

AJC Council Meeting Minutes
2pm-4.10pm, 22 July 2020 (by Zoom)

Attendees:

Sir Ernest Ryder (SPT)	Senior President of Tribunals
Andrea Coomber	Director, JUSTICE
Lindsey Poole	Director, Advice Services Alliance
Donal Galligan	Chief Executive, Ombudsman Association
Sir Wyn Williams	President of Welsh Tribunals
Katrin Shaw	Director of Policy, Legal and Governance, Welsh Public Services Ombudsman
Ken Butler	Welfare Benefits and Policy Advisor, Disability Rights UK
Michael Reed	Principle Legal Officer, Free Representation Unit
Paul Yates	Head of Pro Bono, Freshfields
Martin Moore	Department of Justice, Northern Ireland
Caroline Sheppard OBE	Chief Adjudicator, Traffic Penalty Tribunal
Naomi Creutzfeldt	Reader in Socio-Legal Studies, Westminster University
Robert Thomas	Professor of Public Law, Manchester University
Warren Seddon	Director of Strategy and Insight, Parliamentary and Health Service Ombudsman
Michaela McAleer	Acting Deputy Ombudsman/Commissioner, Northern Ireland Public Services Ombudsman
Karen Ashton	Head of Public Law and Community Care, Central England Law Centres
Ray Burningham	Consultant and former CEO of the AJTC
Brian Thompson	Senior Lecturer in Law, Liverpool University
Tom Thomas	Civil Mediation Council
Jodie Blackstock	Legal Director, JUSTICE
Alex Walters	Civil Justice Lawyer, JUSTICE
Heidi Bancroft	Secretary to the AJC, JUSTICE
Sally Hunt	AJC, JUSTICE
Paula Stevenson	Head of Devolved Tribunals, Scottish Government
Kate Gregory-Smith	Deputy Director of Courts & Transparency Team, MoJ

Apologies:

Lady Anne Smith	President of Scottish Tribunals
Richard Guyatt	Womble Bond Dickenson
Maurice Sunkin	Essex University
Angela McDonald	HMRC
Daniel Flury	HMCTS
Jo Hickman	PLP
Natalie Byrom	Legal Education Foundation
Lucy Scott-Moncrief	Scott-Moncrief
Ryan McRobert	Head of Courts and Tribunals, Scottish Government
Sir Justice Peter Lane	President, Immigration and Asylum Chamber, Upper Tribunal

1. Welcome and Apologies

The SPT welcomed all attendees to the meeting and noted the apologies for the meeting.

2. Minutes from the last meeting

The Minutes from the previous meeting had been circulated soon after the event in January, and as there were no further comments from members, they were approved as a proper record.

3. Chair's Update

The SPT gave his thanks to the members of the AJC who had continued in their work since lockdown. He explained that he had been asked to extend his tenure as Chair of the Council to allow for a full process of identification and recruitment of a new chair by next summer. That recruitment process would begin in the Spring 2021, and the SPT noted that as the position was an open office, anyone who was interested in the role was encouraged to apply.

Since the last meeting in January, the SPT noted that Diane Sechi's report '[Digitisation and Accessing Justice in the Community](#)' had been published and sent to the Ministry of Justice and HMCTS. Follow-up meetings on its recommendations would be arranged for later in the year.

Whilst some projects had slowed down due to COVID-19, they would be picked up again as soon as feasibly possible. The Academic Panel had hosted three webinars: Impact of COVID-19 on the administrative justice system; Human Rights and administrative justice; and Digitisation and the impact of COVID-19 on tribunals. These were recorded and available to watch via the [website](#). A fourth webinar on ombudsman reform had been postponed and would be re-scheduled for the autumn. A future project included a webinar in September entitled '*Falling Through the Gaps*'; which would focus on the Windrush Scandal.

The AJC end of year conference had been postponed and would take place in April 2021. Heidi Bancroft (HB) would send out dates. The SPT also asked attendees to consider offering their services as hosts or speakers, or by suggesting topics for upcoming events.

The SPT was delighted to report that Sarah Nason of the AJC Academic Panel had completed her final Nuffield report on [Paths to Administrative Justice in Wales](#).

Actions: HB to send out webinar dates; and all attendees to contact HB with offers of hosting/speaking/topics for future events.

4. AJC/JUSTICE Benefits Reform Working Party – Alex Walters, JUSTICE

Alex Walters (AW), Civil justice lawyer at JUSTICE, updated the attendees on the joint AJC/JUSTICE project '*Reforming Benefits Decision-Making*' which was being chaired by Lord Low of Dalston. JUSTICE had secured three years of funding from Standard Life; this incorporated two years of funding for the implementation of the project's recommendations. Black Rock and Weil Gotshal & Manges were providing pro bono support. The working party and sub-groups (Administrative

Decision-making, Tribunal Processes and Claimant Support) had each met twice, with the next round of meetings scheduled for September. The report would be published in Spring 2021.

Action: Attendees to provide feedback and contact suggestions to AW.

5. Social Care and Legal Aid Project – Lindsey Poole (moved up the agenda)

Lindsey Poole (LP) introduced a new advice sector project to the attendees. Kari Gerstheimer, Advice Sector Panel member, had started a new charity, Access Social Care, which had been borne out of a project developed by Mencap. The charity was providing advice to those challenging decisions made by local authorities on social care issues. LP noted that the project highlighted a number of issues that were relevant to the Council and was grateful for input, ideas and suggestions.

The Council gave their views on the project including linking the project with the work of the Local Government and Social Care Ombudsman (LGSCO); and some members offered their assistance including complaints data from ombudsman schemes.

All members interested in joining the subgroup to contact the AJC Secretariat.

Actions: LP to ascertain the jurisdictional scope of the project; and attendees interested in contributing to the social care project, and/or joining the subgroup, to contact the Secretariat.

6. Impact of COVID-19 on the administrative justice system

Tribunals

The SPT announced that his 6th and last annual report would be published later that week and that it had been dominated by the pandemic. Only one tribunal, War Pensions & Armed Forces Compensation Tribunal, was forced to shut down completely. All other tribunals had been open for business. The SPT covered the progress of individual chambers:

- Special Educational Needs and Disability (SEND) tribunal - Judge Meleri Tudur, Deputy Chamber of the Health, Education and Social Care Chamber, had very swiftly developed a bespoke CVP. As a result, the number of SEND hearings had doubled in a day, reducing the backlog of SEND cases to such an extent that it was anticipated that they would be up to date by September.
- Employment chamber - had rolled out an impressive training programme for their entire staff, and a significant number of employment judges had used their independent mediator ADR training to substantially reduce their case backlog by reducing hearings to half a day.
- Property chamber - had continued their 'double-hatting' project to combine county court housing hearings and First- tier property tribunal issues by having a one-stop shop for housing issues (CJC project). Chamber President, Siobhan McGrath also continued to work with the Tax Tribunal on developing a bespoke system that would be more sophisticated than Kinley CVP and with more features.

- Social Security and Child Support (SSCS) Chamber were using BT meet-me and had a triage system in place with salaried judges to identify whether cases needed a full panel or needed to be adjourned for a face to face hearing. Cases that didn't need to have a hearing (due to poor DWP decision-making) were also weeded out.
- The Immigration & Asylum Tribunal had increased their number of remote bail applications. The law had been applied on the basis that if a deportation date could not be identified, the appellant would be bailed. They had also launched an online end- to-end procedural system – case law and case management system.

The SPT set out the measures in place to deal with the lockdown, including a four-phased return to work. The tribunal service was at the research stage where their best practices would be retained and developed further.

Sir Wyn Williams (WW) reported on the Welsh tribunals. As Welsh tribunals only had around 35 judges, most of whom were part time, they had to come up to speed with the changes very quickly. He provided a brief update on the progress of tribunals using remote hearings.

WW spoke briefly about the Law Commission's current work with the Welsh Tribunals. They would be looking at, amongst other things, whether additional tribunals should be brought within the Wales Act 2017; in particular, those dealing with school admissions and exclusions, but also in other areas. WW asked members to give feedback where possible, as they had the expertise to respond on those issues and the processes involved. Secondly, the Law Commission was interested in the recommendation of the Commission for Justice in Wales, that all dispute resolution resulting from Welsh legislation, be brought into the relevant Welsh tribunal, and out of the England and Wales court system. WW noted that the Residential Property Tribunal was likely to be the most impacted by that work.

CS updated the attendees on the Traffic Penalty Tribunal, which had been a virtual organisation for some time.

Ombudsman Schemes

Donal Galligan (DG) referred attendees to his paper regarding the position of the ombudsman schemes, who had been experiencing contrasting levels of disruption and user engagement during the lockdown.

Katrin Shaw (KS) reported on the Public Services Ombudsman Wales' perspective where there had been a 50% reduction in complaints received. This had since begun to return to normal levels. On a separate issue, the new Public Services Ombudsman (Wales) Act had given Nick Bennett own initiative powers and just before the lockdown, he had issued a consultation on reviewing decisions made by local authorities on homelessness. It was hoped that a review would be relaunched in September and KS would keep the Council informed.

Warren Seddon (WS) explained that the health jurisdiction of the Parliamentary and Health Services Ombudsman (PHSO) had temporarily closed to alleviate pressure on the NHS but had reopened on 1 July 2020. They were now reporting 95% of their usual contact rate. The pandemic had led to a delay in the launch of their public consultation on their Complaint's Standards Framework, but that

had now been opened. WS was keen for feedback from members and the SPT agreed that the AJC should provide their support.

Michaela McAleer (MM) reported on the Northern Ireland Public Services Ombudsman (NIPSO) who would be piloting a reopening of their offices from the following week. They had experienced a significant dip in numbers of complaints received but anticipated a return to normal levels soon. In terms of recovery, they had an architect looking at their meeting rooms to look at how the public could resume face-to-face meetings.

Advice Sector

Karen Ashton (KA) referred to LP's paper on the advice sector's experience and response. Julie Bishop of Law Centres Network had provided a further paper [here](#). Initially, the advice sector reported on a worrying drop in contact numbers, but this hadn't lasted long. There then began a huge increase in certain advice areas, employment specifically, which was set to continue for some time. There had been a decline in housing issues but an increase in reports of illegal evictions. There had also been a change in the client profile – advice organisations were seeing a rise in the number of new clients seeking advice for the first time. These clients weren't eligible for legal aid but would also struggle to pay for private legal advice.

KA also spoke about the hidden issue of social care, where people had been more understanding when they weren't getting the offer of care and support during the pandemic but accessing this support had continued to be a problem even after services were opening up. KA concluded that the biggest worry in the sector was what would come next in response to the closure of so many services and the anticipation of an increase in demand for help. The SPT requested an open discussion with interested members to discuss these issues further through HB.

Pro Bono Panel

Paul Yates (PY) referred attendees to the paper circulated on the experiences of the Pro Bono Panel. PY also reported on a new area of research the Panel hoped to undertake from September around systemic issues of decision-making that remained difficult to put in front of a judge. The idea was to focus on complaints to the public body followed by the relevant Ombudsman scheme, and then to produce a report.

The sector-based discussions were followed by a more general discussion. Tom Thomas (TT) from the Civil Mediation Council urged Council members to consider signposting appellants, where appropriate, for mediation through the Civil Mediation Council. During the pandemic, they had seen an increase in employment and community referrals and anticipated an increase in civil and commercial cases, but they still had lots of capacity available.

Actions: Members to consider contributing to the Law Commission's research into Welsh tribunals; CS to email members further observations on the Traffic Penalty Tribunal; KS to keep the Council informed regarding the homelessness review by PSO Wales; Council members to further consider a single response to the PHSO complaints standards framework; attendees to contact HB if they wish to be involved in an advice sector open discussion; and members to signpost to Civil Mediation Council where appropriate.

7. Communications

The SPT informed attendees that the Secretariat would be producing a tri-annual newsletter, the first edition being published in November. The SPT encouraged members to support the Secretariat in this work and with ideas for future work including webinars.

Actions: Members to contact the Secretariat with ideas and/or contributions for the November Newsletter and future events.

8. AOB

There was no other business.