



Administrative Justice & Tribunals Council

WORK PROGRAMME

JULY 2008

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Foreword

**To: The Right Honourable Jack Straw MP,
Lord Chancellor and Secretary of State for Justice
Scottish Ministers
Welsh Ministers**

We are pleased to present the first programme of work for the Administrative Justice and Tribunals Council (AJTC) and its Scottish and Welsh Committees. It focuses mainly on 2008/09, but also includes some pointers for later years.

The AJTC is an advisory NDPB set up under the Tribunals, Courts and Enforcement Act 2007 (the Act). It has a statutory duty to:

- keep the overall administrative justice system under review;
- keep under review the constitution and working of the tribunals listed as being under its oversight; and
- keep under review the constitution and working of a wide range of statutory inquiries.

The AJTC is the successor body to the Council on Tribunals, which (along with its Scottish Committee) existed from 1958 until October 2007. It has inherited that Council's oversight of tribunals and inquiries, as well as a broader remit in respect of the overall administrative justice system.

The AJTC and its Scottish Committee came into existence on 1 November 2007, and the Welsh Committee commenced on 1 June 2008. The Scottish and Welsh Committees, while having their own statutory identity, play an integral part in furthering the AJTC's work programme. Within their respective territories they take the lead in overseeing administrative justice and tribunals in both devolved and non-devolved areas, while also contributing fully to the AJTC's consideration of GB-wide matters.

The AJTC is required under the provisions of the Act to formulate, in general terms, a programme of the work it intends to undertake in carrying out its functions, and send a copy of the programme to the Lord Chancellor and the Scottish and Welsh Ministers.

The programme falls into three main parts, reflecting our strategic objectives. These are:

- keeping under review and influencing the development of administrative justice and tribunals
- keeping under review the work of the Tribunals Service, the tribunals within it and other tribunals
- responding to emerging issues and proposals in the administrative justice field.

All of our work will be informed by our overarching objective: to focus first and foremost on the needs of users of the administrative justice system.

The Right Honourable the Lord Newton of Braintree OBE DL
Chairman, AJTC

Professor Alistair MacLeary
Chairman, Scottish Committee of the AJTC

Professor Sir Adrian Webb
Chairman, Welsh Committee of the AJTC

Objective 1

KEEPING UNDER REVIEW AND INFLUENCING THE DEVELOPMENT OF ADMINISTRATIVE JUSTICE AND TRIBUNALS.

The Administrative Justice System

The AJTC is charged with keeping the overall administrative justice system under review. The Tribunals, Courts and Enforcement Act 2007 (the Act) provides a statutory definition¹ of the administrative justice system. As a new organisation we will be developing our own understanding of the 'system' and promoting a better understanding among others who are part of the system or have an interest in it. To this end, we will work to map the administrative justice landscape and continue working towards the production of a web accessible database of UK organisations falling within or related to the administrative justice system. We will also work towards establishing a framework of generally applicable principles in administrative justice.

Transforming Public Services: Complaints, Redress and Tribunals

Our primary objective is to focus first and foremost on the needs of users of the administrative justice system. We will undertake further work on key issues highlighted in the 2004 White Paper *Transforming Public Services: Complaints, Redress and Tribunals*, which led to the Act, aimed particularly at improving the experience of users. The issues are:

Proportionate Dispute Resolution: Chapter 2 of the White Paper called for a new approach to resolving disputes including the use of "Proportionate Dispute Resolution". This would both improve user satisfaction and help to reduce costs. We will work with relevant stakeholders to understand and promote proportionate dispute resolution techniques and services across the administrative justice landscape, building on our survey of the use of alternative and proportionate dispute resolution techniques in tribunals, which was published in February 2008.

Feedback: Paragraph 6.32 of the 2004 White Paper emphasised the value of getting decisions "Right First Time". It went on to discuss the value of the statutory requirement on the then President of the Appeals Service to provide feedback via a report to the Secretary of State for Work and Pensions and the wider potential to use feedback. The AJTC agrees that feedback has the potential to be a powerful tool for improving standards.

¹ Schedule 7 para. 13 (4) of the Tribunals, Courts and Enforcement Act 2007 defines the administrative justice system as follows:

In this paragraph "the administrative justice system" means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including—

- (a) the procedures for making such decisions,*
- (b) the law under which such decisions are made, and*
- (c) the systems for resolving disputes and airing grievances in relation to such decisions.*

We will work with decision-makers, the Senior President of Tribunals and other stakeholders to promote awareness and sharing of new initiatives and to develop a model of good practice for feedback. We will also work, involving others as necessary, to produce special reports on areas of particular concern.

Support for Users: Chapter 10 of the White Paper discussed the mechanisms by which users could be supported. We will work with relevant stakeholders, including user groups and those concerned with the commission, provision and delivery of advice and legal services, to increase knowledge about the availability of advice, support and representation for users of the administrative justice system, explore wider issues and develop good practice. We will also build our links with the Legal Services Commission in order to work collaboratively on issues of common interest.

Linking the Parts of the Administrative Justice System

In keeping under review the “overall system” of administrative justice we will work to promote links and understanding between the various components of the system. In anticipation of its new role the Council on Tribunals, in 2005, commenced publication of an electronic newsletter, ‘Adjust’. We will continue to develop Adjust as an authoritative publication on all matters connected with administrative justice both at home and abroad and seek to further increase its readership. We will also expand the AJTC website (www.ajtc.gov.uk) as a showcase for our work and a resource for the wider world of administrative justice. We will develop a programme of conferences and events to promote networking, disseminate knowledge, and identify common interests and priorities within the administrative justice system.

In 2008/09 we will:

- Publish a paper exploring the new statutory definition of the administrative justice system
- Compile a bibliography of reference sources in the field of administrative justice and analyse the principles within these sources against the AJTC values
- Publish a scoping paper on generally applicable principles of administrative justice, to be followed in subsequent years by a fuller paper and by application of these principles to particular aspects of the administrative justice system
- Work with the Ministry of Justice, the Civil Justice Council and others to identify collaborative opportunities for promoting proportionate dispute resolution techniques across the administrative justice landscape
- Continue to produce bi-monthly editions of our e-newsletter, Adjust
- Hold our first full conference as an AJTC on 19 November 2008. We will share some of the early work outlined in this programme with our stakeholders and showcase the latest developments and thinking in the administrative justice field.

Objective 2

KEEPING UNDER REVIEW THE WORK OF THE TRIBUNALS SERVICE, THE TRIBUNALS WITHIN IT AND OTHER TRIBUNALS.

‘Critical Friend’ of the Tribunals Service

The administrative structure of the Tribunals Service was established in April 2006 and it has subsequently expanded to incorporate most major central government tribunals. It is in the process of managing major change processes including:

- Creation of a unified tribunal structure
- Introduction of a new network of administrative support centres and hearing centres
- Introduction of the ‘Caseflow’ information technology system.

The performance of the Tribunals Service and the management of these change processes will impact upon the experience of a substantial majority of tribunal users.

As a ‘critical friend’ of the Tribunals Service, we will work with the Tribunals Service Customer Champion and others within the Tribunals Service to help achieve:

- High standards of service delivery
- Continuous improvement and development of service
- Flexibility in delivering services to tribunal users

Implementation of the Tribunals, Courts and Enforcement Act 2007

Implementation of Part 1 of the Act planned for November 2008 will see the creation of a unified tribunal structure. This unified structure will comprise a First-tier Tribunal consisting of two chambers and an Upper Tribunal consisting of a single chamber. Further changes will follow in April 2009. We will work to support the formation of the First-tier and Upper Tribunals under the provisions of the Act, paying particular attention to the procedural framework for the new tribunals. We will contribute our expertise based on the legacy publication of the Council on Tribunals, the *Guide to Drafting Tribunal Rules* (November 2003) and seek to ensure that the new procedures fully take into account the needs of users. In the longer term, our work on generally applicable principles should lead to further developments in this area.

Other Tribunals

We are also mindful of our role in keeping under review those tribunals outside the Tribunals Service. We will work to ensure that their priorities and issues are not neglected as a result of the focus on Tribunals Service reform.

In 2008/09 we will:

- Influence the work of the Tribunals Service through our representation on the Tribunals Service Management Board, Tribunal Presidents Group and Tribunal Procedure Committee
- Participate fully in the work of the Tribunal Procedure Committee in preparing draft sets of rules and in the subsequent consultation process on the drafts
- Review the *Guide to Drafting Tribunal Rules* published by the Council on Tribunals in 2003 with a view to publishing an updated guide
- Continue to chair a Stakeholder Advisory Group for the Mental Health Review Tribunal in England to provide advice and feedback on the performance of the tribunal to help overcome the difficulties that have caused us longstanding concerns in this jurisdiction
- Maintain close engagement with the Tribunals Service Customer Champion
- Build on our survey report of Tribunal User Groups, published in April 2008, to ensure that there is an effective network of user groups under the new structure
- Work with the Tribunals Service and Senior President of Tribunals with the aim of ensuring that the Tribunals Service annual reports and the Senior President's reports to the Lord Chancellor provide an adequate account of the performance of tribunals from the perspective of tribunal users
- Maintain a regular programme of visits to the hearings of tribunals both within and outside the Tribunals Service, providing feedback on our observations following individual visits and half-yearly summary accounts in relation to Tribunals Service tribunals to the Senior President of Tribunals
- Maintain structured engagement with tribunals outside the Tribunals Service, including considering their priorities and performance. We will seek to provide a bridge between those tribunals, the Tribunals Service and other components of the administrative justice system.

Objective 3

RESPONDING AUTHORITATIVELY TO EMERGING ISSUES AND PROPOSALS THAT AFFECT OR INVOLVE ADMINISTRATIVE JUSTICE, TRIBUNALS AND INQUIRIES MORE GENERALLY.

Responding to Consultations

A significant element of our work is reactive, in response to work produced by others concerning the administrative justice system. We will respond constructively and authoritatively to statutory and other consultations, examples of which to date have included:

- Tribunals Service consultation document *Transforming Tribunals* concerning the implementation of Part 1 of the Tribunals, Courts and Enforcement Act
- Employment Bill and associated reforms
- Draft rules for the Social Entitlement Chamber and the Health, Education and Social Care Chamber of the First-tier Tribunal, and the Administrative Appeals Chamber of the Upper Tribunal
- Advisory, Conciliation and Arbitration Service new code of practice.
- Law Commission consultation documents on *Housing: Proportionate Dispute Resolution* and *Remedies Against Public Bodies*
- Parliamentary and Health Service Ombudsman's draft *Principles of Good Complaint Handling*
- Various statutory consultations on tribunal rules and regulations.

We have made an early contribution to the debate on a British Bill of Rights and Responsibilities, by way of a submission to the Ministry of Justice. We will respond formally to government proposals in this area, which are expected to be brought forward shortly.

Code of Practice

In the *Transforming Public Services: Complaints, Redress and Tribunals* White Paper the Government announced its intention to introduce a code of practice dealing with consultation with the AJTC on all forms of legislation affecting tribunals. We will work with the Ministry of Justice on the drafting, publication and dissemination of the code and in the meantime we will take opportunities to comment on legislation where we have relevant knowledge and expertise and where opportunities arise.

Priorities for Research

We believe that adequate empirical and other research on administrative justice issues is essential, in order to be alert to emerging issues and the impact of proposed reforms on users. Under the provisions of the Act, our role includes making proposals for research into the administrative justice system. In order to be in a position to authoritatively recommend areas for research, we will identify and engage with members of the academic research community regarding past, present and future research initiatives in the field of administrative justice. We will also identify and engage with other agencies that are interested in funding or co-funding research in the field of administrative justice.

In 2008/09 we will:

- Publish a paper reviewing the sources of funding for research in the field of administrative justice, identifying projects currently being funded or planned, and assessing future research capabilities and priorities
- Continue to publish and promote relevant administrative justice research articles on our website, and in *Adjust*.

Scottish Committee | Objective 1

THE SCOTTISH COMMITTEE OF THE AJTC WILL KEEP UNDER REVIEW AND INFLUENCE THE DEVELOPMENT OF ADMINISTRATIVE JUSTICE AND TRIBUNALS IN SCOTLAND.

Our Scottish Committee will work to establish a common understanding of its role within the developing administrative justice framework in Scotland. That understanding will help the Committee in providing influential advice to the Scottish and UK Governments, and will improve outcomes for all users.

To this end, in 2008/09 our Scottish Committee will:

- Actively contribute to the discussions surrounding the future of administrative justice in Scotland, including the First Minister's Review of Tribunals, to maintain its strategic overview
- Continue to build and maintain strong mutually beneficial relationships with Ombudsmen and other relevant office holders acting in Scotland to facilitate sharing of information in areas of common interest
- Continue to be the first port of call for Scottish Government officials on issues relating to administrative justice in Scotland, thus enabling the sharing and exchange of information regarding current issues
- Establish better communications with those organisations exploring new approaches to dispute resolution in order to act as a catalyst in the sharing of information and best practices
- Promote a better understanding of administrative justice in Scotland, building on the work already begun at our February 2008 conference
- Seek to increase readership of the AJTC's electronic magazine *Adjust* in Scotland and increase content of Scottish administrative justice articles within it
- Identify and improve links with Scottish based academic groups to encourage academic research particularly in areas of relevance to Scottish users.

Scottish Committee | Objective 2

THE SCOTTISH COMMITTEE OF THE AJTC WILL KEEP UNDER REVIEW THE WORK OF THE TRIBUNALS SERVICE, THE TRIBUNALS WITHIN IT AND OTHER TRIBUNALS AS IT AFFECTS SCOTLAND.

Our Scottish Committee will maintain the lead role in overseeing the work of those tribunals operating in devolved and non-devolved areas in Scotland including those tribunals within the Tribunals Service.

To this end, our Scottish Committee will:

- Conduct visits to the hearings of both devolved and non-devolved tribunals, including those within the Tribunals Service
- Provide feedback following the visits including information to be included in the periodic accounts to the Senior President of Tribunals
- Build and maintain strong mutually beneficial relationship with the Tribunals Service judiciary and officials with responsibility for Scotland
- Monitor the Tribunals Service's tribunal reform programme and identify issues of particular interest to users in Scotland.

Our Scottish Committee will also produce an analytical paper focusing on issues affecting devolved tribunals. This will afford us a better understanding of their working processes and allow us to maintain and further develop effective, mutually beneficial relationships.

Scottish Committee | Objective 3

THE SCOTTISH COMMITTEE OF THE AJTC WILL RESPOND AUTHORITATIVELY TO EMERGING ISSUES AND PROPOSALS THAT AFFECT OR INVOLVE ADMINISTRATIVE JUSTICE, TRIBUNALS AND INQUIRIES IN SCOTLAND.

Our Scottish Committee will aspire to add value to Scottish consultations on administrative justice by providing authoritative and timely responses to consultation papers and other initiatives concerning Scotland. Of particular importance are the areas concerning the review of the Children's Hearing system in Scotland, the Gill Review of the Scottish civil court system and the *Crerar Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland*.

The Committee will also continue to be instrumental in the discussions being led by Lord Philip in his review of the role of administrative justice as a whole within Scotland.

Welsh Committee | Objective 1

THE WELSH COMMITTEE OF THE AJTC WILL KEEP UNDER REVIEW AND INFLUENCE THE DEVELOPMENT OF ADMINISTRATIVE JUSTICE AND TRIBUNALS IN WALES.

As a new Committee of the AJTC, a main concern of our Welsh Committee is to establish an understanding of the administrative justice landscape in Wales, and identify and prioritise key issues for Wales.

To this end, our Welsh Committee will:

- Map the administrative justice landscape in Wales, including the interface between Wales, England and the United Kingdom
- Map the support, information and advice available to the public and the users of the administrative justice system in Wales
- Identify the views of key stakeholders on the early priorities for Wales.

In order to influence the development of administrative justice and tribunals in Wales our Welsh Committee will:

- Seek to raise awareness of administrative justice and the role and work of the AJTC and the Welsh Committee within the Welsh Assembly Government, the National Assembly for Wales, public service providers and user groups
- Develop a programme of Administrative Justice Conferences in Wales, commencing in 2009.

Our Welsh Committee is committed to building on the work undertaken by the Council on Tribunals before the Committee came into being, for example in relation to Welsh language issues.

In 2008/09 our Welsh Committee will:

- Identify potential mechanisms for achieving a separation of powers in respect of devolved tribunals
- Pursue with the Welsh Assembly Government the role of citizen redress in a citizen centred approach to the provision of public services.

Welsh Committee | Objective 2

THE WELSH COMMITTEE OF THE AJTC WILL KEEP UNDER REVIEW DEVOLVED AND NON-DEVOLVED TRIBUNALS, AND THE WORK OF THE TRIBUNALS SERVICE AS IT AFFECTS WALES.

Our Welsh Committee will take the lead in overseeing tribunals operating in devolved areas. There are also tribunals operating in non-devolved areas that sit in Wales, some of which are administered by the Tribunals Service. Our Welsh Committee will take the lead in overseeing these tribunals in Wales.

To this end, in 2008/09 our Welsh Committee will:

- Agree a programme of visits and stakeholder meetings sufficient to inform members and bring the existence of the Committee to the attention of tribunal stakeholders
- Visit both devolved and non-devolved tribunals
- Identify and, as necessary, address accommodation issues as they affect both devolved and non-devolved tribunals in Wales
- Identify and, as necessary, address issues specific to Wales in the work of the Tribunals Service
- Identify and, as necessary, address issues specific to Wales relating to the creation and operation of the First-tier and Upper Tribunal.

Welsh Committee | Objective 3

THE WELSH COMMITTEE OF THE AJTC WILL RESPOND AUTHORITATIVELY TO EMERGING ISSUES AND PROPOSALS THAT AFFECT OR INVOLVE ADMINISTRATIVE JUSTICE, TRIBUNALS AND INQUIRIES IN WALES.

Our Welsh Committee will:

- Monitor the administrative justice landscape in Wales, in order to be aware of emerging issues
- Develop relationships with the Welsh Assembly Government and other stakeholders, in order to influence administrative justice issues at an early stage
- Identify and respond as appropriate to draft legislation in and pertaining to Wales
- Respond to public consultations and other initiatives in Wales.