JUDICIAL COLLEGE

TRIBUNALS
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Editorial 2019 Edition 3

EDITORIAL

By Christa Christensen

Welcome to this third and final edition of the Journal for 2019. There is, as ever, a wide variety of topics which should include something of interest to all our readers.

The first is from Keith Bush QC, the first President of the Welsh Language Tribunal. Keith explains something of the history and work of this unique tribunal. The *Welsh Language Act 1993* declared that Welsh and English should 'in the conduct of public business and the administration of justice in Wales' be treated 'on a basis of equality'. The Tribunal was established in 2014 as part of a variety of measures to reflect concerns regarding the lack of any effective machinery for enforcing this responsibility on public bodies. Keith explains how the Tribunal enables public bodies and individuals to challenge the rulings of the Commissioner.

Judicial leadership is the topic of the next article. Trevor Elkin, Judicial College Education and Development Adviser, writes about exciting and innovative developments in the leadership training for the judiciary. Having run ten iterations of the Leadership and Management Development programme in the last five years to 300 leadership judges, Trevor explains how the College has reshaped the training to best reflect the developing needs of leadership judges. It now comprises three levels; Essential Leadership Programme; Continuation Training for experienced Leadership Judges; and Senior Leadership Programme. Judge Habib Khan is a member of the new judicial leadership training team and Habib describes what the tribunals judiciary contributes to the new cross-jurisdictional programme. There will be a follow-up article in 2020 to recount the experiences of judges who have attended this new programme.

Tribunals judiciary may be becoming familiar with the support available in their hearing centres from on-site Digital Support Officers (DSO). For the uninitiated, the article from the DSO Communications Team sets out what work they do and the support available to assist in the process of digital upskilling.

In the last edition of the Tribunals Journal, John Aitken, President of the Social Entitlement Chamber wrote of the user-focused systems of the British Columbia Civil Resolution Tribunal and their focus on problem-solving. In this edition Professor Roger Smith picks up the same theme and examines whether the reforms in the Social Security Tribunal can achieve the aim of the process being diverted away from an adversarial state.

Tribunal Judge Jane McConnell writes of her experiences at the 2019 conference of Diversity and Community Relation Judges (DCRJs), from which she draws some conclusions regarding the importance of DCRJs. These include encouraging judicial colleagues to understand and champion diversity and challenging judicial colleagues whose words and actions may indicate that they are not aware of their own unconscious biases.

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Staying with the theme of the importance of diversity in the judiciary, Tribunal Judge Rozanna Head-Rapson's article celebrates the 100th anniversary of the *Sex Disqualification (Removal) Act 1919* which first recognised women as 'persons' such that they were enabled to join the legal profession in England & Wales. Rozanna examines why the tribunals judiciary are at the forefront in the appointment of women judges. There is a companion article highlighting developments in the world of books and toys aimed at encouraging girls into the judiciary – that may provide some ideas for Christmas presents. There will be a follow up article in 2020 from Rozanna in which she will write about her conversations with Lady Hale and a number of women tribunal judges.

Dr Russell Foster, a Medical Member in the First Tier Tribunal, provides some reflections on 1000 days of sitting in a 'portfolio' career. Russell describes how he has honed the different skill sets he deploys in his role as a judicial office holder, as opposed to his role as a medical practitioner, and some of the challenges he has faced along the way.

Tribunal Judge Steve Povey provides some fascinating insight into the key task of fact-finding in the First Tier and Employment Tribunals. Steve identifies that, although the context of each tribunal will differ, there are cross-jurisdictional core skills and pitfalls. He reminds us that such tribunals exist to resolve disputes of fact rather than to determine the 'truth' and examines the ways in which the assessment of credibility might be gauged and some of the dangers in considering a witness's demeanour.

Sir Ernest Ryder, the Senior President of Tribunals, addresses a number of important themes in his column. He reflects on the continuing progress of the reform programme and the modernisation of tribunals, the progress of 'One Judiciary' and cross-deployment between tribunals and courts. He highlights the continuing issue of a lack of consistency in judicial terms and conditions. We are also reminded of the work done by the Administrative Justice Council and the importance of bringing together those that work in tribunals and ombudsman schemes.

You will also find our regular Recent Publications section, curated by Board Member District Tribunal Judge Bronwyn McKenna and our Equal Treatment Bench Book Corner from Upper Tribunal Judge Paula Gray.

Christa Christensen is Chair of the Editorial Board *Back to contents*

Keeping up standards

THE FIRST FIVE YEARS OF THE WELSH LANGUAGE TRIBUNAL By Keith Bush

The Welsh government's current statutory policy document on the Welsh language[1] aims to increase the number of people 'able to enjoy speaking and using Welsh' from just under 600,000 (19% of the population) at the time of the 2011 census to one million by 2050. One of its tools for achieving this aim is the Welsh Language (Wales) Measure 2011. The Welsh Language Tribunal ('Tribiwnlys y Gymraeg') was created to provide a means of challenging certain decisions made by the Welsh Language Commissioner, an office also created by the Measure.

The twentieth century saw a rapid, and apparently inexorable decline in the number of those able to speak Welsh. Many predicted that Welsh would disappear as a living language by the early years of this century. But, contrary to expectations, the Welsh language has, since 1981, first stabilised and then begun to revive. Demographic projections now predict a steady growth in the numbers of Welsh speakers[2].

1 *Cymraeg 2050: A million Welsh speakers* (Welsh Government 2017)
2 *Projection of the number of Welsh speakers aged three and over by age, 2011 to 2050* (StatsWales)

The main cause of this reversal of fortune has undoubtedly been the growth of Welsh medium education. But it seems clear that another significant factor has been the steady improvement in the official status of the language since the middle of the last century, a process to which the Commissioner and the Tribunal are now contributing.

The Welsh Language Act 1993

A massive step-change occurred when the Westminster parliament passed the Welsh Language Act 1993. This declared that Welsh and English should 'in the conduct of public business and the administration of justice in Wales' be treated 'on a basis of equality'. This principle was to be given effect through detailed Welsh language 'schemes' to be overseen by a statutory Welsh Language Board.

Welsh language schemes negotiated between the Board and public bodies (over 550 by 2011) set the standard for dealings between those bodies and the public over the subsequent two decades. Increasing confidence in the principle of equality between the two languages led, however, to complaints that there were no direct means of enforcing language schemes. A perception developed that the benefits of Welsh language schemes were undermined by the absence of effective machinery for enforcing the rights which they set out to deliver.

Welsh language standards: "more effective enforcement" of Welsh language rights

An express aim of the Assembly's 2011 Measure, the first legislation on the language ever enacted by a Welsh legislature, was therefore 'to develop a more effective enforcement regime'[3] for the new framework of the 'standards' with which the Measure was to replace schemes. The Board was to be replaced by a Commissioner, described by the Welsh Government as 'a strong and independent voice for the Welsh language'[4] and the Tribunal was created to provide recourse in relation to certain classes of decision made by the Commissioner when imposing and enforcing standards.

The purpose of Welsh language standards is 'to promote or facilitate the use of the Welsh language'.

In contrast to the individual schemes which they replaced, standards are statutory codes, extending across broad sectors of public administration such as local government, the health service and tertiary education. They are defined in Regulations[5] made by the Welsh Government but are applied to individual bodies by compliance notices served on them by the Commissioner. The Measure provides[6] that the purpose of standards is 'to promote or facilitate the use of the Welsh language'.

The Regulations allow for some choice as to the standards to be applied to individual bodies. The Commissioner can, to some extent, tailor duties to reflect different circumstances, for example the linguistic make-up of different local government areas. In their scope, standards are similar to the schemes they replaced. In form, however, standards are drafted much more tightly, reflecting the aim of providing rules which can be strictly enforced.

The Measure confers a number of enforcement powers on the Commissioner. These include imposition of financial penalties of up to £5000 for each breach of a standard and the making of mandatory orders to ensure future compliance.

The Measure created, for the purpose of enabling challenges to be made to the exercise by the Commissioner of the above powers, a new administrative tribunal. As a creature of Welsh legislation, the procedures and administration of the Welsh Language Tribunal fall under the purview of Welsh Ministers rather than the Ministry of Justice and HMCTS. It is therefore one of the handful of 'Welsh tribunals' which deal with devolved subjects. Others include the Agricultural Lands Tribunal for Wales and the Residential Property Tribunal for Wales.

Although the Measure became law in February 2011, there was considerable delay in enacting the first tranche of standards, applicable to county councils, national park authorities and the Welsh Government itself and these did not come into force until March 2015. Consequently, the process of establishing the Tribunal was delayed until 2014. The writer was appointed President in August of that year, A second legally qualified member and a number of lay members were appointed with effect from 1 April 2015. It was not until April 2016 that the Tribunal received its first application.

Establishing a new tribunal

Establishing the Tribunal involved steps for which there was, in Wales, no precedent. This was a Tribunal which was initially without members, without procedural rules and without any established administrative infrastructure.

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3 *Proposed Welsh Language (Wales) Measure Explanatory Memorandum* (Welsh Government, 2010)

4 Ibid.

5 See for example the *Welsh Language Standards (No 1) Regulations 2015* (SI 2015 No 996 (W68)).

6 Section 28(1)(b).

The jurisdiction conferred on the Tribunal was unique within the British Isles as was the fact that it would be required to operate on a wholly bilingual basis.

The Welsh Language Tribunal Rules 2015[7], drew, with considerable modifications, on the practice of existing devolved tribunals. They have worked well, as have practice directions which cover matters such as the exercise of Tribunal functions by the President (or by a legally qualified member) and regulation of the use of the two languages in Tribunal proceedings. Experience in handling actual cases suggests, however, that a revision of the Rules, including some simplification of procedures, would be desirable.

The Rules, and the administrative arrangements put in place to support the Tribunal, actively encourage the use of electronic communication and, although the option of using other methods has been retained, communication with parties and the publication of decisions has so far been conducted exclusively by electronic means.

The Rules do not require applicants to pay any fee to bring an application nor can the Tribunal, except in exceptional circumstances, make awards of costs. Whilst the Commissioner and other public bodies commonly retain legal representatives, applicants have, so far, represented themselves before the Tribunal.

The Tribunal conducts hearings in the area where the relevant dispute arose. The Rules enable cases to be decided, where practicable, 'on paper' and the avoidance of a hearing has usually been attractive to the Commissioner and public bodies. This can only be done, however, with agreement of all parties and individual applicants have so far been reluctant to dispense with a hearing.

A party may communicate with the Tribunal in Welsh or in English and is entitled to receive a response in the same language. Naturally, individual applicants and the Commissioner prefer to conduct their cases in Welsh. Public bodies whose compliance with standards is in question have, on the other hand, opted to use English. Documents originating from a party and forwarded to the other by the Tribunal (for example notices of application and case statements) are passed on in the original language. A public body which wishes to have an English translation of a document in Welsh is therefore expected to make the necessary arrangements to obtain one.

A party may communicate with the Tribunal in Welsh or in English and is entitled to receive a response in the same language.

Either language can be used at Tribunal hearings and simultaneous interpretation is provided. Not all Tribunal members are able to operate with effectiveness through Welsh and it can be necessary, depending on the composition of the panel, to provide translations of some documents for use at hearings by those members. The language in which the panel discusses its decision, and that of the first draft of the reasons, also depends on the linguistic profile of the particular panel. Once agreed, the draft reasons are translated into the other language and published in fully bilingual form.

The Welsh Language Tribunal's jurisdiction

Since the Tribunal was originally conceived as a means for public bodies to challenge decisions of the Commissioner, the Welsh Government initially proposed limiting its jurisdiction to four specific situations:

- An appeal against a decision of the Commissioner to impose a particular standard on a body, based on a test of 'reasonableness and proportionality';
- An appeal against a finding by the Commissioner that a body had failed to comply with a specific standard;
- An appeal against enforcement action proposed by the Commissioner;
- An appeal against an "evidence notice" issued by the Commissioner requiring production of specified evidence for the purpose of an investigation.

During scrutiny of the proposed Measure by the Assembly the demand arose for those who had initiated complaints to the Commissioner also to be able to refer certain matters to the Tribunal. The Welsh Government eventually agreed to amend the proposed Measure by adding two further classes of case referable to the Tribunal:

- An appeal by a complainant against a finding by the Commissioner rejecting a complaint;
- An application by a complainant for a *review* of a decision by the Commissioner not to undertake an investigation into a complaint.

The Measure requires the Tribunal, in the latter case, to consider the matter as if it were an application to the High Court for judicial review of the Commissioner's decision. Permission must first be obtained, requiring the applicant

7 SI 2015 No 1028 (W76)

to demonstrate to the Tribunal reasonable prospects of success. The remedies which the Tribunal can grant are, however, more limited than those available to the High Court. It can either dismiss the application or quash the decision and remit the matter to the Commissioner for a fresh decision. No other remedy can be granted and this (see below), can be an obstacle to satisfactory resolution of a dispute.

Overview of cases

By the end of the writer's term of office in July 2019, a total of 21 cases had been received, of which 19 had been resolved. Of the 19, four had been formally withdrawn. Since, in each case, this was followed by discussion between the parties leading to a resolution acceptable to the applicant, they can fairly be regarded as applications which were, in substance, successful. In a further case the Tribunal was obliged to dismiss an application purely because the relevant decision had been reversed by the Commissioner unilaterally. Taking these cases together with the further two which resulted in a formal finding for the applicant, the overall 'success rate' of applications was therefore 37%.

"…had the legislative process not responded positively to public concerns … complainants would have been left without a practical means of challenging flawed decisions."

The most striking feature of the Tribunal's case load to date has been the predominance of applications brought not by disgruntled public bodies but by disappointed complainants. Out of the 21 applications, 16 sought a review of a refusal by the Commissioner to investigate their complaints. Had the legislative process not responded positively to public concerns at the originally one-sided jurisdiction of the Tribunal, these applications would not have been possible. The Tribunal's case load would have been reduced by three-quarters but, more importantly, a number of complainants would have been left without a practical means of challenging flawed decisions.

The Tribunal's decisions can be accessed via its website[8]. Milestone decisions have ruled on:

- reasons which can justify a decision by the Commissioner not to investigate a complaint[9];
- the meaning of a requirement not to treat the Welsh language 'less favourably than the English language'[10];
- whether the alleged unreasonableness of a standard, once it has come into force, is relevant to a finding that a body has failed to comply with it.[11]

The Measure provides for a further appeal, on a point of law, to the High Court. No such appeal has, as yet, been brought.

How the Tribunal might develop

In July 2019, the Assembly's Culture, Welsh Language and Communication Committee reported[12] on the effectiveness of the Measure. It identified a lack of robust evidence as to its impact but accepted that there was considerable anecdotal evidence that it had led to widespread improvement in the practical status of the Welsh language. The Committee made no specific findings in relation to the role of the Tribunal.

The Committee's review took place in the context of proposals announced by the Welsh Government in August 2017 (but later withdrawn) to make a number of changes to the existing legislation. Although the proposed Bill would not have impacted greatly on the Tribunal (its main proposals related to the role of the Commissioner) it could, had it proceeded, have provided a vehicle for the strengthening (and simplification) of the powers of the Tribunal of whose desirability the writer is convinced.

The circumscribed nature of the Tribunal's jurisdiction is one weakness. For example, the Measure confers on a complainant rights in relation to the conduct of an investigation by the Commissioner but provides no means of enforcing them. Also, an application for a review of a decision not to investigate a complaint may identify important issues about the Commissioner's approach, but if the Commissioner decides unilaterally to reverse the decision under review, the Tribunal has no power to continue consideration of those issues (see case no 18/2) nor, if it could do so, has it any power to make a purely declaratory ruling.

The opportunity for the Welsh Government, through a new Bill amending the 2011 Measure, to provide the Tribunal with a more holistic jurisdiction has now receded. An alternative vehicle for doing so may arise out of the project on

8 https://welshlanguagetribunal.gov.wales

9 Case 16/8

10 Case 18/2

11 Case 18/5

12 *Supporting and Promoting the Welsh Language* (National Assembly for Wales July 2019)

Welsh devolved tribunals which the Law Commission is about to commence.

The Tribunal's achievement

Establishment of a new judicial body, exercising a unique jurisdiction and doing so through the medium of two languages, has been a major achievement. No analogous body of law to that created by the Welsh Language (Wales) Measure 2011 exists anywhere else in the British Isles. Despite the fact that the Irish language has the status of "first official language" under the Irish Constitution, the Irish Language Commissioner, Rónán Ó Domhnaill, in evidence to the Assembly[13], expressed an aspiration to adopt, in Ireland, a similar legislative framework to that of the Measure, raising the prospect that the Tribunal might be replicated there. Given the fact that we are approaching the centenary of Irish independence, whereas Welsh devolution, even in its initial limited form, is only 20 years old, this is a remarkable endorsement of the bold and innovative legislative framework within which the Welsh Language Tribunal plays a key role.

13 Ibid.

Keith Bush QC (honoris causa) is President of the Welsh Language Tribunal 2014 – 2019. He is a Senior Fellow in Welsh Law at the Wales Governance Centre, Cardiff University.

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Leadership matters

LEADERSHIP & MANAGEMENT DEVELOPMENT PROGRAMME

By Trevor Elkin

In June 2013, the Judicial College invited senior judges from across all jurisdictions to attend a Leadership Forum. The forum was to agree the skills and attributes required of judges with leadership and management responsibilities, identify the training needs of those judges, and design an outline programme that would enable them to meet those needs and achieve the goals required by the Judicial Executive Board (JEB).

While the concept of training judicial office holders in these skills was not new, the Leadership & Management Development programme (LMD), launched the following year, was the first of its kind. The LMD benefitted enormously from having an expert team of senior judicial leaders (Sir Ernest Ryder, Judge Brian Doyle and Lord Justice Irwin, among others) working alongside Judicial College experts Dr Kay Evans and, more recently, myself, Trevor Elkin. Delivered as three one-day modules, the LMD's cross-jurisdictional nature created opportunities for leadership judges to learn together, share and compare experiences and build judicial leadership expertise among courts, tribunal judges and coroners alike.

Over the last five years, the challenges upon the judiciary have continued to grow and evolve, not least because of HMCTS reforms. Following ten successful iterations of LMD to over 300 leadership judges, the Judicial Engagement Board asked the College to review and expand its leadership and management training accordingly.

Latest developments in leadership training

Following a consultation with SPT, SPJ and other senior judges, as well as LMD alumni, the Judicial College's leadership training offering has been reshaped and now comprises three levels:

Spanning all three levels are online resources, podcasts, videos and master classes for all leadership & management judges.

Essential Leadership

The LMD has been renamed 'Essential Leadership' and is now refocused on supporting all judges who are embarking on their first leadership and management role. As LMD was, the Essential Leadership programme is delivered in three one-day modules:

- Module 1 'Leading in the organisation' introduces the main concepts of leadership and management and provides an opportunity for leadership judges to consider their own roles and responsibilities in terms of their current working environment, culture and key relationships. Judges learn different strategies to tackle organisational issues, while managing and leading in a changing environment.
- Module 2, 'Personal leadership' provides judges with an opportunity to explore different leadership roles, responsibilities and styles. Where Module 1 looked outward, Module 2 encourages personal reflection, to develop deeper insights into where precious time should be spent. The seminar covers practical issues of time management and delegating to others, as well as building personal resilience.
- Module 3, 'Leading and managing others' explores the different responsibilities leadership judges have for other judicial office holders and provides practical guidance in carrying these out, including the different, sometimes challenging conversations that ensue. This module considers the judicial HR challenges that leaders must tackle and suggests tools and techniques to help them respond appropriately, for example:

  - Understanding others' welfare and how people react differently to change and pressure

  - How to challenge unhelpful behaviour or underperformance

  - How to help others think about future roles or their judicial career.

Each module is delivered by two judges, (one each from courts and tribunals judiciary) and Trevor Elkin from Judicial College. Guest speakers have included senior judges, for example the SPJ and SPT, as well as Judicial Office HR support staff.

Continuation training for experienced leadership judges

Leadership and management judges with at least 12 months experience in role (and who may not have received any formal training) will soon have access to continuation training for their leadership role, consisting of:

- Online resources, video links and podcasts.
- An annual, one-day symposium for judicial leaders (explained below)
- Master classes on topics of interest, for example leading change.

A pilot symposium event will be held in December 2019, which will in turn inform the design of a subsequent event in March 2020. The symposium is intended for any judge (Courts, Tribunals, Coroner judiciary) with at least 12 months of experience in a role with leadership and management responsibilities and takes a very different approach to traditional training, with participants deciding the main contents for each event. Each participant will have an opportunity to discuss leadership issues with other judges in a confidential environment, facilitated by the new judicial leadership tutor team (see below) and experts. The event aims to help participants to prepare for and be more confident in handling the sensitive, or difficult conversations that may arise in their leadership roles, while also identifying practical solutions to real-life problems. The pilot event will also trial an interactive theatre exercise, which explores a case of judicial welfare and wellbeing.

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Senior leadership development

For the first time, the Judicial College is running a cross-jurisdictional induction event for judges in High Court leadership positions and Upper Tribunal Chamber Presidents. The training covers both the practical management involved in the roles of Presiding Judge, Family Court Liaison, Administrative Court Liaison and Upper Tribunal Chamber President. Commissioned by the SPT, this training has been designed by Mrs Justice May and Mr Justice Dove, supported by Trevor Elkin as leadership expert.

A new judicial leadership training team

Following an EOI, 12 new judicial Leadership Tutors have been appointed. They have worked closely with Trevor Elkin and other experts in the design of the training to ensure that the content and approach reflects both the current and future challenges of the judiciary and helps to equip leaders with the skills and knowledge to lead their judges through these.

The leadership tutors are also involved in delivering training, bringing a wealth of experience and practical advice for participants. To some, leadership and management theory can appear nebulous or even irrelevant, so the College is committed to delivering programmes focused on developing relevant knowledge and skills that can be immediately applied, back in the 'real world'.

The College leadership tutors are:

- Regional Tribunal Judge Hugh Howard (SSCS)
- Deputy Chamber President Meleri Tudur (HESC)
- Judge Habib Khan, Judicial Lead Care Standards & Primary Health Lists (HESC)
- Regional Employment Judge Barry Clarke
- Regional Employment Judge Fiona Monk
- Deputy Chief Coroner Derek Winter
- HHJ Robin Bedford, Designated Family Judge
- HHJ Marc Dight, Designated Civil Judge
- Deputy Chief Magistrate, Judge Tan Ikram
- HHJ Sarah Singleton, Designated Family Judge
- HHJ Stephen Wildblood, Designated Family Judge

Leadership tutor Judge Habib Khan reflects below on the Judicial College's approach to Leadership and Management training, and its relevance to the tribunals judiciary.

Q: Why is it important to bring leadership and management training to the judiciary?

There is a strong emphasis on leadership and training outside of the judiciary, both in the private and the public sector. So why is it important to bring leadership and management training to the judiciary and why should you take time out of your busy diary to attend?

Its importance lies in what it offers. Attendees of Judicial College leadership training events possess a range of prior knowledge and experience, from very little leadership and management to significant experience of it, prior to joining the judiciary. The Essential Leadership programme builds on whatever knowledge you have. The training provides those attending with the theoretical, as well as a practical perspective on different approaches to dealing with different leadership and management issues, such as managing change or having focused conversations, challenging or otherwise. Some of the theory and practice may well be familiar to those attending, but the course also offers alternative solutions to everyday issues.

Leadership is, of course, not just about managing others but also about personal leadership. The training offers techniques to manage your own time and energy, as well as how to build effective relationships with others, delegation skills and much more.

One of the benefits that delegates found was that it provides an opportunity to take time out of the day job to think about practical people-related issues and to discuss different approaches with delegates in a similar position, all within a confidential environment.

The feedback from previous leadership and management courses also demonstrates its added value. For example, comments include "it has had more of an impact on my working life than any other educational seminar I have participated in" and "…I wish I had done it earlier".

Q: What does the tribunals judiciary bring to the development of the programme?

The tribunals rely largely on fee paid judicial office holders in order to deal with the work. Leadership and management in the tribunals can include responsibility for judicial office holders across a range of specialisms. This includes responsibility for judges, specialist and lay members. The non-legal members include a range of professionals, doctors, surveyors and social care professionals. This means that there are well established structures and therefore regular opportunities to develop and practise leadership and management skills.

Through their attendance on these programmes, there is an opportunity for members of the tribunals judiciary to provide valuable input into the development of leadership skills and good practice across the judiciary. This includes input on the relevance of the content and developing the practical elements of the programme.

I appreciate that judicial time is precious but having attended this course as a delegate, it does offer added value for those undertaking leadership and management or those wanting to develop or enhance such skills.

Further information

For more information on enrolment, please refer to the Judicial College Learning Management System. It is recommended that prospective participants discuss learning needs in relation to their leadership and management role with their own leadership judge.

For enquiries on leadership and management development, please contact Cross_Jurisdiction_training@judiciary.uk or trevor.elkin@judiciary.uk.

Trevor Elkin is an Education and Development Adviser at the Judicial College

Tribunal Judge Habib Khan is the Lead Judge at the Care Standards & Primary Health Lists Tribunal

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Know your Digital Support Officer

HMCTS Reform Programme

By National DSO Team members

As part of the HMCTS Reform Programme, which aims to move courts and tribunals to digital ways of working, and in response to concerns about the support available to judiciary and staff at court sites, the Digital Support Officer (DSO) Programme was set up to help bridge the gap between users and IT at the most basic level at their home site.

The project started in August 2017 with the intention of trialling the new role, which was to be undertaken by existing members of HMCTS administrative staff and to provide support and advice to staff and judiciary. The initial proposal was to appoint 350 DSOs across England, Wales and Scotland and to offer them blended training, which consisted of face to face and online learning. This would provide them with the necessary skills to undertake their DSO roles.

The DSO role was created due to the rapidly changing work environment where HMCTS are now heavily reliant on digital technology to support the deployment of new and future digital products alongside new ways of working.

The role of the DSO is to act as a single point of contact for IT incidents, fixing where possible, and if not, reporting and managing issues with the necessary IT Support Helpdesk. DSOs also undertake a proactive check on IT equipment in Courtrooms, to ensure any IT impact on hearings are minimised. DSOs also support and digitally upskill their HMCTS colleagues, which make them an invaluable asset across the HMCTS estate.

Following the initial trial, the DSO Project started national roll out on 19th February 2018 at Mold Crown Court in Wales, where HMCTS operational staff were given additional IT training to help support their respective business areas.

Every week thereafter, until June 2018, the DSO Support team conducted DSO Training Workshops across the whole country, from as far north as Aberdeen and as far south as Plymouth. The DSO Project was completed in June 2018 and is now embedded and supported as ‘business as usual’ by the National DSO Support Team.

To date there are around 570 DSOs covering 96% of the HMCTS estate, helping to manage local and national

incidents as well as assisting the Regional IT team with the delivery of new IT products and services across the business. The role is allocated 25% of the DSO's weekly working time, with larger sites having several DSOs in post to cover the demand of the business.

Sarah Anastasiou Head of HMCTS Digital Support Officers Team
Peter Getchell Deputy Head of Judicial and Royal Courts of Justice Group HMCTS Digital Change
Alex Kirk National DSO Support Manager
Jill Oxley National DSO Support Team Coordinator

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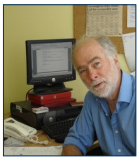
Threats and opportunities

SOCIAL SECURITY TRIBUNALS

By Roger Smith



Nearly forty years ago - as some, but by no means all, readers may recall – tribunals underwent their last major period of substantive reform before the transfer of their responsibility to the Ministry of Justice. Those governing social security appeals were transformed by greater professionalisation; the appointment of an innovative president; and a new underlying statutory scheme. It was all, however, a very domestic affair: I don't remember a single reference in the supporting arguments and papers to international experience. So, there are some similarities to, but not a few differences from, the reforms heralded by the current courts and tribunals modernisation programme. These reforms are, however, likely to prove as monumental in their effect. And there is work still to be done in how they are implemented. I am particularly concerned with appeals that cover social secu-rity matters: these were once close to my heart as the solicitor for the Child Poverty Action Group during the period of implementation of the 1980s reforms. However, these cannot be entirely de-tached from the project as a whole.

The driver for the reforms of the early 1980s was the recognition that the previous model of discre-tionary social assistance needed re-articulation in a more legalistic, rights-based language in which entitlement (and non-entitlement) was clearer and more predictable. That reflected an adjustment in the perception of the post-war welfare state, a very British creation. By contrast, the driver for the current reforms is technology (combined with a degree of opportunistic austerity).

The influence of the Civil Resolution Tribunal

These reforms were preceded by the reports of Lord Briggs. He was expressly influenced by inter-national models such as the Civil Resolution Tribunal (CRT) of British Columbia, which he visited in the course of his research for the Civil Courts Structure Review, the final report of which was published in July 2016. The CRT is just one of a number of online jurisdictions. The Cambridge Pro Bono Project has produced a study of six for the International Legal Aid Group[1] (England and Wales, Victoria, New South Wales, Michigan, Utah and British Columbia) and there are undoubtedly more.

The reforms were preceded by the reports of Lord Briggs. He was expressly influenced by international models such as the Civil Resolution Tribunal (CRT) of British Columbia, which he visited in the course of his research for the Civil Courts Structure Review.

The CRT – and its Chair, Shannon Salter – have achieved global recognition. Lord Briggs is not the only commentator to have visited Vancouver and Victoria to explore its potential (so have I and Judge Aitken, whose appreciation was published in an early edition of the journal). You can hear Ms Salter speaking about the tribunal in a video (skip the first 10 minutes). There are a number of characteristics of the tribunal (which differs from our experience) to note – two in particular. First, the tribunal was, in Ms Salter's words, always 'an access to justice project'. It was not designed to save money. By contrast, the Public Accounts Committee's (PAC) concern is that: 'HMCTS has not adequately considered how the reforms will impact access to, and the fairness of, the justice system for the people using it,

1 *Cambridge University Pro Bono Group, A Comparative Analysis of Online Dispute Resolution*

many of whom are vulnerable. We are concerned that the reforms are being pursued at the possible expense of people's access to fair justice.' The programme's main aim is to save £265m and 5,000 jobs. The PAC fears it will fail. There are no explicit 'access to justice' objectives for the programme: Her Majesty's Courts and Tribunals Service has only promised that it would draft some by the time that the project is over. Secondly, an integral part of the CRT is its Solution Explorer which provides the tools for users to try to settle their case before it starts and before a fee is paid. This element, which Lord Briggs said was crucial to the success of his proposed reforms, has not been implemented here.

The domestic proposals are, therefore, rather different in origin and intention from what has been implemented in British Columbia. And, the particular issue is how this will impact on social security.

The modernisation programme

The Ministry of Justice's draft bill follows the CRT in allowing proceedings to be conducted electronically. It, thus, gives form to ideas first promoted at length by the Tribunals President, Sir Ernest Ryder, in his 2016 speech: 'Change your view of litigation from an adversarial dispute to a problem to be solved. All participants, the appellant, the respondent Government department, which in th[e] case [of social security] is the Department of Work and Pensions, and the tribunal judge, are able to iterate and comment upon the basic case papers online, over a reasonable window of time, so that the issues in dispute can be clarified and explored … Our new approach is similar to that already used in other jurisdictions, where the trial process is an iterative one that stretches over a number of stages that are linked together … We will have a single, digital hearing that is continuous over an extended period of time.'

But, here is the rub … Tribunals must operate to a considerably higher standard both in terms of adjudication and transparency than the Department whose decisions they are considering.

But, here is the rub considered in this article. Can social security appeals be diverted from their cur-rent adversarial state? DWP officials are under extreme pressure to make savings. Presenting of-ficers rarely attend hearings. Cases are not well prepared and usually presented at appeal level. The latest official figures available are for the last quarter of 2018. These reported that '80% of dis-posals were cleared at hearing with a 70% overturn rate.' This was out of just over 50,000 cases heard in the last quarter of 2018. The highest rate of overturn was Education and Support Allow-ance at 74% t and Personal Independence Payments at 73%. All of these cases will first have been processed by the DWP through mandatory reconsideration. These successes (for claimants) and failures (for the DWP) are shocking and, I would argue, illustrate what we have to recognise is a deeply troubling administration which is likely, without remedy, to impact on any new system.

The unreliability of the DWP (which, unlike in 1980 is not intending to do anything more than further implementation of the existing benefit of Universal Credit) will put an enormous burden on tribunals implementing a more informal procedure. The Public Law Project has been a source of high quality analysis on the adjudication system. In January, it submitted evidence to the House of Commons Justice Committee:

> One specific example of a process concern … is how, in the recently announced next phase of digitalisation in the Social Security Tribunal, it became apparent that this included the implementation of a 'preliminary view' stage … On analysis of the contents of the slides from the roadshow event, the following concerns are noted in relation to the model proposed for digital 'preliminary views' for Personal Independence Payment appeals: There is no breakdown of points awarded in the body of the tribunal's preliminary view, which makes it hard for an appellant to fully assess and judge whether to accept the preliminary view or proceed with a hearing. It is not clear how representations or legal arguments feature in this system, which appears to only be concerned with obtaining further evidence. There is noth-ing about appeal rights in the screens about 'accepting the tribunal's view' – indeed, appel-lants are told that they will not be able to change their mind. It is not clear how, if at all, a rep-resentative would be able to be actively involved in this system. It is not clear how much weight the panel for a live hearing would have to give to the preliminary view, if any – espe-cially since the appellant has to explain why they want to proceed to a hearing.

All these points could - and must - be addressed. We must assume that some of them will be met. But, they indicate how tribunals face both a trap and an opportunity not present in British Columbia or elsewhere in their proposals to digitalise proceedings and to introduce their own form of what is, in effect, 'early neutral evaluation'. They must operate to a considerably higher standard both in terms of adjudication and transparency than the Department whose decisions they are considering. The great danger is that they will be drawn down to Departmental standards that currently lead it to lose most of its appeals. On the other hand, the opportunity lies in being able to impose open methods of adjudication which help all parties fairly to present their case – which will be particularly useful to appellants – and to allow appellants to proceed without having to go to a hearing (overall, probably an advantage as long as the option to do so remains). But, success will require real com-mitment to bettering the quality of the administering department; a real commitment to appellants; and an imaginative attention to detail. If the Tribunals led

by Sir Ernest Ryder can deliver these then they will be an enormous success equivalent to the 1980 reforms. Fail and the integrity of the courts and tribunal system will potentially be contaminated by the failures of the DWP.

Professor Roger Smith OBE is a visiting professor of law at London South Bank University and an honorary professor at the University of Kent.

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Welcome to the world of a DCRJ

CONFERENCE REPORT By Jane McConnell

Question: What is the most common question people ask about being a Judge?

Answer: "How many people have you sent to prison?".

I have never sent anyone to prison and never will if I remain in my present tribunal jurisdiction but this common view of what we "do" as Judges is something which Diversity & Community Relationship Judges (DCRJ) have been appointed to change.

The annual conference this year welcomed 50 newly appointed DCRJs, who along with the existing team, were enthused and genuinely entertained by a range of stimulating speakers and discussions. Not one of them was dull.

Professor Alan Dignam, Queen Mary University of London, gave top tips on how to engage a school audience once you have actually managed to secure the "gig to speak to all the kids" about our role as judges - even those the teachers may not think suitable. He confirmed that when explaining what we do, yes, it is ALL about the wig.

Caroline Harrison QC spoke about her experience as a trans woman at the Bar. She acknowledged the fear but was compelled to finally be herself, and described how she was supported by colleagues and the wider legal community to continue to be a successful advocate.

Fiyaz Mughal from Faith Matters spoke about the road to extremism which some young people take when their trust in the system is shattered.

Rev. Rose Hudson-Wilkin traced her determination to become a Bishop (she will be enthroned in November) back to her roots in Montego Bay, Jamaica, when she was told that women don't get "that job" in the Anglican Church. The suggestion that the DCRJ conference should be held there next year was overwhelmingly supported by the delegates however, no-one is quite sure if it can be booked on Redfern! Faced with dual prejudices as a black woman, she articulated the determination it takes to challenge and succeed when diversity is only a whispered hope.

Richard Moore, Deputy Chief Constable of Warwickshire inspired with his experiences of building community relationships in Birmingham when racial tensions have been sky high. His advice is that whatever you say has to be what you truly believe. Surely, a cornerstone when building successful relationships whether in the police or the judiciary.

...the Lord Chief Justice confirmed that he has authorised two days per year protected time to allow DCRJs to go out to spread the message...

It is one of the only training events that I have ever attended where there was no after-lunch longing for a snooze and no temptation to sneak a peek at emails. What was going on was just too interesting. Being a DCRJ is a voluntary role but in the past year, the Lord Chief Justice confirmed that he has authorised two days per year protected time to allow DCRJs to go out to spread the message as he is clear that diversity and community relationship building is essential.

So what is the message? Well, after the training, I have concluded it is threefold:

First, it is to get out into public life - especially to schools, colleges and those already embarking on a legal career – to tell them that the judiciary not only needs them but that is a role to be considered by all. We are not just the "male, pale and stale" but open to all comers who have the education, experience and commitment to dedicate their life to public service. Every judge has their own story of how they came to be appointed. Scratch the surface of even the most outwardly stereotypical judge and you can discover a hidden treasure trove of diversity. We are not the enemies

of the people but there to uphold the law and protect all - whoever they are. As Lady Justice Hallett commented, if the 90 Judges who attended this year's conference were actually a true reflection of the diversity across the whole judicial team, then our job would be done. Unfortunately, this is still not the case. The most recent diversity statistics, published on the day of the conference by coincidence, show that whilst gender equality, especially amongst the more junior level of the judiciary, is improving, for more senior appointments things are slow to change. However, they do move in the right direction. Other areas of diversity such as BAME or appointment of those from a non-barrister background stubbornly remain at low and disproportionate levels. As a DCRJ, you need to get out there and spread the word that things are changing in order to promote and support further change.

The second role of a DCRJ is to support our colleagues within the judiciary to understand and champion diversity not only amongst our ranks, but in our courtrooms. As promoted by Regional Judge Hugh Howard and Deputy Senior District Judge (Chief Magistrate) Tan Ikram, one of the biggest tools to support diversity is the Equal Treatment Bench Book which was revised in February 2018. It must become our "go-to" text to show how to tackle issues involving race, gender, religion, and sexuality which can suddenly occur during a case and make you wonder whether you are being tested as part of a JAC exercise. (Another top tip was that if you are applying in a JAC exercise, you ignore the Bench Book at your peril).

Thirdly, a subtler role for a DCRJ suggested by Judge HHJ Marc Dight, Lead DCRJ, is to be able to challenge colleagues when they may not have realised that their words or actions stem from an unconscious bias. Whilst this can be directed at a certain diversity group, it can also include bias towards other parts of the judiciary. The DCRJ training is one of a limited number of opportunities available to judges to interact across both the Courts and Tribunals jurisdictions. I learnt what Gary in Portsmouth does as a DJMC. He now knows that the recent urgent application which he granted to close a doctor's surgery may well come to our First-tier Tribunal Care Standards if appealed. Meanwhile, I am keen to encourage Caroline, a Circuit Judge, to take up the next opportunity to be assigned to the world of tribunals as one of the trailblazers in furthering the concept of One Judiciary. As a DCRJ, if we can support all our colleagues to understand the part we all play in delivering justice - whatever our title and whether we wear wigs or not – then we can all ensure that the rich diversity of what we do will be successfully communicated.

Scratch the surface of even the most outwardly stereotypical judge and you can discover a hidden treasure trove of diversity.

I suspect the overarching message that I came away with from the day was that the concept of diversity is still emerging within the judiciary. A tender plant, it has sprouted and has started to grow under the careful guidance and nurture of Lady Justice Hallett, who retires in July 2019 as the Chair of the Diversity Committee of the Judges' Council. The overwhelming message was that without her, the concept of diversity may well have not even got as far as it has. What is now required is that we all take care to ensure it flourishes and grows like bindweed. As DCRJs, we are the fertiliser!

If we are successful, it may, one day, not all be about wigs and how many people have we sent to prison.

Jane McConnell is a tribunal judge in the Health Education and Social Care (HESC) Chamber

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Trailblazing Tribunal Judges

100 YEARS OF WOMEN IN LAW - PART ONE

By Rozanna Head-Rapson

Centenary

It seems almost inconceivable that 100 years ago there were no women lawyers in the United Kingdom. This year marks the celebration of 100 years since the Sex Disqualification (Removal) Act 1919, the legislation which first recognised women as 'persons' in England and Wales and enabled us to join the legal profession. It was a revolutionary piece of legislation which dismantled barriers preventing women entering the professions. On 23 December 1919 the passing of the Act entitled women to enter the law, hold public office and judicial office.

Thanks to the sheer determination and courage of early women pioneers, women entered the legal profession and progressed, albeit at an almost glacial pace. 'The First 100 Years Project' is a wonderful resource dedicated to the progression of 100 years of women in law. It contains a detailed chronology of all the great women who achieved legal 'firsts.' It is beyond doubt that we are hugely indebted to our predecessors for their mammoth endeavours. We stand on the shoulders of giants, and this has been widely acknowledged by the United Kingdom Association of Women Judges, which has launched events and a series of lectures to celebrate the achievements of women in law over the past 100 years

Women in law

However, in this two-part article, I want to examine why the tribunals have embraced women and made such unprecedented progress in recruiting women into the judiciary. In order to examine why the tribunals are at the forefront of appointing women judges, it is worth pausing for a moment to look at the statistics relating to women in the legal profession to contextualise the relevant statistics.

Despite the heroic efforts of our predecessors, only a handful of women were called to the Bar during the 1920-40s. In 1970 women only made up 8.2% of those called to the Bar. In the 1980s this increased to 37% and in the early 1990s 42.7%. The figure now stands at around 50%.

In terms of women solicitors, they sorely lagged behind their barrister counterparts, with only 16 admitted in the 1930s. By the late 1950s there were only 356 women holding practising certificates out of around 19000 practising solicitors. By 1975 there were 1563 women solicitors and by 2019 over 60% of solicitors are women. On first reading, these figures look promising, but unfortunately in 2019 the profession continues to be led predominantly by men at the senior levels which shows that barriers to success remain. Although women make up 50.2% of practising certificate holders, they are not making it to the top in the same numbers as men. Of the 30,000 partners in private practice only 29.3% of partners are women. Although there are plenty of women entering the profession, they are not progressing in tandem with their male counterparts. One of the reasons for fewer women at partnership level or equivalent, is that a number leave legal practice somewhere around the mid-point of their careers, before realising their full professional potential. The profession loses considerable knowledge, experience and female role models.

It is beyond doubt that we are hugely indebted to our predecessors for their mammoth endeavours. We stand on the shoulders of giants,

When one looks at the Bar statistics a similar picture emerges. Men and women now obtain pupillages in almost parity, with women slightly ahead in most years. Success in obtaining tenancies is almost as good for women. However, what is remarkably disconcerting is the retention rate after five years, or, worse, after ten, is an entirely different story. The Association of Women Barristers seeks particularly to represent, monitor conditions for and support generally (disregarding the relatively small number of star performers who are honourable exceptions and blaze their own trails entirely on their own). They have identified that the following factors need to be scrutinised on an ongoing basis:

- Return to Chambers after maternity leave or other career break, which remains a significant hurdle to clear for many.
- The concentration of women barristers in crime and family law which means they are disproportionately vulnerable to public funding cuts.
- Statistics on judicial appointments which show a steadily rising percentage of women's participation, but which is largely confined to the lower judiciary.
- The representation of women in the annual silks list from which the higher judiciary come which, although increased since silk appointments were resumed, has nevertheless masked the fact that there is a minority of women judges in senior positions.

There is an unusually high rate of attrition of its female members in all branches of the legal profession.

There is an unusually high rate of attrition of its female members in all branches of the legal profession. The Women in Law Pledge was launched by the tLaw Society of England and Wales, the Bar Council of England and Wales and the Chartered Institute of Legal Executives (CILEx) at the Law Society's international symposium on gender equality on Thursday 20 June 2019[1]. Law firms, local law societies, barristers' chambers and organisations outside the legal sector will be invited to sign their name to the pledge, and aims to build a more equal profession for all.

1 *We must do more to prevent women being 'lost to the law* by Linden Thomas, President of Birmingham Law Society, 24 July 2019

Organisations who sign the pledge will commit to:

- support the progression of women into senior roles in the profession by focusing on retention and promotion opportunities,
- set clear plans and targets around gender equality and diversity for their organisation, and
- publish their action plan and publicly report on their progress towards achieving their goals.

The then Justice Secretary, David Gauke, said:

> "We know that a more balanced workforce is good for business and the wellbeing of organisations. I already see this first-hand at the Ministry of Justice, at which 48% of senior positions are filled by women committed to public service. It is only by working together that we will improve equality and diversity, and I encourage all law firms and others to sign the pledge and ensure there is equal opportunity at all levels."

It is clear that a lot more can still be done.

It is clear that a lot more can still be done.

Judicial diversity statistics 2019

The Judicial Diversity Statistics are produced annually and were published on 11 July this year, showing the figures as at 1 April 2019:

- 32% of judges in the courts are women and 46% of tribunal judges are women.
- 51% of non-legal tribunal members are women.
- Around half of judges in the courts aged under 50 are women.
- Women outnumber men among tribunal judges aged 30-39 (54% women) and 50-59 (52% women).
- 33% of judges in the courts and 63% of tribunal judges were from non-barrister backgrounds (solicitor, CILEX or other).
- 7% of court judges, 11% of tribunal judges and 17% of non-legal tribunal members are Black Asian Mixed Ethnicity.

From the above statistics, it is evident that the tribunals have led the way by recruiting a pool of judges who reflect society and, in doing so, the tribunals have radically overhauled judicial diversity. The tribunals are almost there, with only 4% to go before they reach gender parity. The senior ranks of the tribunals are well represented with 42% women upper tribunal judges. This is no mean feat. In 2015 Lord Sumption estimated that it could take 50 years to attain gender equality in the judiciary, and by that, it is obvious that he was referring to the senior courts judiciary. The figures have improved recently with 23% women judges in the Court of Appeal and 27% in the High Court.

The people we serve should be reflected in our judiciary. Courts and tribunals are there to serve the whole community, not just a privileged few.

But does it really matter who our judges are? The role of a judge is to apply the law made by Parliament, so why should it matter in the least? Well, I'm with Lady Hale on this and consider that it matters considerably. The people we serve should be reflected in our judiciary. Courts and tribunals are there to serve the whole community, not just a privileged few. When Lady Hale was first asked whether women brought something different to the business of judging, she used to be 'rather sceptical' but now believes that, "we all bring something different to the business of judging, 'we bring our experiences of life, our values, our philosophies of judging, our inarticulate major premises, our unconscious biases."[2] Women judges might bring with them to the bench differences which could enrich judicial decision-making and the law, then surely we have a strong foundation for an argument for why a diverse judiciary really would be a better judiciary?

So, why is it that tribunals lead the way on numbers of women in the judiciary? In order to answer this question, I interviewed several women tribunal judges, both fee-paid and salaried, working and retired. Where better place to start than in the highest ranks of the judiciary with Lady Hale, President of the Supreme Court?

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2 *100 Years of Women in the Law: From Bertha Cave to Brenda Hale*, Kings College London, 20 March 2019.

All rise for Judge Barbie!

Mattel recently unveiled its latest 2019 Barbie Career of the Year doll: Judge Barbie, intended to 'inspire girls to explore judicial careers with the hopes that one day they will sit on the bench and make important decisions that can change the world for the better', according to Barbie's press release. The idea is to introduce girls to stories about women of all ages and all walks of life. As a result, it is hoped that they'll begin to see more opportunities for themselves.

When Mattel announced the project last year, it cited research from New York University, the University of Illinois, and Princeton University.

> 'Research shows that starting at age five, many girls develop self-limiting beliefs and begin to think they're not as smart and capable as boys…. They stop believing their gender can do or be anything.'

This is called the 'Dream Gap' and to help close it, Barbie launched the Dream Gap Project in 2018. This ongoing global initiative gives girls the resources and support they need to continue believing in themselves. Mattel is also raising money via a GoFundMe page for female-led non-profit organisations. In March 2019, the brand raised $25,000 (£20,415) for three charities empowering women: She's the First, She Should Run, and Step Up. Future funds raised will go towards levelling the playing field for girls by providing tools, resources and support to organisations on the ground working to change the lives of girls around the world.

Global head of Barbie, Lisa McKnight told USA TODAY that the company decided on judge as its 2019 Career of the Year after learning that only 33 percent of sitting U.S. state judges are female. "Barbie has had over 200 careers," she said. "We like to say, 'There isn't a plastic ceiling that Barbie hasn't broken.'"

© Maia Weinstock / Via Flickr: pixbymaia

As part of her job description, she also comes with a customary black robe and a lacy collar that looks very similar to Justice Ruth Bader Ginsburg's (which is remarkably similar to the new ceremonial robes worn by tribunal judges in the UK). On the website, Mattel explains that it hopes to 'inspire girls to imagine everything they can become – like protecting the rights of others and ruling on legal cases'. She wears an authentic career outfit with a black robe and comes with a gavel and block to play out all kinds of stories: 'Kids will love being the judge, and there are so many stories to "hear" and tell as they explore a career in the courtroom and create their own justice with Barbie Judge doll.'

Not only are toy makers looking at inspiring children to enter the law or learn about the judiciary, but publishers are too. Legal Action Group (LAG) published Afua Hirsch's Equal to Everything: Judge Brenda and the Supreme Court. LAG is a national, independent charity, which promotes equal access to justice for all members of society who are socially, economically or otherwise disadvantaged. This is a children's book which tells the story of Lady Hale's life and accomplishments. It is described by the Guille-Allès Library, in Guernsey, who are hosting an event on 15 November 2019, featuring Lady Hale reading the book to a group of school children, as 'an inspiring tale that celebrates the law, empowerment and overcoming adversity'.

Some publishers are aiming at even younger children, in 2018 Quarto published an ABC book, *What Can She Be?*, which 'explores a world of possibilities for little girls with big dreams…. you really can be anything you want to be.' It is an alphabet of careers where 'J is for Judge'. The illustration is of a smiling woman judge who 'makes decisions in court to promote justice and fairness for all.'

Of course, this has been done before, but not with the same degree of success. In 2015, writer Maia Weinstock created a set of female judges out of Lego to encourage girls and women to work towards gaining high judicial positions. The toys depict four female judges, complete with gavels and robes and featured the then three women sitting on the Supreme Court in America - Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan - as well as the Court's first woman, Sandra Day O'Connor, who retired in 2006.

On her website Maia Weinstock explained that the set was 'unfortunately' not available for purchase and will not be stocked by Lego. Weinstock explains that, after submitting her idea to Lego, it 'was rejected by the company for going against their "no politics or political symbols' rule"'. Maia Weinstock appealed and an official response was received from LEGO. The company declined to change its mind, citing a prohibition against depicting any current members of government. They did offer words of encouragement, however, and when Maia Weinstock asked if she could resubmit

the set featuring generic characters, they agreed. Maia rebranded it the Legal Justice Team; it did very well compared to most entries but unfortunately did not reach the 10,000 supporter mark required for projects to advance onto the next stage of the contest.

Whilst Mattel have promoted a judicial career for women which must be highly commended, it cannot pass without comment that Judge Barbie is still modelled on the distorted idea of female physical perfection. Ironically, one of the product features of Judge Barbie is that she 'cannot stand alone'. I did wonder whether the reason why the Lego women judges were never made was because they can clearly stand alone on their own two feet.

I did, however, come across a Lego 71000 Series 9 Minifigure Judge, which depicts a white male judge, grimacing, with furrowed brow, dressed in red robes and full bottom wig. Alas, there does not appear to be a Lego woman judge. Perhaps 'Judge Brenda' will be the new toy to make it onto next year's Christmas list?

In Part 2, Rozanna reveals her discussions with women tribunal judges, including Lady Hale, who commenced her stellar judicial career in tribunals.

Rozanna Head-Rapson is a District Tribunal Judge (Social Entitlement Chamber) Back to contents

Musings of a Tribunal Medical Member

Brief Reflections on 1,000 days of Sitting By Russell Foster

I suspect that if anyone ever told me when I was starting up (or perhaps I should say down) the slippery slope leading to a 'medical career' that I would have somehow ended up with a 'portfolio career' including becoming a Medical Member of various Tribunals, I might have looked at them askance, while speaking to them in a soothing manner and backing away slowly. After all, when one starts training as a doctor, the aim is usually to become a great and noble healer of the sick, mostly as a GP partner or consultant, or perhaps an academic of some sort, and alternative careers are just never spoken about as this seems tantamount to high treason.

Having somehow managed to fool, sorry, impress, the obviously wise and wonderful selection panel into appointing me (many thanks, much appreciated), I have now having managed to complete what I reckon to be somewhere in the region of 1,000 days of sitting. To commemorate this milestone I thought I would share some brief reflections on the experience, which will hopefully be of interest to colleagues new and established. Speaking of reflections, it may interest colleagues to know that reflective practice is increasingly recognised as a useful means of learning, and as a licenced doctor in the UK I am required by Law to reflect on my scope of practice, something which I personally find enjoyable and interesting.

But I digress. As I only have a limited number of words available, I will need to limit this to three aspects of tribunal work, namely: the experience of working as a Medical Member; the differences between tribunal practice and medical practice; and finally some personal observations and suggestions.

When I was first appointed as Medical Member I decided that I would try to sit as much as possible, not just to become 'known' but to gain experience. I have found that with any new post, especially one that is completely different from medical practice, there is always a learning curve, and it did take a while to get the hang of things. One thing which helped greatly with this was the excellent training offered by the Judicial College, but training and the real thing can be rather different. I do recall doing my observation sessions but watching is different from doing, and since my first sittings I have learned much, thanks in part to the unswerving support from convivial colleagues.

It seems odd to think now that I am well-acquainted with the complexities of the benefits system as well as the Mental

Health Review Tribunals (MHRT), all of which have their distinct foibles and features. Before I started doing Tribunal work, I knew very little about Law and benefits, and I suspect that most doctors in clinical practice would concur. I learned, for example, that in Employment and Support Allowance appeals we usually have 40 minutes to consider some 18 descriptors, two regulations and types of work-related activity, as compared to 'only' twelve descriptors in Personal Independence Payment appeals for which at least 55 minutes are provided. Industrial Injuries Disability Benefit hearings are often more complex as causation needs to be looked at (invariably requiring medical records to be requested) and mental health tribunals are completely different, requiring visits to far-flung institutions, some of which are extremely difficult to get into (and out of), but are less onerous in terms of the required reading and are listed for either a whole morning or a whole afternoon.

One of the good things about being a medical member is the fact that Tribunal work is not medical practice, and utilises a different set of skills, namely asking mainly open questions, interpreting evidence, making findings of fact and reaching a consensus by following the Law. In the Tribunal we obviously do not practice medicine but it can be very tempting to launch into medical mode, rather than to assess function and what an appellant may or may not be capable of doing according to a set of descriptors. This is, I think, a very different skill, one that can be honed with experience, and one that makes Tribunal work all the more rewarding.

One of the good things about being a medical member is the fact that Tribunal work is not medical practice, and utilises a different set of skills, namely asking mainly open questions, interpreting evidence, making findings of fact and reaching a consensus by following the Law.

A key skill for any tribunal member is to remain objective and make opinions based on the totality of the evidence. This can be difficult in cases of, say, medically-unexplained conditions where the claims may be inconsistent with the current epistemology of medical science. Yet it is always important to remember that how symptoms are interpreted does vary on an individual basis, and many of these are difficult if not impossible to measure objectively. I find that consideration of the types of treatments being provided is a useful guide here, bearing in mind that the provision and quality of these can vary.

In the course of my work I have met some lovely appellants and some not, but by treating everyone equally and with respect people generally feel more relaxed and give better evidence. On rare occasions we do meet misbehaviour during a hearing, but thankfully the shouters and water-throwers are rare. Being unfailingly polite and courteous, acknowledging that you understand that coming to a tribunal can be anxiety-inducing and that the appellant's comfort and well-being are paramount, makes the experience better for all concerned. After all, appellants want and need to be listened to and taken seriously, and by stating ground rules and setting the scene at the beginning, things usually progress smoothly. Usually.

I have to admit that before I started working as a medical member I thought that the Ministry of Justice was some sort of Orwellian Politburo with a Kafkaesque overlay, and like many doctors I have met I had little understanding of the Law, its institutions and its practitioners. I can confirm that I now know my previous impressions were untrue, and am pleased to report that I continue to enjoy tribunal work and no longer dread having to go to work. I find the work interesting and varied, I sit with convivial colleagues –not just panel members, but also the Clerks, administrative staff and security personnel – and, overall, I feel much more valued than I did in my last NHS post. I don't feel particularly stressed by the work, despite sometimes having complex cases listed as the final case on a Friday afternoon after a busy week.

Thanks to my judicial work I have travelled extensively to places I would never have otherwise seen, made decisions which have significant impact on people's lives, and all in a supportive and collegiate environment. I particularly like having judicial independence, not least as it removes the worries about 'wrong' decision making and the potential ramifications for one's career.

What have I learned from 1,000 days of sitting? One of the main ways of making sure any sitting goes more quickly and painlessly is by taking preparation seriously and reading the papers thoroughly. Yes, this can be daunting, not least when confronted with a large bundle, and leaving this to the last minute is not a good approach. Give yourself plenty of time, thoroughly prepare all the cases (including paper cases) and maybe start with the largest bundle first as this make reading the rest seem to go quicker. My own system for prep, developed after a bit of trial and error, which I hope helps to avoid or at least minimise unconscious bias uses the old-fashioned approach of pen and paper and the production of a set of written notes. I start by documenting key dates (date of claim, outcome etc), then whether it is a paper or oral case, whether there is an interpreter, the current award and any previous awards, any previous tribunal decisions, then what the appellant/rep says in their appeal via any letters, statements, emails etc, then what is said in questionnaire/claim forms, then I look at the Healthcare professionals' reports then finally at any medical evidence. By doing this systematically I find that the case becomes more interesting, as medical evidence often reveals interesting facts (or omissions), which are obviously very helpful. Of course, a lot of medical evidence is

not particularly helpful, and sadly some of the correspondence from clinical colleagues suggests variable standards of practice, knowledge and ability.

Overall I have to say that I have enjoyed, and continue to enjoy, my work as Medical Member of the First-tier tribunal and am pleased that I made the effort to apply all those years ago. The work is enjoyable and interesting, with, at least in my opinion, far fewer downsides than working clinically. While I could grumble about various aspects of the work, I have run out of words so I won't, but even with more words I would honestly have little to grumble about. Instead I will thank you for reading (safely, repeatedly, as often as required and to an acceptable standard, of course), and hope that my next 1,000 days of sitting will be just as enjoyable. Obviously, I hope to be able to tell you all about this in due course, though it may take some time…

Dr Russell Foster is a Consultant Psychiatrist and a Medical Member, Mental Health Review Tribunal and Senior Medical Member, First-tier Tribunal, Social Entitlement Chamber

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A matter of facts

WHAT IT TAKES TO BE A FACT-FINDER

By Steve Povey

Deciding what happened (or what might happen) is one of the key tasks required of a tribunal and its members. Drawing on his experiences across a number of different tribunals, Steve Povey considers what it takes to be a factfinder.

Finding facts is a primary function shared by all the First-tier and Employment Tribunals. It is a fundamentally important, specialist and unique aspect of first instance tribunals. As Judicial Office Holders ('JOH'), deciding the past, the present and the future is central to our working lives.

I have been lucky enough to have been asked, sitting alone and with others, to find facts in a variety of different tribunal jurisdictions. Each one offered up different challenges and a myriad of factual accounts and disputes. I have been asked to decide whether someone is a genuine convert to Christianity, can walk without significant pain for more than 50 metres, bit a fellow employee, administered a spinal anaesthetic without consent and told their landlord that their toilet was leaking. Not, alas, the same case but tribunal members will be all too familiar with the vast range of factual disagreements you can be required to decide.

Finding facts is what we do because humanity's ability to disagree is limitless. The tribunals, like the courts, are the ultimate dispute resolution service. If the parties have not resolved their disagreement in other ways (whether by discussion, negotiation, mediation or a best-of-three coin toss), they come to us. Our dispute resolution technique is blunt and to the point. We impose a resolution, by either allowing or refusing a claim. And in doing so, we are invariably required to decide what happened – to make findings of fact (to which we apply the relevant law and reach our decision).

Each tribunal and its members have their own specialisms, their own procedures and their own decision-making styles. But we are all engaged in finding facts. Although the context will differ, there are, in my modest cross-jurisdictional opinion, core skills (and core pitfalls to avoid) which reach beyond the chambers and are universal. The following reflections are not authoritative, scientific or immune from reasoned criticism. They are just that, reflections from a serial factfinder.

"You can't handle the truth"

Fortunately, we as fact finders are not required to handle the truth, still less decide what is and isn't true. That can come as a surprise to tribunal users. But the plain fact is that tribunals do not exist to determine the truth. They exist to resolve disputes. And since our decisions have practical consequences for the parties to that dispute, the process we adopt must be effective and practical too. Establishing the truth is far too high a standard and, arguably, an exercise best left to students of philosophy. The truth also has a damaging binary effect, labelling the loser a liar and serves only to fuel a fire which was already pretty well-lit to start with. The search for the truth also ignores those core skills and pitfalls which face every factfinder, including the reliability of memory, the credibility of witnesses and the vast array of mischievous ways your brain takes pleasure in pulling the wool over your eyes.

We are generally only required to decide whether one version of events is more likely to have occurred than another version of the same events.

Which facts?

We find facts based on the evidence presented to us by the parties. That evidence could come from a witness, a document or an expert. Increasingly, twe are confronted with evidence derived from video, CCTV and social media. Whatever the source, what matters is how we assess it in our quest for the facts. But what facts are we finding?

We are only concerned with determining facts which are relevant to the dispute we are resolving. Being clear at the outset (with yourself, your fellow tribunal members and the parties) about what the issue or issues are that require determination is crucial. Once issues are agreed, it is far easier to sort facts into relevant and irrelevant. We can put the irrelevant facts to one side, even if they are disputed. We won't be needing or resolving them. We've enough on our plate with the facts we do have to resolve.

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Of those relevant facts, we only need to determine the ones in dispute. Again, no need to create extra work. But more than that, relevant facts which are agreed between the parties can be a very useful ally to the fact finder. They may assist in resolving disputed facts, by supporting (or weakening) a particular account. For example, if the parties had already agreed that Bob was at his mum's between 10am and 12 noon, we could find with some confidence that the witness who claimed to have seen him at work during that time was mistaken. In short, agreed is good.

The journey, not the destination

The fact finder's destination is often credibility. Is the account credible, such that it can be relied upon? But to state an account is credible is to state a conclusion. It's the journey to (or away from) credibility which is important. Four factors in assessing credibility routinely indicate the direction of travel – detail, internal consistency, external consistency and plausibility. They are best administered together, rather than individually, providing a useful framework within which to assess credibility. However, for the purposes of this article, they require some individual consideration.

Is an account sufficiently detailed? Is it supported by evidence which was reasonably available? If not, why not? The detail provided can be an important indicator but is not without pitfalls. Excessive detail can, in some circumstances, indicate a rehearsed or exaggerated account. What one person considers important (and so makes much of it in an account) may not be what someone else thinks is important (and so ignores or makes little of it in their account). The grey matter between our ears does little to help, either. We do not remember events in detail (despite what our brains trick us into believing) and our memories are not a faithful recording of what happened. There are gaps in our recollection which become gaps in our account which may manifest itself as a lack of detail.

Evidence given to a tribunal will invariably not be the first time a witness has shared their recollection. The account may have already been given in an interview, to a GP, at a disciplinary hearing or in an earlier statement. How does the account given to the tribunal sit with earlier versions? An account which has remained broadly the same throughout, particularly if previously given without the contemplation of litigation, is entitled to be afforded some weight. If there are material inconsistencies, what reasons, if any, have been advanced? A reasonable or plausible explanation for an inconsistency between accounts can save the day and ensure the account can be found to be internally consistent.

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What about when the account is compared to the other evidence before you? Same exercise but the net is being cast wider. Is the account consistent with other witnesses or other documents?
If not, why not?

Whether an account is plausible or not has perhaps more pitfalls than the rest of the credibility-indicating cohort. Whether something makes sense or seems possible can inadvertently usher in a whole host of personal, subjective judgments, based upon our own experiences. But just pause for a moment, step back and look again. Is the account implausible or is it simply outside of tthe range of our own experiences, values or cultural references? Help will be at hand, from the other indicators explored above, as well as our training and skills in recognising and moderating the inherent biases we all, without exception, have.

Adopting a holistic approach to assessing credibility has another challenge which often faces factfinders.

We may, with good reason and based upon the above factors, conclude that one aspect of an account is not credible. Does that render everything else which falls from that witness's lips worthless? Does one bad apple spoil the barrel? The short answer is no. There can be a myriad of reasons why an account is found not to be credible. For example, recollections can be genuinely held and believed but wholly inaccurate (thanks again to the shortcomings of memory). It happens to all of us because our brain is wired to fill in the gaps caused by our underperforming memory and create a coherent narrative. And it does this without troubling to tell us what it's up to. In doing so, our brains will steal the accounts of others and make them our own, cut and paste time lines so they are no longer chronological and shamelessly invent stuff, all to make us believe that our memory, without a shadow of a doubt, swearing on whichever loved one first comes to mind, definitely happened. Except it didn't.

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Another example is exaggeration. Tribunals cater for those with a grievance, arising from a fundamental disagreement about the decision they are challenging. That grievance (whether with an official, a department of state or an employer) has often been on a prolonged rolling boil by the time we finally encounter it. Emotions are heightened and the parties are keen to ensure that the undeniable truth (in their eyes) of their account is not lost on the tribunal. What was initially equivocal transforms into the unequivocal, as neural trenches are dug and positions fortified. But obscured by all the bluster could be a credible account struggling to get out.

An incredible aspect of the account (however it came into existence) does not spoil the barrel but it is still a factor to have regard to when assessing the rest of the account. By always returning to first principles of detail, consistency and plausibility, it is entirely appropriate to dismiss one part of the testimony, whilst finding other aspects credible.

The demeanour fallacy

"When the witness was giving her evidence, she was obviously lying. I mean, did you see how her daughter rolled her eyes?"

Spot the flaw? That's right – it's based on a wholly false premise, namely that demeanour never lies (it does). Here's another falsehood - that we, as tribunal members, have an innate ability to discern truth and lies from body language. We don't. And even if we could (we can't), there are so many factors that impact upon witness demeanour in a court room and which have nothing to do with the accuracy of what is being said. To start with, they are in a court room. They are providing their evidence as just that, evidence. This is not a conversation in a social setting. Their testimony is being provided for a reason, usually to support or undermine issues in dispute. They may already have an existing sense of frustration, their account having already been rejected when they first recounted it, so now, to avoid it being misunderstand again, they are delivering it with both barrels. And what of the impact of culture and personal experience, of both witness and factfinder? The example given demonstrates an even more audacious (and utterly flawed) feat – discerning the truth of a witness's testimony by the body language of somebody else, a kind of demeanour by proxy.

It is not an easy vice to quit. We are social animals, evolved to use everything in our sensory armoury to ascertain whether we are faced by friend or foe. We are primed to make quick judgments, often subconsciously, in order to maintain our survival as a species (humans, not judicial office holders). But for the reasons explored above, we need to put those instincts on hold when fact-finding and treat any recourse to demeanour with, at best, extreme caution.

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Fact-finders united

Being a tribunal member is a privilege. We decide issues which are of central importance to the people who use our services. At the heart of the tribunal process is the resolution of disputes, which all too often involve disputes of fact. We seek to resolve those facts within an arena of entrenched recollections, flawed memories, heightened expectations and a maelstrom of cognitive biases. And yet, Monday to Friday, up and down the country, tribunal members do just that – they assess, analyse, consider and determine. They routinely deploy the skills and avoid the pitfalls. They find facts, apply law and decide cases. It may not hit the headlines but I suspect most tribunal fact finders won't be too worried. They already have their own, long running and highly successful real-life dramas, played out each day of the week and destined to continue running for some time yet.

Steve Povey is salaried judge in the Immigration and Asylum Chamber of the First-tier Tribunal and in the Employment Tribunal.

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Equal Treatment Bench Book corner

NEWS By Paula Gray

On this occasion I thought I would use the Corner to say a little about the *Equal Treatment Bench Book's* (ETBB's) reception by the wider international judicial community.

As well as a presentation in the Republic of Ireland that was also attended by judicial representatives from Australia and Canada, the ETBB has been the subject of a talk in Trinidad for the wider Commonwealth Judicial Education Institute and a speech to the European Judicial Training Network (EJTN). The latter was delivered at the Max Planck Institute in Germany by the Senior President of Tribunals.

The Bench Book has also contributed to social context training around the world, its approach explained as part of a book compiled by Leonel González, training director for the Justice Studies Centre of the Americas.

There has been interest in the new volume from a Croatian judge on a visit here, and the judicial community in Japan's particular concern as to the topic of reasonable adjustments for disability has already resulted in a meeting with the Judicial College.

The Institute of Legal Studies in New Zealand, the equivalent of our Judicial College, has asked for permission to use the ETBB in the preparation of its new Bench Book, specifically chapters 8 (Racism), 9 (Religion) and 11 (Social Exclusion and Poverty). , and , as well as the entire content of certain Glossaries. The Institute also showed interest as to the way in which we have integrated the Book into judicial training and our attempts to keep it uppermost in judges' minds using regular eAlerts. Although, by the time they have finished 'localising' it, New Zealand's volume may be very different, the ETBB will certainly have provided both inspiration and practical assistance. Similar interest has been shown by Georgia.

Recently a member of the Editorial Committee, Tan Ikram, Deputy Senior District Judge (Chief Magistrate) went to Cape Town armed with the latest electronic copy of the ETBB, bang up-to-date following the September 2019 revision, to speak at the 9th Conference of the International Organisation for Judicial Training.

In a presentation to delegates on the central place of this resource in our strategy to underpin diversity, inclusion, and equality in the courtroom, Tan spoke about the ETBB being core to our integrated strategy from initial judicial induction training through to life-long self-learning, as well as other development tools in this area including the regular email alerts to all judicial office holders, e-Learning and its integration into mainstream training.

His talk provoked considerable discussion as to our approach, and Tan returned fortified having heard others' views, some of which challenged parts of our own thinking. This experience will no doubt contribute to future revisions of our ETBB, which, in Tan's words, "remains an evolving document as new issues arise and thinking develops".

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

Reflection from the Senior President

SPT UPDATE By Ernest Ryder

The past month has seen the publication of a number of reports, including my Annual Report, a report on reform in the first-tier tribunals and employment tribunals, carried out by the Vice-President and the Administrative Justice Council's Annual Report. We are now well into the new legal year but, prompted by these reports, I would like to take a moment to pause for reflection.

As ever, it's been a busy year so far. The reform programme continues to progress and we are continually learning from the pilot schemes, as we move closer to their implementation. I strongly support the modernisation programme and look forward to achieving a digital tribunal system. I believe this will have unprecedented benefits for users, delivering swift, innovative and specialist decision making although care must be taken to ensure that the system remains easily accessible for users with additional needs or vulnerabilities, or

those who are not digitally literate. We are committed to retaining paper alternatives for those who cannot use digital services.

Most of you will know of my vision for 'one judiciary'. I firmly believe that a judge should be exactly that; not a court judge, not a tribunal judge: but a judge. I believe greater integration of courts and tribunals will help us to achieve this, allowing for the cross-fertilisation of good practice and innovation and allowing for an agile system that can readily respond to business need. Giving judges the opportunity to experience different jurisdictions will serve to increase their skills, as well as helping personal career progression. Cross deployment is a key way in which we can achieve greater collaboration between courts and tribunals. For over two years we have had judges of the Employment Tribunals sitting in County Courts which has been very successful. Both myself and the Senior Presiding Judge are interested in extending this pilot and we have also recently completed an expression of interest the other way, allowing courts judges the opportunity to sit in tribunals. We have also pioneered in the property tribunal the 'one stop' concept of tribunal judges sitting across both courts and tribunals jurisdictions.

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The importance of cross-deployment and collaboration between courts and tribunals was a key theme highlighted in the Vice-President's recent review on the First-tier Tribunal and Employment Tribunal. I have accepted all the recommendations in his report, and I look forward to working together with you to implement them. The report highlights that, as well as opportunities for cross-deployment into the courts, it is important that there are opportunities for assignment across the tribunal system so that judges and members are able to sit in different chambers or in the Employment Tribunals. The report comments on the particular barrier that exists because of disparities in our terms and conditions. I am acutely aware of this issue which I will continue to pursue with Government in the hope that the disparities can be removed. I recognise that this will be a significant piece of work that will take time to undertake but I hope we can make real progress over this next year.

Finally, I would also like to reflect on the work of the Administrative Justice Council. The AJC is an independent advisory body that I chair. It was set up in March 2018 as the successor body to the Administrative Justice Forum and has achieved a great deal in its first year, including the setting up of a steering group and three panels; the Pro Bono Panel, the Academic Panel and the Advice Sector Panel. These panels have identified four key areas of the Administrative justice system that need scrutiny and review and the council has commissioned work in all four areas: the improvement of first instance administrative decision making; the impact of the courts and tribunals modernisation programme; the impact of ombudsman reform; and the relationship between the tribunals and ombudsman.

I am particularly pleased that we have been able ... to bring together those who work in ombudsman schemes and tribunals. There is often clear overlap between our jurisdictions and greater integration ...will allow for a more efficient system and a better experience for litigants.

I am particularly pleased that we have been able introduce the ombudsman and tribunals familiarisation programme to bring together those who work in ombudsman schemes and tribunals. There is often clear overlap between our jurisdictions and greater integration between the services will allow for a more efficient system and a better experience for litigants. As an example, a pilot between SEND and the Local Government and Social Care Ombudsman is well underway, overseen by an AJC working group.

The AJC has achieved a significant amount of work in what is only its first year and I know it will only continue to achieve more as it becomes well-established. I am grateful to all its members and it is a privilege to be its Chair.

As many of you reading this will know, this legal year marks my last as Senior President. I have no doubt that the rest of this year will be just as busy as the previous one, and I look forward to seeing progress made in the reform programme, the delivery of the Vice-President's recommendations and the AJC's aims. I look forward to working with you all during the remainder of this legal year.

Sir Ernest Ryder is the Senior President of Tribunals

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Recent publications

EXTERNAL LINKS By Bronwyn McKenna

UK Parliamentary reports

The House of Commons Justice Select Committee published the report of its Inquiry into the Court and Tribunal reform programme on 31 October 2019

Wales

The Master of the Rolls, Sir Terence Etherton, gave a speech to the Legal Wales Conference on civil justice including Tribunals in Wales

The Welsh Government established a Commission to review the operation of the justice system in Wales. The report *Justice in Wales for the People of Wales* has now been published. It recommends that devolved Welsh Tribunals need to be seen to be fully independent from the Welsh Government and also need a closer relationship with other bodies that review administrative decisions in Wales

A blog has been published for the Welsh Assembly entitled *Ensuring Fair and Lawful Administration in Wales: The Role of Administrative Justice*. Sarah Nason, Bangor University.

Books

Reimagining Administrative Justice: Human Rights in Small Places (Doyle & O'Brien, 2019)

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".

https://implicit.harvard.edu/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*