



JUDICIAL STUDIES
BOARD

See inside for an updated
chart showing the structure of the
First-tier and Upper Tribunals

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EDITORIAL



WELCOME to the Summer 2010 issue of the JSB's *Tribunals* journal. This issue has a public law flavour, as we start to explore a new jurisdiction for the Upper Tribunal, and consider decisions from its growing body of case law.

On page 2, Mark Rowland considers the judicial review jurisdiction of the Upper Tribunal and draws lessons from the first year in which it has been exercised. On a similar theme, on page 6, David Williams assesses the implications of *Oxfam v Her Majesty's Revenue and Customs* [2009] EWHC 3078 (Ch), in which the High Court examined some fundamental questions about the relationship between tribunals and public law.

In another case – *SW v Secretary of State for Work and Pensions (IB)* – the Upper Tribunal has given its first detailed consideration of when links between a party's representative and the tribunal give rise to apparent bias. This case has given Mary Stacey the opportunity on page 12 to look again at the range of circumstances when a tribunal judge or member's link with an individual appearing before them – or behaviour – would give rise to the perception of bias.

Elsewhere, we update ourselves on the recent work of the Tribunals Service (page 20) and the Administrative Justice and Tribunals Council (page 18).

By the time you read this, I hope that you will have received the first copy of our new e-mail alerter (right). The aim of the alerter is to highlight some of the contents of forthcoming issues of the journal and to provide links to useful sources of information, such as recent decisions of the Upper Tribunal. Its interactive format and short length have been designed to be of much practical use as possible to you in your work as a tribunal judge.

If you did not receive a copy of the alerter, and would like to see it or to receive future copies, please e-mail publications@jsb.gsi.gov.uk.


Finally, I'd like to draw your attention to the recruitment campaign currently under way for new members of our editorial board. We are always looking to increase the range and quality of articles included in the journal, and the editorial board is the seed bed of ideas for future content. Further details on how to apply can be found on page 15.

Kenny Mullan

Any comments on the journal are most welcome. Please send to publications@jsb.gsi.gov.uk.



FROM THE EDITOR



Welcome to the first in a series of alerters, designed to supplement the JSB's *Tribunals* journal.

The purpose of these alerters is to provide you with content related to the paper-based journal in the form of up-to-date news items and information relevant to the world of tribunals; signals of future journal content with links to relevant recent developments; and, most importantly, to provide you with the opportunity to comment on what you have seen and read in the journal itself and to provide ideas and suggestions for consideration by the editorial board.

We would welcome any comment which you might have on this latest development in dissemination of the journal subject matter. Our email address is publications@jsb.gsi.gov.uk.

Regards, Kenny Mullan,
Editor of *Tribunals* journal

STRUCTURE

[Click here for an updated chart of the structure of the Tribunals Service.](#)

CASE NOTES

[Oxfam v Her Majesty's Revenue and Customs](#) [2009] EWHC 3078 (Ch) raises fundamental questions about the relationship between tribunals and public law and is the subject of a case note by David Williams in the [Summer 2010 issue](#), in which he assesses its implications.

Upper Tribunals

Among the more interesting provisions of the Tribunals, Courts and Enforcement Act 2007 are those conferring a judicial review jurisdiction on the Upper Tribunal. In the [Summer 2010](#) issue of the journal Mark Rowland – a judge of the Upper Tribunals (Administrative Appeals Chamber) – looks back and draws lessons from the first year's experience.

A perception of bias



The Upper Tribunal has given its first detailed consideration of when links between a party's representative and the tribunal give rise to apparent bias in [SW v Secretary of State for Work and Pensions \(IB\)](#) [2010] UKUT 73 (AAC). In the [Summer 2010](#) issue of the journal, Mary Stacey refreshes our memory of when a judge should, or should not, sit - in order to avoid a perception of bias - and also describes when a judge's behaviour constitutes 'a display of irrational animus amounting to prejudgment'.

The legal principles remain unchanged, and readers may wish to revisit Professor Jeremy Cooper article 'When to sit and when not to sit', published in the [Summer 2007](#) issue of the journal, in which he explored a range of circumstances when a tribunal judge or member's link with a party, witness or representative appearing before them would give rise to the perception of bias.

BOOK REVIEW

[Tribunal Practice and Procedure: Tribunals under the Tribunals, Courts and Enforcement Act 2007](#) by Edward Jacobs is the subject of a book review in the [Summer 2010](#) issue. Readers can buy a copy of this book at a special price of £35 (incl. p&g), from Legal Action Group, quoting 'TRIS10'. Ring 020 7653 2631 or e-mail: lag@lag.org.uk.



ARCHIVE

Access the [archive](#) of past issues of the *Tribunals* journal.

JUDICIAL REVIEW IN THE UPPER TRIBUNAL

Among the more interesting provisions of the Tribunals, Courts and Enforcement Act 2007 are those conferring a judicial review jurisdiction on the Upper Tribunal. *Mark Rowland* looks back and draws lessons from the first year's experience.

THE UPPER TRIBUNAL has a 'judicial review' jurisdiction throughout the United Kingdom but, for various reasons that lack of space precludes me from setting out, there have so far been no judicial review proceedings in the Upper Tribunal in either Scotland or Northern Ireland. This survey therefore looks only at cases in England and Wales. It also looks only at cases registered in the Administrative Appeals Chamber (AAC) of the Upper Tribunal because, although some judicial review cases have been allocated to the Tax and Chancery Chamber since 1 September 2009 and there is now a broad power to transfer cases from one chamber of the Upper Tribunal to another, all the cases registered in the Upper Tribunal in 2009 were initially registered in the AAC.

The judicial review jurisdiction of the Upper Tribunal in England and Wales is created by sections 15 to 19 of the Tribunals, Courts and Enforcement Act 2007. In *R (Cart) v Upper Tribunal* [2009] EWHC 3052 (Admin), Lord Justice Laws described the purpose of these provisions as being 'to bring about a state of affairs in which the function of judicial review is shared between the UT and the High Court'.

Share

The Upper Tribunal's share is largely defined by the classes of application for judicial review specified in a practice direction made by the Lord Chief Justice for the purposes of section 18(6). *Practice Direction (Upper Tribunal: Judicial Review Jurisdiction)* [2009] 1 WLR 327 specifies applications challenging:

- a) Any decision of the First-tier Tribunal on an appeal made in the exercise of a right

conferred by the Criminal Injuries Compensation Scheme.

- b) With limited exceptions, any decision of the First-tier Tribunal made under Tribunal Procedure Rules or section 9 of the 2007 Act (reviews) against which there is no right of appeal.

Normally, of course, there is a right of appeal on a point of law to the Upper Tribunal against decisions of the First-tier Tribunal under section 11 of the 2007 Act and it is unnecessary to rely on judicial review. However, challenges to decisions on claims for criminal injuries compensation and to decisions under section 9 are expressly excluded from the usual right of appeal by sections 11(5)(a) and (d). Decisions under Tribunal Procedure Rules are included within the scope of the practice direction largely because there is a question whether some of them may be implicitly excluded from the right of appeal (see *Morina v Secretary of State for Work and Pensions* [2007] EWCA Civ 749, although that case was decided under different legislation).

Transfers

If an application within a class of case specified in the practice direction seeks only conventional relief (including a claim for damages but not including a declaration of incompatibility under the Human Rights Act 1998), the proceedings should be started in the Upper Tribunal and the Upper Tribunal will determine them. If such proceedings are started in the High Court in error, they *must* be transferred to the Upper Tribunal. In any other case, the proceedings must be started in the High Court and, if started in the Upper Tribunal in error, *must* be transferred to

the High Court. However, if the only reason that a case is in the High Court rather than the Upper Tribunal is that it does not fall within the classes specified in the practice direction, then, except in most immigration and asylum cases, the High Court *may* transfer the case to the Upper Tribunal on a discretionary basis.

Numbers

In 2009, there were 66 judicial review cases properly before the Upper Tribunal, of which 54 were criminal injuries compensation cases, seven were challenges to procedural decisions of the First-tier Tribunal and five were other cases transferred on a discretionary basis.

Judicial review compared with appeal

The scope of judicial review and an appeal on a point of law are the same in that an appeal may be allowed on any of the grounds that justify the quashing of a decision on judicial review (see *Nipa Begum v Tower Hamlets LBC* [2000] 1 WLR 306).

Judicial review does differ from an appeal in the remedies available, in the fact that it is discretionary and in the procedure. However, the first two of those distinctions are all but irrelevant where a decision of a tribunal must be challenged by way of judicial review because there is no right of appeal. Only the procedural differences are material in such a case and the procedure for judicial review is more complicated because the tribunal is an additional party. Even if the tribunal seldom plays any part, the case must be conducted on the basis that it might wish to do so. Moreover, the consequence of a decision of the First-tier Tribunal being excluded from the right of appeal under section 11 is that the First-tier Tribunal then has no power to review the decision under section 9.

Another difference is that, although Tribunal Procedure Rules impose a duty on the First-tier

Tribunal to inform the parties of any right of appeal against ‘a decision which finally disposes of all issues in the proceedings’, it is not obliged to inform the parties of any right to apply for judicial review.

It is very easy to see why decisions under section 9 should be excluded from the scope of section 11. There will always be a substantive decision (even if made later) against which an appeal can almost always be more appropriately brought. It is perhaps significant that permission was refused in five of the seven applications for judicial review falling under the second limb of

the practice direction and the two cases in which permission has been granted have both been thought sufficiently important to be determined by three-judge panels. One was concerned with the exercise of the power of review (*R (RB) v First-tier Tribunal (Review)* [2010] UKUT 160 (AAC)) and the other, which has yet to be determined, raises the question whether the approach taken in *Morina* is of any relevance in relation to the 2007 Act.

It is less easy to see why criminal injuries compensation cases should be excluded from the scope of

section 11. The more complicated procedure has been a disadvantage, particularly because most of the applicants are unrepresented. However, with the agreement of the Criminal Injuries Compensation Authority (which was the interested party, rather than the applicant, in all but one of the cases in 2009) and the Social Entitlement Chamber of the First-tier Tribunal (which is always the respondent), a more streamlined process has been adopted by the Upper Tribunal, whereby the First-tier Tribunal submits both an acknowledgement of service and a copy of its file before an application for permission is considered on the papers but the Authority is not expected to take any part in

It is perhaps significant that permission was refused in five of the seven applications for judicial review falling under the second limb of the practice direction . . .

the proceedings unless an unsuccessful applicant asks for a refusal of permission to be reconsidered at a hearing (at which point the Authority is in a position to comment in its acknowledgement of service on points made in both the original and the renewed applications, in the First-tier Tribunal's acknowledgment of service and by the judge when refusing permission on the papers) or permission is granted. It may be noted that a person applying for permission to appeal from the Social Entitlement Chamber of the First-tier Tribunal is always offered the opportunity of asking for a hearing of the application but, if he or she declines the offer and permission is refused, has no right to have the refusal reconsidered. In criminal injuries compensation cases, almost all claimants refused permission apply for reconsideration and only one has so far been successful. A right of appeal would be simpler and cheaper.

The Upper Tribunal compared with the High Court

If the intention of Parliament in excluding criminal injuries compensation cases from the scope of section 11 was that the possibility of a challenge to a decision of the First-tier Tribunal should not be seen to be easily available, the intention has been defeated by a combination of the Lord Chief Justice's decision to include these cases in his practice direction and the First-tier Tribunal's practice of informing claimants of their right to apply for permission to apply for judicial review. Even if one ignores the cases transferred from the High Court, 48 cases were brought before the Upper Tribunal in 2009 and that represents an eight-fold increase compared with the number of cases usually brought in a year in the High Court against the former Criminal Injuries Compensation Appeals Panel. As a proportion of the cases decided by the First-tier Tribunal, the figure is comparable to the proportion of other

decisions of the Social Entitlement Chamber in which applications for permission to appeal are made to the Upper Tribunal.

The overwhelming majority of criminal injuries compensation cases have been brought before the Upper Tribunal by litigants in person. Although, most litigants in person have been refused permission, several are among those who have had decisions of the First-tier Tribunal quashed. Overall, permission has been granted in 20 of the 54 cases (including the transferred cases). Of those 20 cases, one was settled to the applicant's

advantage but without the First-tier Tribunal's decision being quashed, 11 (including the only one brought by the Criminal Injuries Compensation Authority) have resulted in the First-tier Tribunal's being quashed, three have resulted in its decision being upheld and the remaining five cases have yet to be determined.

Even though it is possible that the success rate is currently as high as it is partly because the easier cases have been determined first, these figures suggest that having judicial review proceedings in the Upper Tribunal has promoted access to

justice in meritorious cases, presumably because access is just easier and there is no fee.

There are also some procedural advantages by comparison with the High Court. The more streamlined process mentioned above has advantages for all parties. More importantly, it is possible for substantive decisions to be made on the papers, which is much cheaper for the parties than a hearing. Generally, if either party wants a hearing, one will be granted, but in cases that turn very much on their special facts, it may suit both parties not to have a hearing. Six of the substantive criminal injuries compensation decisions have been made without a hearing.

One consequence of a greater number of criminal injuries compensation cases being considered by a smaller number of judges is likely to be a more coherent development of the law.

There is also flexibility as to the composition of the Upper Tribunal. Under section 18(8) of the 2007 Act, the presiding judge in judicial review proceedings must be a High Court judge or equivalent or a judge approved by the Lord Chief Justice or his equivalent. All the salaried judges of the Upper Tribunal who sit mainly in the AAC in England and Wales have been approved as have some other judges who sit also as deputy High Court judges. Most of the criminal injuries compensation cases have been determined by single Upper Tribunal judges but three, concerned with whether each of the claimants was a victim of ‘a crime of violence’, were heard together by a three-judge panel presided over by a High Court judge and one was determined by a High Court judge sitting alone.

One consequence of a greater number of criminal injuries compensation cases being considered by a smaller number of judges is likely to be a more coherent development of the law. As regards challenges to procedural decisions, it obviously makes sense for them to be considered by Upper Tribunal judges who are familiar with the substantive issues arising before the First-tier Tribunal.

Discretionary transfers

There were five discretionary transfers in 2009. It is clear that the cases were transferred primarily so that use could be made of the Upper Tribunal’s expertise in areas of law where it exercises an appellate jurisdiction.

Three of the cases were concerned with special educational needs, but in circumstances where there was no right of appeal. The first case had been brought in the course of a dispute about the provision to be made in accordance with a statement and was withdrawn when agreement was reached following mediation. The applicant in the second case sought interim provision while an appeal to the First-tier Tribunal was pending. A ‘rolled-up hearing’ was held at short notice, permission being granted but the substantive

application being dismissed. It was held that in principle such relief could be given but that it would rarely be appropriate in practice (*R (JW) v The Learning Trust* [2009] UKUT 197 (AAC); [2010] AACR 11). The third case was concerned with provision for a young person in further education and was withdrawn by consent when a settlement was reached during the course of the ‘rolled-up hearing’.

The fourth case was concerned with the enforcement of a child support maintenance assessment pending the determination of appellate proceedings in the AAC. The AAC refused permission to apply for judicial review on the ground that there was an alternative remedy by way of an application to the AAC for suspension of the effect of the decision in respect of which the applicant had sought permission to appeal, but the applicant was treated as having made such an application for suspension and the judge issued appropriate directions in the appellate proceedings.

The fifth case was brought in the High Court in respect of a decision of HMRC to revoke certain tax dispensations. It was transferred to the Upper Tribunal so that consideration could be given to it being linked to appeals brought by the applicants that raised, among other issues, the question whether the dispensations applied in any event. Although it had initially to be allocated to the AAC, it was transferred to the Tax and Chancery Chamber on 1 September 2009 when that chamber acquired jurisdiction and has been, for the purposes at least of a case-management hearing, linked to the tax appeals which were proceeding in the First-tier Tribunal, through the device of a High Court judge and an Upper Tribunal judge sitting together both as the Upper Tribunal and as the First-tier Tribunal.

The future

There is plainly scope for an increase in the number of discretionary transfers and that may happen as the courts and practitioners gain

more experience of the Upper Tribunal, particularly now that there is an Immigration and Asylum Chamber (despite the limitation on the transfer of cases in that field of law). Moreover, the coming into force of section 53 of the Borders, Citizenship and Immigration Act 2009 will lead to a large number of cases in that chamber.

However, substantial expansion of the AAC's judicial review work is unlikely unless more classes of case are specified in practice directions as ones that should be started in the Upper Tribunal and must be transferred to it if started in a court. The experience of criminal injuries compensation cases may suggest that there are

advantages both in terms of access to justice and in terms of procedural simplicity in proceedings being in the Upper Tribunal rather than the courts although it also suggests that consideration needs to be given to the question whether a right of appeal would be more appropriate. There may, for instance, be areas of local government work such as the provision of social services, housing and education, where no right of appeal is appropriate but in which the Upper Tribunal might be encouraged to develop expertise and proportionate procedures in judicial review proceedings.

Mark Rowland sits in the Administrative Appeals Chamber of the Upper Tribunal.

DESERVING A WIDER AUDIENCE

Oxfam v Her Majesty's Revenue and Customs [2009] EWHC 3078 (Ch) raises fundamental questions about the relationship between tribunals and public law. *David Williams* assesses its implications.

OXFAM is part charity, part business. It is entitled to claim credit for part only of the VAT it pays its suppliers. The question is: how much? Oxfam claimed, on the basis of its expectations, more than HMRC would agree. But could it appeal the HMRC refusal? In this case Mr Justice Sales, disagreeing with both parties, decided that the former VAT Tribunal could have considered Oxfam's argument that it had a legitimate expectation about the outcome of its VAT claim. It did not have to be handled by judicial review.

This raises fundamental questions about the relationship between tribunals and public law, including judicial review. How widely should statutory provisions about appeals to tribunals be interpreted? When can tribunals apply public law principles in determining statutory appeals?

New line

The 2007 Act draws a new line between courts and tribunals with regard to judicial

review. Before those changes it was the general understanding that judicial review was something to which tribunals were subject, not that they could themselves decide. For example, they could not adjudicate on applications of extra-statutory concessions. Decisions to be taken on discretion of a Secretary of State could not be challenged by an appeal. Any such arguments were for the High Court (or Court of Session). The result is that parties start parallel proceedings in the court and the tribunal.

Reticence

This reticence has been reflected in narrow interpretations of appeal provisions where judicial review is available, and in reluctance to consider public law issues. Mr Justice Sales expressly questioned the first of these approaches and raises issues about the second. He recognised the practice of the VAT Tribunal to refuse jurisdiction in relation to claims based on public law principles. 'However . . . I consider that

Oxfam’s claim based on public law principles and the doctrine of legitimate expectation could properly have been raised in its appeal to the Tribunal’ [4]. He reached this conclusion by applying the ‘natural and ordinary meaning of the words’ ([71], [78]) to the relevant provision, section 83(c) of the VAT Act 1994 relating to appeals.

European principles

His decision may reflect another specific aspect of VAT appeals, although Mr Justice Sales does not expressly comment on this. Much VAT law is directly effective European law. Appeals must be decided on the basis of European administrative law principles such as proportionality and certainty, and not on those of British laws alone. This is, however, not unique to VAT appeals. Several tribunal jurisdictions involve directly effective or applicable EU law, which also requires the application of European legal principles.

Of what value would a widened jurisdiction be to appellants? Mr Justice Sales’s judgment also examines the law on legitimate expectation. As he states, ‘the law in relation to the protection of substantive legitimate expectation is still in a state of development’ [47]. His decision, at [45] to [60], is a valuable update on this issue, of importance across tribunal jurisdictions. In particular, he examines where detrimental reliance is necessary. In the case before him there was no detriment. Had there been, his decision clearly indicates that he considered that a tribunal could deal with the issue.

Unambiguous

Sales J’s general approach potentially applies to any tribunal. His main premise is unambiguous:

‘The benefit of the tribunal having jurisdiction to hear such claims is that the

unattractive, costly and potentially time-consuming proliferation of applications to different bodies (the Tribunal and the High Court) can be avoided, and the Tribunal is in a position to consider all relevant points bearing on the same issue . . . at one hearing and to give a single ruling which completely determines that issue.’

([4] and see [70])

From experience, I agree and add another reason. I am surely not alone as a tribunal judge in seeing past cases going both to the Administrative Court and another part of the High Court during the appeal processes and as a result finding myself subject to conflicting pressures.

Could unified proceedings be realised under the 2007 Act reforms?

Could unified proceedings be realised under the 2007 Act reforms? Of course, tribunal jurisdictions remain divided between the Upper Tribunal and the First-tier Tribunal, and between their chambers. But those are now superable barriers. Were the *Oxfam* appeal to be heard now, it would be

by the Tax and Chancery Chamber of the Upper Tribunal, not the Chancery Division of the High Court. The parallel judicial review proceedings could, on transfer, also be heard by the Tax and Chancery Chamber, not the Administrative Court.

Further, as the two Tax Chambers have already shown, it is then possible to consider parallel statutory appeal and judicial review proceedings together, at least for case management purposes. And they could be heard by the same judges.

Sales J’s judgment was circulated in training materials to all Tax Chamber judges. It deserves a wide tribunal audience.

David Williams is an Upper Tribunal judge in the Administrative Appeals and Tax and Chancery Chambers.

A SPECIAL GROUP OF TRIBUNAL USERS



Andrew Bano describes the ‘enabling approach’ adopted by a First-tier Tribunal Chamber whose jurisdiction dates back over a thousand years.

THE War Pensions and Armed Forces Compensation Chamber (WPAFCC) is the smallest of the First-tier Chambers established so far under the Tribunals, Courts and Enforcement Act 2007, but it can probably claim a longer pedigree for its jurisdiction than any other chamber. In the late 880s, Alfred the Great issued a law code which included a tariff-based system of compensation for injuries, with similarities to modern injury compensation schemes, and it is Alfred who is also credited with having created a system of compensation for injured soldiers.

By Elizabethan times, provisions for compensating injured soldiers and sailors had passed into statute, and by the early 19th century it was the Commissioners of the Chelsea Hospital who were responsible for awarding disability pensions to injured members of the armed forces. That responsibility was transferred to the Secretary of State for War in 1846, and the Pensions Appeal Tribunals – the predecessors of the WPAFCC in England and Wales, and which still exist in Scotland and Northern Ireland – were created in the aftermath of the First World War in 1919.

The principal pre-2005 war pension scheme, made under the royal prerogative, provided for compensation to be paid for injuries attributable to or aggravated by service, and was not limited to injuries sustained in combat. All but the most minor injuries attracted a pension based on an assessment of the severity of disablement, in a similar way to the method used in the industrial injuries disablement benefit scheme. An appeal to a tribunal lay against a decision rejecting an

injury as attributable to or aggravated by service (an entitlement appeal), or against the assessment of disablement (an assessment appeal).

Special obligations

In deference to the special obligations owed by the state to members of the armed forces (the ‘military covenant’), the pre-2005 scheme contained a number of features which were unusually favourable to claimants. Thus, for a claim made within seven years of the end of service, the burden lies on the Secretary of State

to show beyond reasonable doubt that an established injury was *not* attributable to or aggravated by service, and for claims outside the seven-year period the claimant is entitled to the benefit of any reasonable doubt in establishing entitlement or aggravation.

Another aspect of the favourable treatment given to war pensions claims was a right of appeal against decisions of Pensions Appeal

Tribunals to a designated High Court judge, known as a nominated judge. Some of the most distinguished judges of their day, notably Mr Justice Denning, were appointed nominated judges, and it is still instructive to read the succinct and elegant judgments in which the nominated judges in the 1940s and ’50s laid down the fundamental principles of war pensions law.

Inadequate

In 2005, the government introduced a new tariff-based compensation scheme, called the Armed Forces Compensation Scheme (AFCS), which for the first time allowed awards to be made to

Some of the most distinguished judges of their day, notably Mr Justice Denning, were appointed nominated judges . . .

claimants while still in service. However, the awards payable under the new scheme were widely seen as being inadequate in many cases, particularly for very serious multiple injuries and mental disorders, and in July 2009 the government responded to public concerns about the adequacy of compensation under the AFCS by bringing forward a planned review of the scheme. The review, which reported in February 2010, recommended far-reaching changes to the AFCS, including increases in income payments for the most serious injuries, increases in most lump sums and in the maximum award for mental illness, longer time limits for making claims and more flexible review powers in cases of unexpected deterioration.

Dedicated chamber

The original proposals to transfer the Pensions Appeal Tribunals into the Social Entitlement Chamber of the First-tier Tribunal when the new tribunal structure came into force in November 2008 ran into opposition from the service community, and in recognition of the special position of the armed forces it was eventually decided to create a dedicated chamber for war pensions and AFCS appeals. The jurisdiction of the nominated judges in respect of entitlement appeals had previously been transferred to the Social Security Commissioners, who became judges of the Upper Tribunal under the reforms. The Upper Tribunal also acquired jurisdiction to hear appeals from the WPAFCC in assessment cases.

The creation of the WPAFCC as a separate chamber has allowed the development of a flexible and tailor-made response to meet the needs of a very special group of tribunal users, but membership of the new ‘family’ of tribunals has given the chamber access to a range of resources which would simply not have been available outside the new unified structure. For example, in dealing with mental disorders such

as post-traumatic stress disorder, the chamber now has the possibility of taking advantage of the considerable psychiatric expertise available in other chambers. To ensure as far as possible consistency of approach across jurisdictions, we have also established common judicial studies arrangements with the rest of the UK.

An enabling approach

My appointment as the first President of the WPAFCC has given me the opportunity of reflecting on the vigour and versatility of the tribunal system. My first full-time appointment, as an employment tribunal chairman, showed me how even very complex legal and factual disputes between private citizens, sometimes

involving large compensation

claims, can be successfully resolved by tribunals. My next appointment, as a Social Security Commissioner, brought home to me the benefits of a specialised and expert appellate tribunal in developing the law in a systematic and coherent way.

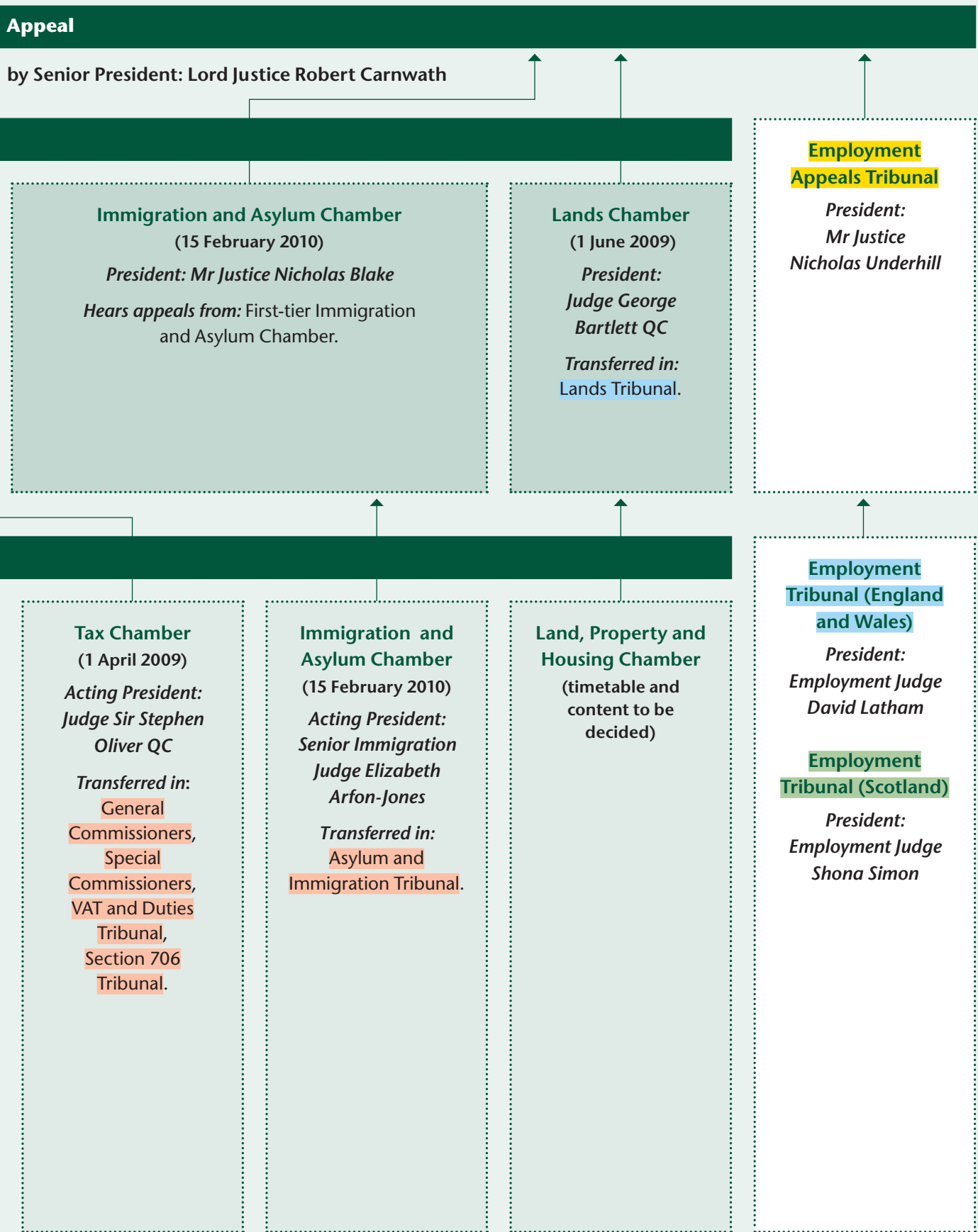
My most recent appointment has made me more than ever aware

of the importance of what Leggatt called an ‘enabling approach’ by tribunals, so that our appellants – so often frail, and called on to recall traumatic events of many years previously – can effectively challenge government decisions of vital importance to their welfare. At a time when public funding of litigation is under constant pressure and the Jackson report on costs has so vividly highlighted the difficulties faced by an adversarial system of litigation, it is perhaps appropriate to reflect on the benefits of a costs-free system of justice in which the tribunal itself, rather than just the state or the parties to a dispute, plays a full and active part in achieving equality of arms.

Andrew Bano is President of the War Pensions and Armed Forces Compensation Chamber of the First-tier Tribunal.

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LINKS THAT MAY CAST DOUBT ON OBJECTIVITY



Mary Stacey refreshes our memory of when a judge should, or should not, sit – in order to avoid a perception of bias – and also describes when a judge’s behaviour constitutes ‘a display of irrational animus amounting to prejudgment’.

IN HIS ARTICLE ‘When to sit and when not to sit’, published in the Summer 2007 issue of *Tribunals*, Professor Jeremy Cooper explored a range of circumstances when a tribunal judge or member’s link with a party, witness or representative appearing before them would give rise to the perception of bias.

He explained then that the key test to be applied in any case involving a possible bias challenge was laid down in the House of Lords case of *Porter v Magill* [2002] 2 AC 357 thus:

‘The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.’

If such bias – whether real or apparent – is established, the decision cannot stand as it amounts to an error of law. The case will usually be remitted for a rehearing by a fresh tribunal, with all the attendant frustration, additional cost, delay and loss of confidence in the system.

This test effectively brings together in one definition the old common law test of bias with the requirement of Article 6 of the European Convention on Human Rights for an independent and impartial tribunal.

Professor Cooper looked at further decisions of the House of Lords, including *Gillies (AP) v SoS for Work and Pensions (Scotland)* [2006] UKHL 2 which found that the employment of a tribunal member by the same organisation whose decision is being challenged does not lead to automatic disqualification from sitting as a member of

that panel under the ‘fair-minded and informed observer’ test.

He also considered the principles applying when a tribunal member becomes aware that he or she has already sat on a previous case involving the same applicant and looked at some cases in which a bias challenge was upheld by the courts.

Three years on, the law remains the same, and the article a good source of guidance for anyone looking for a clear description of the guiding principles to be applied by tribunals to ensure that objectivity and lack of bias on the adjudicating panel are guaranteed and maintained.

Upper Tribunal

More recently, however, the Upper Tribunal has given its first detailed consideration of when links between a party’s representative and the tribunal give rise to apparent bias.

In *SW v Secretary of State for Work and Pensions (IB)*¹, the appellant’s health problems arose from a violent assault which was also subject to a claim to the Criminal Injury Compensation Authority (CICA). The appellant continued to take his advice on the CICA claim from a firm of solicitors which his representative had left in acrimonious circumstances, taking many of her clients with her, including the appellant in respect of the current incapacity benefit claim.

The appellant had challenged a decision to withdraw his incapacity benefit. The First-tier Tribunal had dismissed that appeal. He then appealed to the Upper Tribunal, partly on

grounds of perception of bias, because two of the First-tier Tribunal's fee-paid tribunal judges were current or former partners in that firm of solicitors.

Three aspects were raised: that the appellant's representative was known personally to the judge of the First-tier Tribunal; that the representative had previously been an employee of the firm of solicitors where the judge was a partner; and thirdly that the judge was the senior litigation partner at the firm of solicitors for the appellant's ongoing CICA claim, and that there was therefore a conflict of interest.

Decision

Judge Wikeley noted that bias can be both actual and perceived. Drawing on the *Guide to Judicial Conduct*² and the Bangalore Principles of Judicial Conduct and associated commentary³, he dismissed the first two grounds, noting that the fact of acquaintance between judge and representative is a daily fact of life in courts and tribunals. Judges should avoid frequent recusals and it is important to avoid the impression that a party (and indeed any representative) may be able to pick and choose the judge who will decide its case.

The appellant having been a contemporaneous client of the firm at which the judge was senior litigation partner was, however, judged a different matter entirely. The Upper Tribunal concluded that the Bangalore Principle that a judge should recuse her or himself where 'the judge previously served as a lawyer or was a material witness in the matter in controversy'⁴ was clear, and further developed in the commentary:

'[A] judge who had previously been a member of such a firm or company should not sit on any cases in which the judge or the

judge's former firm was directly involved in any capacity before the judge's appointment, at least for a period of time after which it is reasonable to assume that any perception of imputed knowledge is spent.'

In this case, the judge had been senior litigation partner of the firm which had then been dealing with the appellant's incapacity benefit claim; that firm was still dealing with the CICA claim which arose from the same incident; some of the medical evidence was relevant to both claims; and the judge had only left the firm four months before the appellant's hearing. Judge Wikeley's

view was that a fair-minded and informed observer would be concerned about the risk of bias. The Upper Tribunal revoked the First-tier Tribunal decision and remitted it for a fresh hearing before a differently constituted panel.

Judicial behaviour

As well as these clear rules about when a judge should and should not sit, there is a second area, absent of any connection to or with the parties, in which the question of the actual or perceived bias of the tribunal judge or member may arise. This difficult area relates to judicial behaviour and has also given rise to recent case law.

It cannot be stressed too often that the integrity of the judicial system is dependent upon the confidence of its users and stakeholders. That confidence will only be maintained if it is considered that parties appearing before us will receive a fair and impartial hearing at which they can put their case to the best of their, or their representatives', ability. It matters since access to justice is central to a democratic society and a fundamental human right.

Reassuringly, the 2008 Survey of Public Attitudes towards Conduct in Public Life showed that 82 per cent of people trust judges to tell the

It cannot be stressed too often that the integrity of the judicial system is dependent upon the confidence of its users and stakeholders.

truth over time⁵, making them the third most trusted profession, after GPs and head teachers.

However, allegations of bias continue to form part of the diet of the appellate tribunals and courts in every jurisdiction. In the words of Lord Justice Rimer, they sometimes amount ‘to no more than the deployment of the fallacious proposition that i) I ought to have won; ii) I lost; iii) therefore the tribunal was biased.’⁶

Two recent cases have led to a thorough analysis of judicial behaviour during a hearing and its impact on the fairness of the subsequent decision reached. These cases are not about what constitutes judicial best practice, but when behaviour is so inappropriate that it compromises the perceived or actual fairness of a hearing.

Inappropriate noises

In *Ross v Micro Focus Ltd*⁷, the behaviour of an Employment Tribunal member constituted the bias alleged by an unsuccessful claimant employee in an unfair dismissal case. The Employment Appeal Tribunal (EAT) found that the tribunal member had indeed been nodding enthusiastically, making inappropriate noises and clearly demonstrating her agreement with the chairman of the employer company during the course of his cross-examination. By contrast, she had overtly demonstrated her disapproval of the claimant’s representative and unhappiness at some of his questions. When the claimant’s representative sought to add new documents part way through the hearing, she was heard to say ‘Ridiculous. It’s just too late.’ The EAT considered its task was to distinguish whether the behaviour was that of an unbiased person simply responding to the evidence as it unfolded, or a display of irrational animus amounting to prejudgment. The former is broadly acceptable, the latter is not.

... unsurprisingly
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the decision was
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Timing

A key determinant of the side of the line on which questionable behaviour will fall, is timing. In *Ross v Micro Focus Ltd*, the display occurred towards the end of the evidence, after the claimant’s case and during the cross-examination of the employer’s chairman. In that case the EAT held that the tribunal member’s behaviour was a reasoned reaction to the evidence and arguments which she saw as unmeritorious being paraded before her, not evidence of a prematurely closed mind and the appeal was dismissed.

A contrasting example is found in *Peter Simper and Co Ltd v Cooke*⁸, another decision of the EAT.

During the claimant’s evidence on the first day of the hearing, before the respondent had given evidence, the judge memorably said: ‘How anyone can seriously come before a tribunal and make out that reasonable alternative employment had been offered I cannot imagine and neither can my colleagues.’ It was the first of several similar comments and unsurprisingly the EAT considered it evidenced a prejudiced and closed mind and the decision was quashed.

Preliminary views

What about the expression of ‘preliminary’ views part way through a hearing? The balancing exercise here is the need for tribunals to have freedom to manage and control their hearings efficiently and intervene appropriately, while not appearing to pre-judge. Again, timing is crucial. In *Jiminez v Southwark LBC*⁹, the tribunal had given a forthright view, expressed as only provisional and to assist the parties to consider settling the case, that the respondent had treated the claimant ‘appallingly’, providing detailed and specific examples. The intervention was made after all the evidence, bar one minor witness, had been heard. The Court of Appeal overturned the EAT’s judgment of bias, on grounds that the bulk of the evidence had been heard, the views

were only preliminary and had helped the parties prepare for their submissions. However, the practice must be approached with care.

By way of final warning, earlier this year in *Peter Michel v The Queen*¹⁰, the Privy Council considered the interventions of a presiding judge commissioner in a criminal trial in Jersey. The judge commissioner's 273 interventions of a snide, sarcastic and profoundly disbelieving nature during the defendant's evidence led to the quashing of Mr Michel's conviction of money laundering £10 million on apparently strong evidence. Two categories of improper judicial intervention which are equally applicable in civil tribunal cases were reiterated in *Michel*:

- Where the interventions have made it really impossible for the representative to do his or her duty in properly presenting their client's case.

- Where the interventions have had the effect of preventing a witness himself from doing himself justice and telling the story in his own way.

Mary Stacey is an employment judge.

¹ [2010] UKUT 73 (AAC).

² See www.judiciary.gov.uk.

³ See www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf. The Bangalore Principles set out certain key judicial values which were adopted by an international conference of Chief Justices in 2002. The Commentary was produced by the international Judicial Integrity Group, March 2007.

⁴ Para 2.5.2.

⁵ See www.public-standards.gov.uk/OurWork/Public_Atitude_Surveys.html.

⁶ In *London Borough of Hackney v Sagnia* [UKEAT0600/03, 0135/04, 6 October 2005] para 63 Rimer J.

⁷ UKEAT/0304/09.

⁸ [1986] IRLR19 EAT, Gibson J.

⁹ [2003] EWCA Civ 502.

¹⁰ [2009] UKPC 41.

Editorial Board members

Applications are invited for membership of the editorial board for the JSB's *Tribunals* journal.

Three issues of the journal are published each year, with the aim of providing interesting, lively and informative analysis of the reforms currently under way in different areas of administrative justice.

The main role of the editorial board is to agree the contents of each issue of the journal, commission articles from prospective authors and on occasion write pieces themselves.

Successful candidates will have:

- An understanding of the needs and concerns of those appearing in front of tribunal hearings.
- The ability to contribute their own thoughts and experiences, with the aim of benefiting others.
- Good communication and interpersonal skills.

In addition, some writing experience would be desirable.

Members of the editorial board are asked to attend three meetings a year at the JSB's London office.

The closing date for this post is 29 October 2010.

An application form is available from competitions@jsb.gsi.gov.uk.

A WORK OF SCOPE AND AUTHORITY

Peter Lane (below) reviews *Tribunal Practice and Procedure* by Edward Jacobs.¹



THIS BOOK is both timely and impressive. Published just months after the creation of the First-tier Tribunal and the Upper Tribunal, it aims to provide a comprehensive guide to the way in which tribunals in the United Kingdom operate, within the framework created by the Tribunals, Courts and Enforcement Act 2007. If this were not challenging enough, it also fulfils the promise in the preface of providing ‘practical advice for tribunals and those who appear before them’.

Connection

What is a tribunal? Perhaps surprisingly for a lay reader, the question is not straightforward. Jacobs identifies a combination of characteristics, relating to method of creation, purpose, scope of jurisdiction and powers, membership, procedures, and the relationship between the body concerned and the parties to the proceedings.

In essence, a tribunal is ‘an expert, independent standing statutory body, available to deal with all those cases within its jurisdiction and easily accessible by users’. But, as the author acknowledges, this ‘does not mean that these features are unique to tribunals’. Many, if not all, of the features may be possessed by courts. Indeed, it is one of the stated aims of the book ‘to identify the general principles that unite proceedings and the rules of procedure for both courts and tribunals’. As a result, many of the areas covered, such as procedural fairness and the nature of an appeal, draw heavily on case law involving courts, although Jacobs is careful to maintain his focus on how this law applies in the context of tribunals.

One of the main achievements of the 2007 Act was to recognise the significance of the role

played by tribunals, while at the same time creating new and important links between them and the civil justice system, as administered by the courts. Jacobs provides a wealth of legal examples which serve to reinforce this connection.

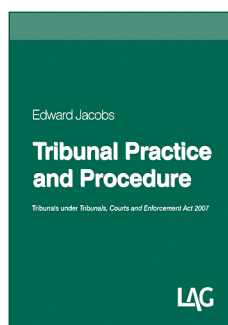
Trend

There are also pointers to a future in which procedural differences between courts and tribunals may become even less clear cut. Jacobs provides, consecutively, summaries of reports dating from 1932 up to the 2001 Leggatt report on tribunals, which led to the 2007 Act. Looking

at these, the trend for both courts and tribunals might be said to be towards a general system which emphasises accessibility, simplicity and efficiency, while recognising that fairness involves minimising delays. Certain recognisable features of ‘tribunal justice’ may therefore be beginning to inform developments in court procedure.

Timely

Besides illuminating these relationships between courts and tribunals, the book also performs the welcome function of identifying similarities and differences between tribunals themselves. Again, the timeliness of this is welcome, in the light of the structural changes wrought by the 2007 Act. In the past, there was a danger of those concerned with a particular tribunal jurisdiction being unaware that a procedural or other issue was not unique to that jurisdiction but had been encountered and addressed in another one. The 2007 Act seeks to address this in various ways – for instance, by providing a common system for challenging decisions of the First-tier Tribunal and by creating the office of the Senior President of Tribunals, with over-arching responsibility for both the First-tier and the Upper Tribunal.



Readers of Tribunals can buy a copy of this book for a special price of £35 (incl. p&tp). See page 17 for details.

Useful analysis

The book has a useful part to play in this regard. The reader is shown how different jurisdictions deal with procedural and substantive issues. Some of these have always featured in all jurisdictions, such as the burden and standard of proof. A useful analysis of each is provided, including generous citation of case law (although the ‘reasonable likelihood’ standard, which is very important in the immigration and asylum jurisdiction, is not specifically covered). Other concepts have featured in some jurisdictions but hardly, if at all, in others. One example is the procedure whereby, on an application for permission to appeal, a tribunal’s decision may be reviewed and set aside by the same tier of tribunal, instead of granting permission. Since the late 1990s this had been a feature of the social security jurisdiction. The 2007 Act makes review and set aside of universal application. Jacobs describes what is involved.

In reviewing a work of such scope and authority, it could be said to be *Wednesbury* unreasonable to suggest what additional areas might be included in a second edition. It is, however, precisely because Jacobs has succeeded so well in his stated aims that one hopes he will in due course add ‘Law’ to ‘Practice and Procedure’ in the book’s title and cover the legal relationship between courts and tribunals (and between the two levels of tribunals established by the 2007 Act).

Developments

There have been important developments here, which look set to continue. In *AH (Sudan)* [2007] UKHL 49, Baroness Hale paraphrased the view she had expressed in *Cooke* [2001] EWCA Civ 734, that ‘the ordinary courts should approach appeals from them with an appropriate degree of caution; it is probable that, in understanding and applying the law in their specialised field the tribunal will have got it right’. This passage has been widely cited. As the Senior President has observed elsewhere, coupled with cases such as *Moyna* [2003] UKHL 44 and

Lauton v Serco Ltd [2006] UKHL 3, *AH (Sudan)* plots a possible course for the legal relationship between the higher courts and the Upper Tribunal and between that Tribunal and the First-tier Tribunal.

Even more recently, the question whether the Upper Tribunal (which possesses powers of judicial review) is itself susceptible to JR has been addressed by the Divisional Court in *Cart and Ors* [2009] EWHC 3052 (Admin). In short, there is much here for a second edition to get its teeth into.

Finally, among many useful pieces of practical advice is this charmingly self-deprecatory passage:

‘Humour is seldom appropriate, if ever. And it is not easy to identify when it is appropriate. It is best avoided. Even the mildest remark can be misunderstood. In *Secretary of State for Work and Pensions v Chiltern District Council* the author had commented that, in view of the number of issues raised, the case was one to take to a desert island. In the Court of Appeal, Arden LJ seemed to miss the humour but felt able to deduce from that statement a tinge of regret on the author’s part at the outcome of the appeal.’ (p648)

This book is a remarkable achievement and is thoroughly recommended for those who sit on, appear before, or otherwise have to consider the work of tribunals.

Peter Lane is a Senior Immigration Judge in the Upper Tribunal, Immigration and Asylum Chamber.

To buy a copy of this book at a special price of £35 (incl. p&p), order direct from Legal Action Group quoting ‘TRIB10’ to qualify for the discount. Telephone order line: 020 7833 2931. E-mail: lag@lag.org.uk.

¹ *Tribunal Practice and Procedure: Tribunals under the Tribunals, Courts and Enforcement Act 2007* by Edward Jacobs (Legal Action Group 2009, 900pp).

OUR AIM: GETTING IT RIGHT FIRST TIME



The AJTC was established to keep the administrative justice system under review. Recognising the scale of the task, *Richard Thomas* has resolved that the Council will be 'selective to be effective' in future. Here, he describes the priorities for the next year.

THE Administrative Justice and Tribunals Council (AJTC) was established to review the administrative justice system in its broadest sense – to act as a watchdog for the area and oversee all avenues of redress over public decisions.

With only 16 members and 12 policy and administrative staff, coupled with a limited budget, the AJTC must be selective to be effective in setting its priorities. Its mission is to set the standard for a fair, accessible and efficient justice system and to work with others to seek continuous improvement towards that standard.

The council's *Adjust* e-newsletter covers a wide range of views and issues across the sector. We will increasingly use opportunities to increase awareness of the importance of good administrative justice by appearing at select committees, participating in key conferences and ensuring ministers are aware of how important these issues are for citizens.

Conversely, we will spotlight poor practice and demonstrate where change is needed for people to get justice in a fair and friendly environment. Our work will be driven by the needs of ordinary people and our focus will be both on maximising access and customer satisfaction, and on minimising cost, delay and complexity.

Three-year plan

The AJTC recently published its three-year strategic plan. The plan outlines its approach to promoting improvements to the administrative

justice system and sets out criteria for deciding whether to pursue issues that arise in the system. Work is set out in three distinct areas: working with others to promote change; exploiting opportunities to speak on behalf of users; and specific AJTC projects to identify improvements.

Promoting change

Many government departments, agencies, local authorities and other public bodies are already consulting the AJTC on particular issues and benefit from advice and sometimes constructive criticism from the AJTC. In particular, the AJTC has a distinct role as a 'critical friend' of tribunals and the Tribunals Service.

A voice for users

It is in no one's interest if decisions are wrong or incomprehensible, or if the systems for challenging them are scary, legalistic or expensive. As taxpayers, we all expect public bodies to deliver efficient, value-for-money services and, as users, we expect them to deliver high standards of customer service which address our actual needs.

Action plan

Our action plan for 2010–11 sets out a number of projects. One of our key foundation projects is to establish principles for administrative justice, so that our stakeholders understand what underpins our position. Following our current consultation, we aim to publish a final version of our principles in autumn 2010, and this will be accompanied by a simple guide for all administrative justice users.

In particular, the AJTC has a distinct role as a 'critical friend' of tribunals and the Tribunals Service.

Proportional dispute resolution

We are also undertaking a review of progress on proportionate dispute resolution since the 2004 white paper *Transforming Public Services: Complaints, Redress and Tribunals*. It is vital that innovations are pursued to make it easier and less daunting for ordinary people to get justice easily and quickly and this review is designed to energise that process. Similarly, where government decisions are made that affect individuals, it is in the best interests of all if they are made quickly and accurately by the most effective means available. This may well mean approaches other than a full hearing before a judicial figure are appropriate.

Other projects

Our Getting It Right First Time project will articulate the benefits of high-quality decision-making, investigate the barriers to improving current rates of achievement in key areas and seek ways for all stakeholders to make a positive contribution to making things better for users.

Our technology project will explore the potential for new approaches to communicating with service users to make hearings and other processes simpler and more accessible.

Our mental health project will investigate patients' actual experiences in applying to and appearing before the First-tier Tribunal (Mental Health) in order to provide information which may help to improve the administration of tribunal applications and the conduct of hearings.

Our social security time limits project aims to gather data about current delays in dealing with appeals by the Department for Work and Pensions agencies and to demonstrate the impact such delays have on their customers, in order to highlight the impact of the absence of specific time limits for DWP to respond to appeals against its decisions.

Concern has rightly been expressed about the gradual judicialisation of tribunals. This is a risk about which we will be especially vigilant.

Current issues

In the context of our new strategic approach, we are aware that new issues arise and developments in ongoing debates come to the fore. The recent announcement of a new body to supersede and integrate HM Court Service and the Tribunals Service is a case in point.

As with any such structural development, this is both a huge opportunity and a huge challenge. There are potential benefits and risks. The AJTC will engage closely with the Ministry of Justice as they lead this work over the next 12 months. Our role is to protect the interests of users by championing our principles.

We have no organisational interests other than ensuring that the new body that emerges provides an ever-improving, fair, accessible and efficient service to its users. Concern has rightly been expressed about the gradual judicialisation of tribunals. This is a risk about which we will be especially vigilant.

There is also much exciting work to engage with in Scotland, where the Philip reports have generated great interest in administrative justice, and in Wales where our recent Review of Tribunals Operating in Wales has received a positive response from the Welsh Assembly government, leading to a plenary debate in the National Assembly in September 2010.

These are exciting times for administrative justice. Its profile is rising and not before time. The AJTC will remain at its heart, and will take every opportunity to champion both the virtues of the system and the interests of the people who use it in their hundreds of thousands every year.

Richard Thomas chairs the Administrative Justice and Tribunals Council. For further information, see www.ajtc.gov.uk.

A QUIET REVOLUTION

Leueen Fox reminds us of the significance of the ongoing reforms to the tribunals sector, described in the Senior President's first Annual Report.



THE Senior President of Tribunals, Lord Justice Carnwath, published his first Annual Report in February 2010. In recounting the developments over the past five years, this landmark publication is an essential reference for the tribunals world.

Chronology

The report begins with a chronology – from the Franks Report in 1957 to April 2010 and the formation of the First-tier and Upper Tribunals, making apparent the lack of activity between the publication of Franks and Sir Andrew Leggatt's influential report, *Tribunals for Users*, the genesis and catalyst for tribunal reform, in 2001. The report catalogues activity since then, including personal accounts from Chamber Presidents.

Constitutional position

Lord Justice Carnwath reflects in detail on the period since the 2004 white paper *Transforming Public Services: Complaints, Redress and Tribunals* and his appointment as Senior President designate. He explores the recent constitutional history of tribunal judges and members which resulted in the statutory, autonomous role of Senior President, which includes a statutory requirement for cooperation between him and the Lord Chief Justices of England and Wales and Northern Ireland and the Lord President. Chapter 5 explores the practical results of the new statutory structure, including the relationship between judges and the administration.

The report also chronicles developments in tribunal law and jurisprudence with examples of

the new review provisions and of how the new tribunal procedural rules work in practice.

No disruption

Lord Justice Carnwath has called tribunal reform 'a quiet revolution'. The revolution may have been quiet, with little or no disruption to services, but the pace of change has been truly revolutionary with new and simplified rules for users, extensive review procedures for the swift correction of errors, speedier access for appropriate cases to the Upper Tribunal, and a coherent judicial leadership framework.

But the revolution is not over, and the next stage will be stimulated by two main events.

First, the Neuberger Panel's report on increasing judicial diversity recommends a single judicial career across courts and tribunals and the development of 'pre-judge' training for those aspiring to judicial appointment. This links with the work of Lord Justice Sullivan's

group, which is considering the feasibility of a single Judicial College serving the needs of judges and members across tribunals and courts.

Secondly, the announcement of the integration of HMCS and the Tribunals Service, though aimed squarely at the administration, has the ability, over time, to re-shape the way in which tribunals are administered.

... the integration of HMCS and the Tribunals Service ... has the ability, over time, to re-shape the way in which tribunals are administered.

Leueen Fox is Policy Adviser to the Senior President.

The full report can be accessed at www.tribunals.gov.uk/Tribunals/Documents/Publications/SeniorPresidentReport_2010.pdf.

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AIMS AND SCOPE

- 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.

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