended the property, there is no evidence to support this assertion.

The check-in report records the door to be in good condition and the check-out report notes '*heavy chips*' to the door edge.

Whilst I am satisfied an award is justified, I consider the £90.00 claimed to be excessive for the limited area of the door affected and in the absence of a quote or invoice to support the claim. I therefore make a compensatory award to the landlord of **£35.00** for the chips to the door edge.

Award to landlord: £75.00

Undisputed funds

The deposit holder has submitted the full deposit of £1,212.00 to TDS. The landlord's claim totals £491.00. As the landlord has not made any claim in respect of the remaining deposit funds of £721.00, I direct that they be returned to the tenants.

Decisions about deposit disputes are made by independent adjudicators who are drawn from a range of property and other professional backgrounds and are members of the Chartered Institute of Arbitrators.

Independent adjudication completed by The Dispute Service Ltd

Contact Details
Tenancy Deposit Scheme

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Back to contents

King Arthur's Round Table

A NEW TYPE OF HEARING EXPERIENCE

By May Dunsmuir

The Additional Support Needs Tribunal for Scotland (ASNTS) was created in 2004. It operated from 2005 until its transfer into the Health and Education Chamber of the First-tier Tribunal for Scotland in January 2018. May Dunsmuir is the Chamber President. She served initially as a convener with the ASNTS before becoming President in 2014.

Children and young people are always the subject of our proceedings but they may also be parties. The Additional Support Needs jurisdiction decides *references* from parents and young people[1] against decisions of education authorities regarding the provision of educational support, under the *Education (Additional Support for Learning) (Scotland) Act 2004.* Since January 2018, children aged between 12 and 15 years who have capacity to make a reference and where their wellbeing will not be adversely affected by doing so, have been able to make two types of reference: one in relation to the statutory education plan in Scotland (the co-ordinated support plan), the other against the education authority's assessment of their capacity or wellbeing. The jurisdiction also decides *claims* from parents, children[2] and young people against responsible bodies[3] regarding disability discrimination in school education, under the *Equality Act 2010*.

The majority of children who are the subject of our proceedings have autism, with debilitating sensory sensitivities.

In this article, for ease, the term 'child' or 'children' is taken to include young person/ people.

Additional support needs

Apart from one area, the 2004 Act[4] does not define what is meant by 'additional support needs'. A statutory presumption was introduced in 2009 that a child who is 'looked after[5]' has additional support needs[6]. Despite this, there have been few applications to the tribunal by or for looked after children.This is not to suggest that the numbers of looked after children in Scotland are low[7] or that their educational outcomes are significantly improving. Looked after children are almost two and a half times more likely to be excluded from school up to age 16 and are over twice as likely to have no educational qualifications and less than half the chance of having a degree[8]. This vulnerable population are most likely largely unaware of their rights under the 2004 Act.

Due to the sensory distortions they experience, children with autism need 'visual and auditory tranquillity'.

Additional support needs and autism

The majority of children who are the subject of our proceedings have autism, with debilitating sensory sensitivities[9]. This is true of references and claims. Research suggests that autism is a problem of connections between different parts of the brain, or between individual nerve cells[10]. 'The nerve cells may be over-connected, in which case message processing is flooded by nerve cells firing all over the place, or under-

[1] Those aged 16 years and above, who remain within school education.

[2] There are no 'capacity and wellbeing' tests in the 2010 Act.

[3] This includes a school managed by an education authority, an independent school and a grant-aided school.

[4] s.1 *Education (Additional Support for Learning) (Scotland) Act 2004*.

[5] s.17(6) *Children (Scotland) Act 1995* – which, in Scotland, means children in the care of their local authority. In England and Wales children may become looked after either through agreement under section 76 of the Social Services and Well-being Act 2014 or under a court order.

[6] Ibid. s.1A.

[7] In Scotland 1.5% of all children are looked after - this varies across local authorities and is highest in Glasgow, North Ayrshire and West Dunbartonshire local authorities - https://www.gov.scot/publications/childrens-social-work-statistics-2017-2018/

[8] Independent Care Review, 2020 - https://www.carereview.scot/destination/independent-care-review-reports/

[9] See, Scottish Government refreshed Autism Toolbox (Launched 20 November 2019) http://www.autismtoolbox.co.uk/

[10] Johansson, 2012.

connected, in which case the messages never reach the correct processing area'[11]. Due to the sensory distortions they experience, children with autism need 'visual and auditory tranquillity '. Before this re-design, a typical tribunal hearing would be a highly stimulating environment more likely to lead to sensory overload than sensory tranquillity[12].

In advance of the extension of rights to children in 2018, which was heralded by the Scottish Government as the greatest extension of rights to children in Europe, I embarked on a journey to identify how to remove barriers to participation in our tribunals, with a particular focus on autism. This journey began in 2016 and, although great progress has been made since then, it continues on as we learn more.

Hearing Room 3

Barnahus

I looked first at the Barnahus (which literally means children's house) model, which has its origins in the child advocacy model adopted in the USA in the 1980s. Barnahus was introduced in Iceland in 1998 and then by other Nordic countries[13]. Barnahus (the model and the facility) is a child-friendly, interdisciplinary and multi-agency centre for child victims and witnesses where children can be interviewed, medically examined and assessed for forensic purposes, which avoids exposing them to repeated interviews by different agencies in different locations.

This provided a great deal of valuable information some of which led to innovations such as the 1:1 room (see below) and the principle of soft furnishings; however, Barnahus did not address the sensory challenges of children with autism so I began a journey of exploration in Scotland with children who faced the greatest barriers to participation. I identified three areas where our processes could be improved: our forms and information; our visual imagery; and our hearing environment. This article explores the last of these.

The child and the hearing

After nearly three decades working in different fields of child law/child welfare, I noted one glaring consistency – when a hearing of any nature takes place, the number of adults in the room swamps the child/children and their voice is invariably diminished or lost. I wanted to explore if there was a different way to hear from the child. This work coincided with the Scottish courts examination of their evidence and procedure rules for vulnerable witnesses and I was mindful that much was being done to save the child from going to court. However, tribunal proceedings do not mimic court proceedings and I wanted to examine whether the extent and range of flexibility in our processes could be adapted to help the child to feel more meaningfully involved. I set out with these questions: Do children want to come to hearings? If no, how we can improve their participation in the process? If yes, how can we improve their participation in the process? What are the barriers?

The group agreed that a round table would be the right shape to help them feel more involved. One child said it should be like King Arthur's round table (which dates from 1155), where all knights are equal.

There is a great deal of information and research available on the impact of proceedings on children[14], including re-traumatisation[15] and, while considering the body of literature, I wanted to consult in a more direct way with children[16]. I began by meeting with the Young Ambassadors for Inclusion – a group of secondary school children with a wide and varying range of additional support needs from across Scotland. They overwhelmingly stated that they wanted to come to hearings where decisions would be made about their education. They then told me what works for them and what does not.

Unlike Children's Hearings Scotland, who had been removing tables from their hearing rooms, 'our' children wanted tables. One teenager, who was non-verbal but very able to communicate using his iPhone, mimicked a large round

[11] Phoebe Caldwell, 'Sensory Challenges for Autistic Pupils' (13 March 2017).

[12] Gail Gillingham, 'Autism – Handle with Care' (1995).

[13] Sweden in 2005, Norway in 2007, Greenland in 2011, Denmark in 2013.

[14] One young person described feeling physically sick every time she passed the building where her hearings had taken place.

[15] For example, Karen Zgoda, Pat Shelly, Shelley Hitzel, 'Preventing Retraumatization: A Macro Social Work Approach to Trauma-Informed Practices & Policies'.

[16] See the Ladder of Participation.

shape. He started the revolution. The group agreed that a round table would be the right shape to help them feel more involved. One child said it should be like King Arthur's round table (which dates from 1155), where all knights are equal. They asked for a break out area, where they could rest but still be present. Some mentioned that they are often 'excluded' when they get tired or upset, when this is a natural consequence of hearing lots of information in an unfamiliar setting. Others asked for support to be there and that this support should be whatever they needed. One child asked if there would be drinking straws – she had a physical disability and did not like to show her hands. In this case, something as simple as a drinking straw could remove a barrier. Others asked for fresh drinking water and snacks.

Sensory Room

The hearing environment

Their aspirations became my inspiration and a rudimentary sketch was begun of what an accessible hearing room might look and feel like. The Young Ambassadors' model has four distinct features, which are now present in the new sensory hearing suites in Glasgow –

- An area with a round table and equal height chairs which look the same, where the tribunal members, parties and their representatives, the child and the witness sit while evidence is heard.
- An area with two sofas, where the child, the tribunal members and any appropriate others can sit, if the child prefers to give their views or evidence there.
- A break out area, with a screen, beanbag and small fridge, where the child can take a break from the hearing, whilst still remaining in the room, with access to fresh water.
- A sensory wall, which can be personalised with an image or colour of the child's choice.

In addition to the features of the hearing room, the following were developed:

- A separate sensory room for the child to rest or de-stress during proceedings.
- A 1:1 evidence room where the child can give their evidence to one questioner, familiar to the child, who has an agreed list of questions. During this experience, the questioner and tribunal judge have a live hearing link. Tribunal members and parties can see and hear the child and questioner. The child is aware that others are observing but does not see or hear them. The 1:1 evidence room is softy furnished with two armchairs.

They were keen to use the 1:1 room. One child felt this gave him more control over what was happening.

What should it look and feel like?

I consulted with my Tribunal members during this time, some of whom have lived experience. I combined their insights with those of the Young Ambassadors and then embarked on the next stage which involved more finite consultation with a group of primary school children who were looked after. They had experience of multiple jurisdictions, including the sheriff court and the children's hearing system. I invited the design architect to meet with me and the children and we took blank architectural plans which they could draw on. They were given furniture photographs, colour and fabric swatches and asked for their choices. These children were keen that each hearing room and waiting area should have its own colour (not one colour for hearing rooms and one for waiting rooms). They were keen to use the 1:1 room. One child felt this gave him more control over what was happening. He could be there without having to see everyone. The colours, fabrics and furnishings they selected are now present in the sensory hearing suite.

Keep out the clutter!

During this time I also consulted with additional support needs teachers and mainstream and special schools. I learned that sensory challenges can be improved by reducing noise and light and by removing physical distractions. And so, the concept of 'layering up' was introduced to the design plan. In other words, each hearing and waiting room should be capable of being added to, rather than having a fixed range of wall coverings and other features. Consequently, there are no fixed images on the walls and there are no more than two distinct colours in each room. Primary colours have been replaced with softer colours. Room acoustics have been improved to reduce external noise. Lighting can be dimmed. Windows have roller blinds to reduce or increase natural light.

From the street to the hearing room

The journey from the main entrance to the hearing room is important and needed to be as direct as possible. With this in mind, a separate street entrance was created to take the child away from the general flow of tribunal traffic and security[17]. This entrance leads to a separate lift which travels to the sensory hearings suite. On arrival, the child is met by the clerk and taken into the sensory corridor, which employs the same noise, colour and low stimulation principles as the hearing and waiting rooms. There are three hearing suites, each with an attached waiting room, which only the child and her representative and parents will use (the other party and witnesses use a separate waiting area). The journey from the lift to the waiting room is short and straight. During hearings a sensory notice is placed on the entrance doors to the suite, so that any visitors on the floor keep noise to a minimum.

'When people with impairments meet barriers in attitudes…'

The Scottish Independent Review of Learning Disability and Autism in the Mental Health Act[18] describe the need to understand disability as '… something that happens when people with impairments meet barriers in attitudes and in their environment'. In re-designing the hearing environment for children with additional support needs, we are endeavouring to remove those barriers.

My second article will explore the hearings in practice.

[17] The Glasgow Tribunals Centre houses a range of devolved and reserved tribunals.

[18] Final report issued December 2019, https://www.irmha.scot/final-report.

May Dunsmuir is Chamber President, Health and Education Chamber, First-tier Tribunal for Scotland

Back to contents

International Protection Appeals Tribunal

A CLOSE COUSIN OF THE JUDICIARY? By Cindy Carroll

Introduction

While Article 34.1 of the Constitution of Ireland 1937 provides for justice to be administered in courts established by law, Article 37.1 of the Constitution provides for the exercise of limited functions and powers of a judicial nature, in matters other than criminal matters, by any person or bodies of person duly authorised by law to exercise such functions and powers. The International Protection Appeals Tribunal, one of those bodies envisaged by Article 37.1, was established in accordance with section 61 of the *International Protection Act 2015* (hereinafter referred to as 'the Act'). The Act was commenced on 31 December 2016, at which time the functions of the former Refugee Appeals Tribunal transferred to the International Protection Appeals Tribunal (the Tribunal).

The Tribunal is a statutorily independent body and exercises a quasi-judicial function under the Act. The Tribunal is inquisitorial in nature, and determines the appeals of those persons in respect of whom an international protection officer has recommended that they should not be given a refugee declaration and should be given a subsidiary protection declaration, and of persons in respect of whom an international protection officer has recommended that they should be given neither a refugee declaration nor a subsidiary protection declaration[1]. The Tribunal also determines appeals under the European Union (Dublin System) Regulations, as well as appeals against recommendations that an application for international protection be deemed inadmissible, appeals against recommendations that the making of a subsequent application for international protection not be permitted, and appeals pursuant to the European Communities (Reception Conditions) Regulations, 2018. The Tribunal's predecessor was recognised by the Court of Justice of the European Union (CJEU) as a 'court or tribunal' for the purpose of Article 267 of the Treaty on the Functioning of the European Union (TFEU) in its judgment in Case-175/11 *H.I.D. & B.A. v Refugee Applications Commissioner and Others* ECLI:EU:C:2013:45.

[1] In the UK system, this is known as "humanitarian protection".

Background to the asylum system in Ireland

Up until the mid-1990s, Ireland was a country of net emigration rather than immigration. The procedure for determining asylum was pursuant to the Von Arnim Procedure which was replaced by the Hope Hanlon Procedure, and the procedure for determining asylum was not put on a statutory footing until the Refugee Act, 1996, which in turn was not substantially commenced until October and November 2000. Figures from the Refugee Appeals Tribunal Annual Report 2001 show that 4,341 appeals were received by the Refugee Appeals Tribunal between November 2000 and December 2001. During that time period, there were 24 part-time Tribunal Members and 75 staff who were civil servants assigned to the Tribunal. According to the Refugee Appeals Tribunal Annual Report 2006, the number of staff had increased to 109 while the number of part-time Tribunal Members had increased to 31; the number of appeals received in the preceding 12 months was 3,448. The final Annual Report of the Refugee Appeals Tribunal in 2016 showed that by then there were 35 part-time Tribunal Members, 31.5 staff members and 2,174 appeals had been received in the preceding year.

These figures make for somewhat confusing reading when looked at in isolation, and therefore it is necessary to look at underlying factors. Immigration trends played an important role. Up until 31 December 2004, any person born on the island of Ireland was entitled to Irish citizenship, a potential "pull" factor in attracting migrants to Ireland. Following a change in the law in 2005, there was no automatic entitlement to Irish citizenship, and there was a resulting drop in immigration numbers. In 2004 and 2007, a number of former East Bloc countries joined the European Union; until their accession, citizens of those countries had represented a significant number of asylum applicants in Ireland. In 2006, the concept of subsidiary protection was introduced in Ireland, but rather than assimilating it into the existing procedure, Ireland opted to append it at the end of the asylum process, as failed asylum seekers were entering into the deportation process. This bifurcated system led to prolonged litigation in both the Irish Courts and in the Court of Justice of the European Union. Meanwhile across Europe, asylum applications soared in the summer of 2015; due to its geographical location, Ireland was not as affected as its continental neighbours but there was still an impact on an already overburdened and outdated system.

This new legislation heralded a significant development in international protection law in Ireland

New legislation governing this area of law had been mooted for several years and culminated in the *International Protection Act 2015*. While some limited sections of the Act were commenced early in 2016, the substance of the Act was not commenced until 31 December 2016. This new legislation heralded a significant development in international protection law in Ireland in that it introduced the "single procedure" process whereby a person's application for both refugee status and subsidiary protection would be dealt with in a single decision by an International Protection Officer, which an unsuccessful applicant could subsequently appeal to the International Protection Appeals Tribunal.

According to the most recently published figures, namely the International Protection Appeals Tribunal Annual Report 2018[2], by the end of December 2018, the Tribunal had 2,151 appeals on its books, an increase of 140% on its 2017 workload. Membership of the Tribunal consisted of the Chairperson, two Deputy Chairpersons, three whole time Tribunal Members and 65 part time Tribunal Members. The number of civil servants assigned[3] to the Tribunal was 35. The Annual Report for 2019 is currently being prepared and will be submitted to the Minister for Justice and Equality before the end of March 2020 in accordance with section 63(8)(b) of the Act. It is anticipated that this Report will show a further significant increase in the Tribunal's workload.

...the Tribunal shall be independent in the performance of its functions

Structure of the International Protection Appeals Tribunal

Part 10 of the Act describes the structure of the Tribunal; the composition of its membership; terms and conditions of appointment of the Members; the respective functions of the Chairperson, Deputy Chairpersons, ordinary Tribunal Members and the Registrar of the Tribunal.

Of particular note are section 61(3)(b) which provides that the Tribunal shall be independent in the performance of its functions; section 63(2) which enables the Chairperson to issue guidelines to the Members on the practical application and operation of provisions of the legislation itself, as well as on developments in the law relating to international protection, and section 63(1) whereby the Chairperson shall ensure that the functions of the Tribunal are performed efficiently and that the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice.

Under section 61(5) of the 2015 Act, members of the staff of the Tribunal shall be civil servants.

[2] Published March 2019.

[3] Section 61(5) of the Act.

Functions of the Tribunal

Appeals to the Tribunal and the practice and procedure governing same are set out in Part 6 of the Act and are developed further in the International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017. The steps involved in progressing an appeal are addressed in the legislation, from the filing of the Notice of Appeal to the conduct of a hearing which may involve the attendance of witnesses right through to the elements of the decision itself. The legislation anticipates the fact that information may need to be shared between the parties in advance of a hearing. In practice, the Tribunal Members, who are all qualified barristers or solicitors, are acutely aware of the necessity to follow fair procedures and to abide by the principles of natural justice. In that regard, they ensure that all material submitted to the Tribunal or within the knowledge of the Tribunal Member is shared with both the appellant and the representative of the Minister for Justice and Equality, and that both parties are given an opportunity to comment on such information.

As English is not the first language of many of the persons who appear before the Tribunal, appellants are provided with the services of an interpreter where necessary to ensure appropriate communication in accordance with EU law; while this facility is placed on a statutory footing (section 42(8)(c) of the 2015 Act), Tribunal Members are always cognisant of ensuring effective communication in oral hearings and are trained to take steps during a hearing to ensure that is happening.

One interesting development under the Act arises under section 42(8)(d) which provides for the taking of evidence on oath or affirmation. The procedure for the application of an oath or affirmation is set out in *Chairperson's Guideline 2019/1*. In order to ensure a consistent approach by all Tribunal Members, these Guidelines advocate that evidence should be given on oath or affirmation by all parties before the Tribunal who are over the age of 14[4] unless this would not be in the interests of justice.

There is no appeal against a decision of the International Protection Appeals Tribunal but it may be challenged in the High Court by way of judicial review

The Tribunal is aware of the importance of their appeal for a protection applicant. The legislation is complex and appearing before a quasi-judicial forum is a new experience for most appellants. As a way of ensuring transparency and assisting parties in preparing effectively for their oral hearing, the Tribunal, in consultation with its Members and one of its stakeholders, the Tribunal Users Group[5], drafted an *Administrative Practice Note* which sets out the practice and procedure of the Tribunal in accessible language.

Many of the Tribunal's procedural requirements relate to oral hearings. However, some of the appeals before the Tribunal are determined "on the papers", i.e. by way of written submissions and accompanying documentation, either because this is the procedure prescribed by legislation, or because an appellant has not sought an oral hearing and the Tribunal has accepted that the interests of justice can be served by having a paper-based appeal.

The Finality of a Tribunal Decision

Under section 47 of the Act, the Minister for Justice and Equality is bound to follow a decision of the International Protection Appeals Tribunal unless a person in favour of whom a refugee declaration has been made is deemed by the Minister to be a danger to the security of the State or to the community of the State (section 47(3)).

There is no appeal against a decision of the International Protection Appeals Tribunal but it may be challenged in the High Court by way of judicial review under section 5 of the *Illegal Immigrants (Trafficking) Act 2000* (as amended). Figures available as of December 2019 show that 15% of Tribunal decisions which affirmed the first instance decision were challenged by way of judicial review, and of the cases which proceeded in the High Court, only 5.5% of decisions challenged were quashed by orders of certiorari. Interestingly, the Minister for Justice and Equality has to date never challenged any Tribunal decision although of course it is open to him or her to do so.

Recruiting of Tribunal Members

Section 62 of the Act sets out the conditions of appointment of Tribunal Members. A perquisite is that a potential member must be either a practising barrister or practising solicitor and must have at least five years' experience in such a role. While the appointment of a Tribunal Member is by the Minister for Justice and Equality, the selection of members shall only take place following a competition under the Public Service Management (Recruitment and Appointments) Act 2004. The fact that members are recruited and selected by a body which is not associated with the Minister for Justice and Equality is vital in ensuring the independence of Tribunal Members.

[4] The age of 14 years was adopted from the Law Reform Commission Report on Oaths and Affirmations (LRC34-1990) Chapter 1.2 https://www.lawreform.ie/_fileupload/Reports/rOaths.htm

[5] A body comprised of four legal practitioners, two of whom are nominated by the Incorporated Law Society of Ireland and two of whom are nominated by the Bar Council of Ireland.

The term of both part-time and whole-time Tribunal Members is for a period of three years, and such period may be renewed for a second three-year period. The term of the Chairperson and Deputy Chairpersons is for a period of five years, and again, such period may be renewed for a further five-year period. The current members of the Tribunal were recruited following a competition in 2017.

While all Tribunal Members are aware of the need to avoid conflicts of interest in the work which they do for the Tribunal, and indeed this forms part of their contract, the Tribunal has developed its own Code of Conduct for Members and this will be rolled out early in 2020.

Training of Tribunal Members

Following the recruitment of the new Tribunal Members in 2017, the organisation set about training those members. The majority had experience of international protection law and some had experience of decision making. In advance of the training, the senior management of the Tribunal drafted decision templates for the various jurisdictions of the Tribunal, and drafted accompanying explanatory notes. These activities were carried out with the assistance of the United Nations High Commissioner for Refugees (UNHCR) and a retired UNHCR judge was seconded to the Tribunal for a year to help train members and to provide guidance in putting the procedures and protocols in place. All Tribunal Members had an initial intensive training period of four days where they were given individual coaching and assistance. They were given constructive feedback on drafting their initial decisions and in-depth mentoring took place to enable the Tribunal Members to become effective and independent decision makers. Specific training was also provided on the skill of working with an interpreter.

The current *Strategy Statement of the International Protection Appeals Tribunal 2017-2020* reflects the importance which the Tribunal places on the training of its members; High Level Goal 3 provides as follows: “To achieve and maintain quality standards through the provision of training and professional development supports to Tribunal Members”.

Specific training was also provided on the skill of working with an interpreter.

The training needs of the Tribunal are identified through the analysis of the Quality Audit. The Quality Audit is prepared on a quarterly basis whereby 32 decisions which were issued during the preceding quarter are randomly selected and analysed using an agreed checklist. Systemic weaknesses are identified, but regard is also had to difficulties encountered by individual members and these issues are addressed in targeted training.

The Tribunal organises compulsory training days each year which all members are required to attend, and topics of interest are discussed. Until late 2019, these events covered legal issues arising; however, the focus is now on providing intensive training on “soft skills”, including writing skills, vicarious trauma and compassion fatigue, judge-craft, communication skills, ethics.

Further training events are provided throughout the year, on an informal basis such as “Lunch and Learn”, and on a more formal basis, such as workshops on topics of interest. Members are updated on legal developments and current country of origin information through the Tribunal Information Note, a newsletter which is circulated to Tribunal Members and staff on a quarterly basis.

The Tribunal regards external organisations as vital partners in providing training and other supports. In particular, the Tribunal is grateful for the support it receives from the European Asylum Support Office (EASO) in Malta and the European Judicial Training Network (EJTN) both in relation to training and judicial exchanges, as well as from UNHCR. While normally judges and tribunal members attend at EASO in Malta for training, the Tribunal was greatly honoured in September 2018 when EASO came to Dublin and provided training for 38 Tribunal Members and two High Court Judges on Credibility and Evidence Based Assessment of International Protection Claims. Incidentally, eight Tribunal Members have now been selected to be judicial trainers with EASO. Tribunal Members are also members of the International Association of Refugee and Migration Judges (IARMJ).

The Tribunal has close affiliation with Irish Universities. Tribunal Members have given presentations in universities, and law students and graduates have worked with the Tribunal as legal interns providing valuable assistance in conducting legal research. The Tribunal also avails of the services of the Refugee Documentation Centre to assist with queries relating to both legal matters and up to date country of origin information. The Tribunal is mindful of case law emanating from the High Court, Court of Appeal and Supreme Court relating to its own decisions which have been impugned by way of judicial review, and the Tribunal is also guided by the principles enunciated in relevant case law from other jurisdictions and from the Court of Justice of the European Union and the European Court of Human Rights. Tribunal Members also attend at the Academy of European Law in Trier for conferences on asylum law updates.

The Tribunal is delighted to have a continuing relationship with our UK colleagues through the UK Judicial Training College, a relationship that will not be affected by Brexit.

The Tribunal always strives to incorporate innovative training methods into its training programme and, to that end, a mentoring programme is currently being finalised. This will be introduced on a phased basis during 2020.

The Tribunal's position in the Irish legal system

The Tribunal is conscious of its position as a creature of statute and as a body charged with quasi-judicial making functions. Unlike the High Court, Court of Appeal and Supreme Court, it does not *interpret* the law but has a duty to *apply* it. This duty extends to the application of European law; if national law contravenes EU law, the Tribunal has a duty to dis-apply national law as set out in C378/17 *Minister for Justice & Equality & Others v Workplace Relations Commission & Others* ECLI:EU:C:2018:979. However, the Tribunal does not have the jurisdiction to set aside national law; such jurisdiction is vested in the High Court. The Tribunal does have the jurisdiction to make a preliminary reference to the Court of Justice of the European Union pursuant to Article 267 of the Treaty on the Functioning of the European Union, and indeed has now done so[6].

The Tribunal is conscious of its position as a creature of statute and as a body charged with quasi-judicial making functions.

In the context of litigation against Tribunal decisions, the High Court is conscious of the expertise of the Tribunal in the area of international protection and accords it *"curial deference"*. In the case of *Okeke v Minister for Justice, Equality and Law Reform & Others*[7], Peart J found that the notion of "curial deference" allowed the Court to afford the Refugee Appeals Tribunal *"a measure of appreciation"* in relation to the latter's consideration of the evidence before it. This approach was followed in subsequent judgements of the High Court concerning judicial review proceedings against Tribunal decisions. In the case of *A v Refugee Appeals Tribunal & Another*[8], Cooke J noted that this was *"not simply a matter of self-restraint … on the part of the Court"*, but rather a feature of the statutory asylum process. In contrast, the Supreme Court noted that the same *"curial deference"* could not be afforded to the Minister for Justice and Equality in his decision making functions[9].

The support of the High Court in the aforementioned judgment for the Tribunal in its decision making functions is still evident over a decade later. In the case of *AJA (Nigeria) v the International Protection Appeals Tribunal & Others*[10], Humphreys J responded as follows to an allegation by the applicant that the Tribunal Member was on a *"quest to disbelieve"*:

> "It is not a hugely helpful notion to introduce into the discussion because it runs the risk of perpetuating a very out of date notion that the tribunal's methodology is questionable or is in need of regular correction by the court. There is no basis to suggest any generalised problems in the IPAT as it currently functions, leaving aside of course the possibility that individual decisions may not withstand judicial review. To suggest that the tribunal or its members are in a "quest to disbelieve" is not much more than a smear and unfairly imputes a lack of integrity to their processes and a degree of bad faith that cannot honourably be made the subject of a casual allegation."

In the case of *WAL (Nigeria) v International Protection Appeals Tribunal & Others*[11], Humphreys J commented on the expertise of Tribunal Members in this area of law:

> "It is worth mentioning at this point that tribunal members are not novices and have experience in relation to various country conditions. … It is also perhaps worth making the overall point that that the assessment of the weight to be attached to particular evidence is a matter for the decision maker rather than the court."

In his judgment in *BC (Zimbabwe) v the International Protection Appeals Tribunal & Another*[12], Humphreys J commented on the independence of Tribunal Members:

> "While not technically judicial brethren and sisters in Irish law, tribunal members are certainly close cousins; and just as it would be an infringement of the independence of the judiciary for a judge to be cross-examined on his or her judicial work, a similar position pertains in relation to quasi-judicial work."

Conclusion

In its current Statement of Strategy, the Tribunal, as part of its Mission, strives to determine the appeals before it:

- in accordance with the law,

[6] Preliminary reference pending in Case C-385/19
[7] [2006] IEHC 46
[8] [2009] IEHC 296
[9] *Meadows v Minister for Justice, Equality and Law Reform* [2010] IESC 3
[10] [2018] IEHC 671
[11] [2019] IEHC 581
[12] [2019] IEHC 488

- in accordance with fairness and natural justice,
- with respect for the dignity of applicants,
- efficiently,
- with the highest standard of professional competence,
- in a spirit of openness and transparency in how the appeals process is managed.

The Tribunal endeavours to ensure that these factors are more than mere aspirations but are a part of the ethos and value system of the Tribunal. The Tribunal is conscious of its position both in the Irish legal system and in the Common European Asylum System (CEAS) and holds itself out as an exemplar quasi-judicial body in the area of international protection law.

While not technically judicial brethren and sisters in Irish law, tribunal members are certainly close cousins

Cindy Carroll is Deputy Chairperson of the International Protection Appeals Tribunal

Back to contents

Change Network

SPT UPDATE By Ernest Ryder

The most recent Change Network event took place in Manchester on 25 November, the focus being on communications, engagement and training in preparation for Reform implementation. We were greeted with a typical wet Manchester welcome but this had little impact on attendance or the liveliness of discussions. The event was skilfully chaired by Meleri Tudur, who made full use of the technology available to us starting with a Slido quiz about how information about Reform is shared, this provoked an open discussion about where leadership judges saw themselves in the context of Reform, where they saw their Chambers, what information and comms they wanted and their perception of progress against the change agenda. The discussion identified the need to increase awareness about Reform implementation, the need to clarify what information could be shared, and the need to sign up for notifications from the Reform comms team and also meet regularly with other leadership judges to discuss Reform e.g. via Carol Taylor's Reform events. In terms of making the best use of comms it was beneficial to have members of the Judicial Office's Reform Team in attendance.

The other detailed discussion concerned engagement, local leadership and the concept of one-judiciary. Local leadership groups had been set up in 2015 between Courts, Tribunals and HMCTS to enable judges in local groups to discuss common concerns and escalate issues. There was no set format - these were instead decided locally by Presiding Judges and Delivery Directors with the result that your experience depended, to a large part, on where you were based; they had been suspended a year ago pending a decision about their future: the question was whether they should be revived cross-jurisdictionally, or across Tribunals? The unanimous view was that the local leadership groups should be retained: the Change Network welcomed the cross-jurisdictional, cross-tribunal conversations and wanted to retain the successful regional events that were a product of them; the need for greater administrative support for regional presidents was also highlighted.

It was queried whether further initiatives could be pursued to achieve the aim of one-judiciary, there had been some success but it was felt that a cultural change was still required. The meeting confirmed that the Tribunals were open to effecting change, encompassing digital working and working effectively cross jurisdictionally, but this was happening within tribunals rather than across Courts and Tribunals. It was suggested that more cross-jurisdictional groups would lead to greater progress; in addition, digital changes would create further opportunities for cross-jurisdictional sitting. The judges on the Strategy Group were looking at one-judiciary and would address matters such as pay, terms and conditions, followed by more cultural issues.

The event benefitted from a number of presentations. The recording of hearings presentation outlined the need to make provision where recording provisions did not exist in the majority of our tribunals: the requirement was for devices/facilities which could record hearings, which could then be stored and retrieved. The presentation highlighted the fact that limited progress had been made which was an obvious source of frustration, I will be discussing this matter with the HMCTS Board.

Asif Siddiquee gave a presentation about the work of the Comms Team. The main points were:

- The Judicial Office had set up Instagram and Facebook accounts to help reach young people. If judicial office-holders wished to share information this should be done via the Judicial Office's social media accounts rather than via private accounts. The JO also acted as the interface with the Press via the Press Team.
- Earlier this year the communications team undertook research to ascertain the public's perceptions towards the judiciary. A number of themes were explored including trust, bias, confidence and diversity. The findings of this research were presented to JEB and TJEB, who authorised the communications team to revise their current strategy using the research.
- The new strategy proposes nine strands of activity and advocates a more pro-active, aligned approach to communications working with judges across all jurisdictions.
- The strategy also proposes external communications to raise awareness about the judiciary and the different types of judges that exist.

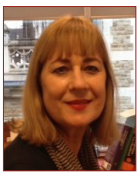
Sarah Johnston provided feedback on the successful South-East Reform Conference, while Paul Swann gave a presentation on video hearings, highlighting how a new engine would be trialled in the Tax Chamber which would hopefully be more reliable and accessible than the previous Skype-for-Business tool. Rik Simms also gave a valuable presentation on the Judicial College's work with Reform project groups and their respective judicial leads to ensure that all judicial office holders are offered relevant and appropriate training before HMCTS reform digital products are implemented.

I hope that the event broadly achieved its aims, and I am confident that the evident commitment to delivering Reform will be key as we embark on its implementation.

Sir Ernest Ryder is the Senior President of Tribunals Back to contents

Equal Treatment Bench Book corner

NEWS By Paula Gray



In reviewing the recent e-alerts for this edition of the ETBB Corner, I noted the very different contexts: communicating interculturally, coercive control and the difficulties of living in poverty. Despite those differences, I was struck by a common theme.

Our life experience as judges is rarely reflective of the lives of those before us. A consequence of that is where we have to make personal judgements about the decisions of others, we need to think long and hard about the context in which those decisions were made. We must not, unconsciously, assess them on the basis that we would not have made them: we must try to put ourselves in their shoes rather than unwittingly ascribing our own experiences to the way other people have acted, or have made decisions in their own lives.

For example, a murder case which received a great deal of press attention, that of Sally Challon, a woman subject to coercive control, explains much about the way people might act when under extreme pressure to behave in a certain way.

In another context, research shows that those living in poverty may miss medical appointments because of the cost of attending them. That may be important for us to appreciate if we are deciding whether they missed a medical appointment for assessing entitlement to a disability benefit, without "good cause"; the immediate reaction that such an important appointment should be prioritised may be misplaced.

Decisions made by people with a culturally different background may also require us to free ourselves from what we consider to be the "normative" response.

> "A state of affairs that may be regarded as literally incredible by one community may be regarded as quite ordinary by members of another community."

This is a phrase used by my colleague Upper Tribunal Judge Wikeley. In *UA v HMRC (TC)* [2019] UKUT 113 (AAC)

the First-tier Tribunal, deciding an appeal on a claim for tax credits made as a single person, had been considering whether a couple was separated, and if so, whether that separation was likely to be permanent. The husband and wife in question were first cousins, with the particular family integration which that relationship conferred; further, their religion looked upon divorce as legal, but very much a final resort to be avoided if at all possible. Given those tenets, the FTT may have erred in its approach to evidence concerning, for example, continued liaison at the wider family celebrations. As the Upper Tribunal Judge put it:

> [47]. … in the Appellant's notice of appeal to the Upper Tribunal, she writes that "my cultural background is such that I have a choice of appearing to be married and being accepted by my family or divorcing and leading a life that others understand as that of a single parent, but that would also lead me to being disowned by my family." This is a dilemma that many people in other communities, including many judges, will never have to face and may have some difficulty in comprehending. The Appellant has further eloquently explained that that the cultural pressure to have a successful marriage and the shame associated with separation "can lead to actions that other cultures may view as strange or not compatible with a separation but the mask of marriage can hide a very different reality, especially for a woman from my culture." She also points out, in relation to a marriage to a first cousin, that conduct which may appear to be that of a dutiful wife may be equally explicable on the basis of family duty or respect for one's parents or other elders.

The ETBB has a section on different cultural approaches to divorce.

In Chapter 11, *Social Exclusion and Poverty*, the point is made at paragraph 45 that

> A failure to attend a hearing, for example, may be due to a chaotic lifestyle, but may also be linked to the fact that many important decisions in that person's life, e.g. entitlement to benefit, are made without their active input. As a result, they may lack what judges feel is a natural wish to come along and put one's case.

This may be something which as judges we need to consider when deciding whether to adjourn a case or proceed.

The importance of these reflections for me has been the realisation that one can't "pigeonhole" cases into those which reflect cultural differences or differences related to economic or social experiences, or even issues of mental health. The different themes are no more than the canvas upon which we have to exercise our judgement, and we must beware of doing so based upon our own life experiences.

Of course, in making that observation I may be falling into the trap of assuming that judges have similar backgrounds, with the associated similar assumptions. Regrettably, the current diversity statistics would support me in that, but, whilst there are positive indications that this is changing, we need to recognise that, as we sit in judgment on other people, we must both question our assumptions and ensure that we are equipped with the information to do so. The ETBB isn't necessarily the final answer, but it will help.

Paula Gray is an Upper Tribunal Judge (Administrative Appeals) *Back to contents*

Recent publications

EXTERNAL LINKS By Bronwyn McKenna

Judicial Diversity

Justice has published an updated report on judicial diversity. This report follows up its earlier report in April 2017, *Increasing judicial diversity* which explored the structural barriers faced by women, people from visible ethnic minorities and those from less advantaged socio-economic backgrounds in reaching the bench. The report explains why diversity is a vital constitutional issue, calls for systemic changes to increase accountability and improve recruitment processes, and proposes more inclusive routes to the senior bench. Its latest report, *Increasing Judicial Diversity: An Update*, assesses the progress that has been made since 2017, outlines areas that remain of critical concern and makes further recommendations for improving judicial diversity.

Online course on the judiciary

Kings College in conjunction with the Judicial Office has created an open access course on the judiciary: The Modern Judiciary: Who They Are, What They Do and Why it Matters. The MOOC (Massive Online Open Course) is now live. The format includes a range of interactive content, including quizzes, mini-lectures, articles, case studies and interviews with judges from England & Wales. No previous legal knowledge is required to take part.

Law Commission report on Simplifying the Immigration Rules

The Law Commission has just published a report on the Immigration Rules (Simplifying the Immigration Rules). The terms of reference for the report include identifying principles to make the rules simpler and more accessible, reviewing their drafting and structure, as well as tackling the underlying causes of complexity.

Digital Justice

The Legal Education Foundation has published a report on measures to introduce digitisation in relation to a number of Tribunals. See Digital Justice: HMCTS data strategy and delivering access to justice _ Report and recommendations Executive summary

Useful links

UKAJI administrative justice research database A public database of research related to administrative justice in the United Kingdom.

International Organization for Judicial Training This is an organisation consisting (August 2015) of 123 members, all organisations concerned with judicial training from 75 countries. The Judicial College is a member.

The Advocate's Gateway "provides free access to practical, evidence-based guidance on vulnerable witnesses and defendants".

Project Implicit website regarding unconscious bias including various tests.

Tribunal Decisions

Tribunals Journal All copies of Tribunals Journal from Spring 2006 to date.

Rightsnet

Child Poverty Action Group

The Public Law Project – public law and administrative justice website including relevant research.

Tribunals In The United Kingdom – a Wikipedia article giving an overview of the UK Tribunal System (including changes in Scotland, Wales and Northern Ireland).

List of Tribunals in the United Kingdom – another Wikipedia article giving a comprehensive list of Tribunals in the UK (both within and outside the Tribunals Service), including some which have never sat.

Bronwyn McKenna is a First-tier Tribunal Judge (Social Entitlement) *Back to contents*

Aims and scope of *Tribunals* journal

1. To provide articles to help those who sit on tribunals to maintain high standards of adjudication while remaining sensitive to the needs of those appearing before them.
2. To address common concerns and to encourage and promote a sense of cohesion among tribunal members.
3. To provide a link between all those who serve on tribunals.
4. To provide readers with material in an interesting, lively and informative style.
5. To encourage readers to contribute their own thoughts and experiences that may benefit others.

Tribunals is published three times a year by the Judicial College, although the views expressed are not necessarily those of the College. Queries should be emailed to *jcpublications@judiciary.uk*