

Administrative Justice Council Meeting

Tuesday 12 July 2022, 13:30-16:00

Hybrid – RCJ/Zoom

Attendees:

Sir Keith Lindblom (in-person)	Senior President of Tribunals (Chair)
Rosemary Agnew	Scottish Public Services Ombudsman (Deputy Chair)
Fiona Rutherford (in- person)	JUSTICE
Samantha Pullin	HMRC
Warren Seddon (in-person)	Information Commissioner’s Office
Naomi Creutzfeldt	Westminster University
Robert Thomas	Manchester University
Brian Thompson	Liverpool University
Lord Stephen Woolman	Scottish President of Tribunals
Mick King	Local Government and Social Care Ombudsman
Tracy Parker-Priest	HMCTS
Luc Altmann	HMCTS
Libby Wright	HMCTS
Rachael Bower	HMCTS
Kate Gregory-Smith	MoJ
Bill Dowse	MoJ
Louisa Armitage	Department for Education
Rhian Davies-Rees	Welsh Tribunals
Paul Yates	Freshfields
Chris James	Commission for Justice, Wales
Katrin Shaw	Public Services Ombudsman Wales
Donal Galligan	Ombudsman Association
Caroline Sheppard	Traffic Penalty Tribunal (retired)
Michaela McAleer	Northern Ireland Public Services Ombudsman
Ursula O’Hare (in-person)	Northern Ireland Law Centres
Ray Burningham	Consultant
Ryan McRobert	Devolved Tribunals, Scottish Government
Natalie Byrom	Legal Education Foundation
Ken Butler	Disability Rights UK
Maurice Sunkin	UKAJI
Diane Sechi	Simmons & Simmons
Lorel Clifton	Senior President of Tribunal’s office
Heidi Bancroft (in-person)	AJC
Sally Hunt (in-person)	AJC/JUSTICE
Leigh Shelmerdine (observer)	Secretariat, Civil Justice Council
Kim Webb (observer)	Secretariat, Family Justice Council

Apologies: His Honour Judge Jonathan Swift (Head of Administrative Court), Lindsey Poole (Advice Services Alliance), Rebecca Hilsenrath (PHSO), Linda Mulcahy (Oxford University), Denise Nash

(Department of Justice, NI), Sir Wyn Williams (President, Welsh Tribunals), Martin Moore (Northern Ireland Justice Department).

1. Welcome and Introductions

Sir Keith Lindblom ('the Chair') opened the meeting and welcomed attendees, noting that the Council had new members – Ryan McRobert replaced Paula Stevenson who had moved to a new role; two existing AJC members had been appointed to the Steering Group – Dr Natalie Byrom and Diane Sechi, and as a result Diane would become a Council member.

2. Minutes of the last meeting

The draft Minutes had been circulated prior to this meeting and, as there were no further comments or corrections, they were approved. A summary version was available on the AJC website.

Regarding the actions from February's meeting, the Chair asked that any outstanding points be completed and for Heidi Bancroft (HB) to be notified.

Action: any outstanding action points to be completed and HB to be notified.

3. Updates

The Chair provided an update on the AJC:

- The AJC had received funding for a further year from the MoJ. This ensured the work of the AJC could be continued with the support of JUSTICE who housed the Secretariat.
- Professor Naomi Creutzfeldt had stepped down as co-chair of the Academic Panel and as a Steering Group member. The Chair extended his warm thanks to Naomi for her contribution and noted that she would continue to sit on the Council and as an Academic Panel member. The recruitment process for an Academic Panel co-chair had begun with an expression of interest request circulated to all Academic Panel members.
- The AJC had, together with JUSTICE, provided a joint response to the Joint Committee on Human Rights' call for evidence on the introduction of a Human Rights Ombudsman. Professor Robert Thomas and Richard Kirkham, both AJC Academic Panel members, provided oral evidence to the Committee which mirrored our response.
- The polluter pays initiative, on hold due to the pandemic, will re-commence in the Autumn. Paul Yates reported that at a recent meeting with Judge Meleri Tudur, it had been agreed that the judge's survey would run for the duration of November.
- Following discussions, it has been agreed to close the formal Ombudsman and Tribunals Familiarisation working group. There are several strands of work underway elsewhere to promote interaction between the two sectors and it is proposed that an AJC seminar be arranged for later in the year for colleagues to offer associated progress and developments.
- The Secretariat would continue to meet with individual Council members over the coming months.

Fiona Rutherford (FR) offered a brief update on JUSTICE's Bill of Rights work, following their presentation at the February Council meeting. The Bill was introduced on 22 June and, to combine energies and resources, JUSTICE had formed a collaboration of charities and organisations to analyse the Bill and draft a response.

Katrin Shaw (Public Services Ombudsman, Wales (PSOW)) offered an update on their recent own initiative investigation into homelessness (paper circulated before the meeting). She explained the work had resonated with good administrative principles, identifying areas of good practice as well as those where improvements were required, allowing the PSOW to offer practical support to local authorities. Katrin would be happy to discuss with members separately if they were interested in the details.

Chris James (Head of Civil and Administrative Justice, Welsh Government) drew attention to the two papers that had been circulated to members – the Law Commission's report, and the Welsh Government's 'Delivering Justice for Wales' report that responds to the proposals in the first report. In short, the aim was to create a single, coherent tribunals system. The Welsh Government are currently working to create the policy for a Senedd Bill. Chris would provide a fuller update at the next Council meeting.

Actions: Members interested in the homelessness investigation to contact Katrin Shaw; Chris James to give a presentation on the Welsh tribunals reform at the next Council meeting.

4. Update on the Tribunal's Modernisation Programme by HMCTS

Tracy Parker-Priest offered an update on the modernisation programme being rolled out via the various chambers and provide statistics on the digital uptake in different jurisdictions.

Luc Altmann outlined the framework that HMCTS had used to measure access to justice in the project and identified the data sources used to gather information which included that provided via the protected characteristics questions incorporated into the system.

Rachel Bower spoke about the Digital Support Service, noting that HMCTS categorised between users who were completely digitally excluded and users who were able to access digital systems with assistance.

Libby Wright spoke about the legal representative service research, via surveys and interviews, undertaken in relation to the First-tier Immigration & Asylum Tribunal reform programme.

There followed a discussion on how the AJC might inform and improve the modernisation programme. Luc Altmann confirmed that the evaluation process would include a consideration of outcomes against types of hearings and that more information could be provided on that. Libby Wright reported that, together with the MoJ, HMCTS were undertaking a report on the impact of digitalisation, and they would be happy to provide insights in due course.

The Chair asked that any member who wanted to lead or be involved in a digitisation project, should contact HB via email within the next two weeks.

Action: members who would like to be involved in a digitalisation project to contact HB by 26th July.

5. Project proposals

Members offered information to the Council on projects for consideration.

a) First-instance decision-making in Special Educational Needs and Disability (SEND)

Kate Gregory-Smith (KGS), MoJ, provided background to the SEND jurisdiction that had seen significant increases in the volume of appeals to the tribunal since 2014. The MoJ, together with the Department for Education, had been considering this increase as well as the current 96% success rate for appellants on at least one ground, which pointed to problems early on in the system. Department for Education's SEND Green Paper offered an ideal opportunity to consider these issues more fully and the MoJ were keen for the AJC to help address the policy questions.

Louisa Armitage (Department of Education) identified a 'vicious cycle' where needs were being identified too late, leading to parents/carers losing confidence in mainstream schooling and an increased number applying for EHCP's and/or specialist provision. The increase leads to delays and resources being concentrated on the more specialist end of requirements.

It was hoped that an AJC project would look at the short- and medium-term, non-policy solutions to tackle the increase in demand.

Mick King (MK) offered a perspective from the Local Government and Social Care Ombudsman's role in dealing with SEND complaints, where they uphold 85-90% of the investigations they undertake, and suggested the project looked end-to-end at the provision of SEND, not just at the Tribunal.

The project was approved by Council members. The Chair asked for members to volunteer to contribute to the project.

b) Access to justice post-pandemic

Diane Sechi (DS), Simmons & Simmons, provided this proposal on behalf of Lindsey Poole, following discussions at the June Advice Sector Panel meeting. The Panel had discussed three separate issues: mental health (post-pandemic), the cost-of-living crisis, and digitisation, and the affect all three had on the administrative justice system. It was decided that the three issues were interconnected and that an overarching project could consider them together. DS explained that during the pandemic, with the closure of courts/tribunals, ombudsman schemes and front-line advice agencies, access to justice had been compromised for many users. This had led to increased mental health problems - the Litigants in Person Support Service had already been looking at a similar project and the plan was for the Panel to pick up and broaden their work. In essence, the project would aim to better understand how the forced changes during the pandemic had impacted administrative justice and the provision of services with the overarching theme of mental health. The project would identify where access to justice has worked well and where improvement is needed, inform good practice and ensure effective mechanisms are in place.

The project was approved by the Council.

c) Public Legal Education in schools

Donal Galligan (DG), Ombudsman Association, presented the next proposal on public legal education in schools. He explained that work is already being carried out in this area but the AJC could add value to work that already exists. It would tie in with other work on raising awareness and maintaining an accessible system. The aim would be to increase children's understanding on rights so that understanding would feed into their consciousness as adults. The Ombudsman Association is keen to take the work forward but feels it would be sensible to broaden out to other areas of administrative justice.

The Council offered their views including that the emphasis should be on children's rights and the funding implications of a project.

The Project was approved by the Council.

Dr Natalie Byrom (NB) suggested an additional project on data strategy as a cross-cutting theme in the AJC's work. NB proposed that access to more data could help identify projects in an evidence-based and data-driven way and highlight problems as they occur across the system. MoJ had invested in the data first project, to build a better picture of where people enter the justice system, their journey and outcomes. The tribunals had been left out of that project and this work would ensure tribunals don't fall behind. New data from HMCTS could help build the information.

NB agreed to send more information to HB who would circulate to the Council. The project was agreed in principle by the Council.

Actions: Members to indicate interest to join project groups to HB by **Tuesday 26th July**; Natalie Byrom to send information to HB on data collection project for circulation to the Council.

6. AJC Documents to ratify

The Chair invited members to ratify the following documents:

- a) Terms of Reference
- b) Project Principles Criteria
- c) Business Plan 2022-23

Council members offered no objections to the documents, and they were therefore ratified.

7. AOB

There being no other business, the Chair closed the meeting.