



THE SCOTTISH TRIBUNALS

Annual Report prepared by the President of the Scottish Tribunals
1 December 2016 - 31 March 2018

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1. Introduction

Rt. Hon. Lady Smith - President of Scottish Tribunals

It is clear that “*statutory tribunals are an integral part of the machinery of justice of the state, and not merely administrative devices for disposing of claims and arguments conveniently*” (Sir Oliver Franks, The Report of the Committee on Administrative Tribunals and Enquiries, 1957).

It is in this context that I welcome you to my first Annual Report as President of the Scottish Tribunals. Whilst I have held this office since 14 July 2014, the preparatory work required for the new system under the [Tribunals \(Scotland\) Act 2014](#) was such that no tribunals were formally welcomed into the new structure until 1 December 2016 when the Housing & Property Chamber of the First-tier Tribunal was established. This was swiftly followed by the Tax Chamber on 24 April 2017 and the Health & Education and General Regulatory Chambers on 12 January 2018.



Lady Smith,
President of Scottish Tribunals

From the outset my vision has been clear: whilst creating a more cohesive, formalised structure of tribunal governance and operations, key to the success of tribunal reform is maintaining the specialist nature of each tribunal.

During the period of this report, the tribunals landscape in Scotland has begun to undergo a process of transformation. Tribunals have been transferred into a wholly new system, as provided for by the 2014 Act, and the change programme to enable the transfer in of more tribunals has been ongoing and developed. Change is challenging and I am extremely grateful to those who have borne the brunt of it, particularly the Tribunal Presidents, those tribunal members who have collaborated with them to facilitate a smooth transition and those staff within the Scottish Courts and Tribunals Service who have provided invaluable and dedicated support throughout.

The reporting period has also included the establishment of an excellent new tribunals centre in Glasgow, at 3 Atlantic Quay, to be shared by both devolved and reserved¹ tribunals. This is an innovation which is to be greatly welcomed and would not have happened without the imagination, determination and willingness of those in both SCTS and Her Majesty's Courts and Tribunals Service who have worked so hard on this unprecedented project.

The ground has now been firmly laid to move forward to welcoming other existing Scottish tribunals into the 2014 Act structure, the creation of a new chamber to deal with appeals in respect of social security assistance, as detailed in the [Social Security \(Scotland\) Act 2018](#); and in due course, to welcoming a number of the reserved tribunals operating in Scotland.

¹ The term "reserved tribunals" refers to those tribunals operating in Scotland which apply laws that cannot be made or altered by the Scottish Parliament because they relate to "reserved matters". See: [Scotland Act 1998](#) sec 29 and Sch 5.

2. Laying the Foundations for Change

2.1 The History

Historically Scottish Tribunals were established in an ad hoc fashion with no common system of leadership, appointments, practice and procedure or reviews and appeals.

The need for reform was brought to the forefront by the work of Sir Andrew Leggatt² and Lord Philip³. Their reports, among other matters, concluded that the tribunals system was extremely complex and fragmented; not sufficiently independent of Government and that Scotland's tribunals were working in isolation, leading to a duplication of effort, a variation of standards and performance, and a lack of good value for the taxpayer.

² [Sir Andrew Leggatt - Tribunals for Users One System, One Service \(2001\)](#)

³ *Options for the Future Administration and Supervision of Tribunals in Scotland: A report by the Administrative Justice Steering Group chair by Lord Philip.*



The [Tribunals \(Scotland\) Act 2014](#) was brought into force to resolve these difficulties, creating a new structure for devolved tribunals in Scotland. The 2014 Act creates a simple two tier structure, a First-tier Tribunal for first instance decisions (into which most tribunal jurisdictions are transferred) and an Upper Tribunal where the primary function is to dispose of appeals from the First-tier.

The First-tier Tribunal and Upper Tribunals are collectively referred to as the Scottish Tribunals.

The 2014 Act designates the Lord President of the Court of Session as the Head of Scottish Tribunals. This is a significant change in the leadership structure for devolved tribunals to ensure that:

- There is strong cohesion and continuity of purpose across both tiers;
- The new tribunal structure has a strong identity within the justice system as a whole;
- The efficient disposal of business is maintained; and
- The views of tribunal members are represented and their welfare respected.

The 2014 Act also established the office of President of Scottish Tribunals. It confers responsibilities directly upon the Lord President but also empowers him to delegate a number of them to the President of Scottish Tribunals.

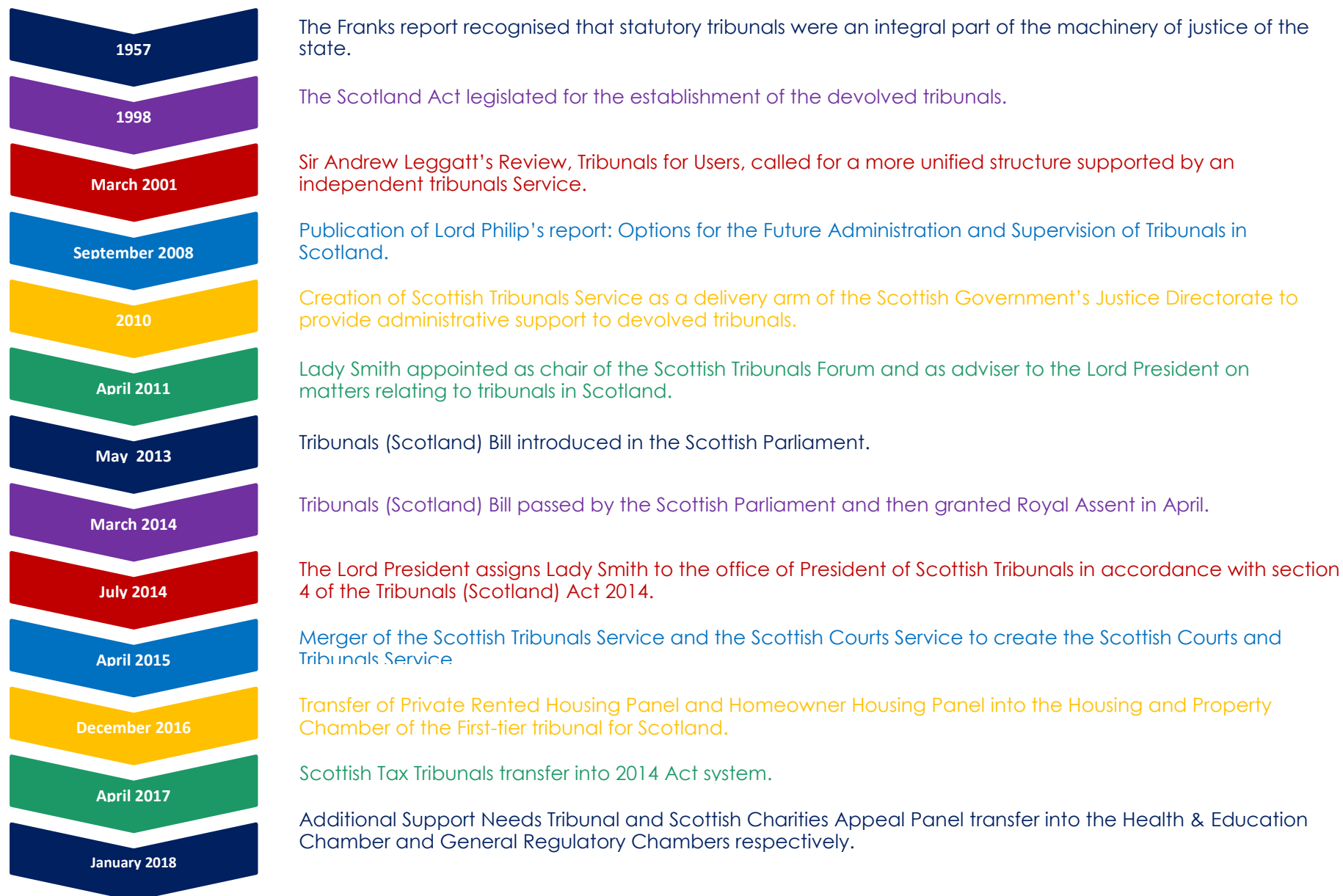
The following responsibilities have been delegated to me:

- making and maintaining appropriate arrangements for securing the efficient disposal of business in the Scottish Tribunals;
- making arrangements for the review of the ordinary and legal members of Scottish Tribunals; and
- publishing a document recording the policy adopted in relation to the assignment of ordinary, legal and judicial members within each of the First-tier and Upper Tribunal.

In order to ensure a consistent approach to matters that raise similar issues in both tribunal and court based judiciary, the Lord President has retained the functions of making and maintaining arrangements for the following:

- Conduct (s.36 of 2014 Act);
- Training (s.34(1) of 2014 Act);
- Welfare (s.7(2) of 2014 Act).

2.2 Tribunals Timeline for Transformation



3. Scottish Tribunals – Structure & Responsibilities

3.1 Upper Tribunal

The Upper Tribunal determines appeals from the First-tier tribunal and complex tax cases at first instance. By virtue of the powers conferred on me by Section 25(1)(a) and 25(3)(a) of the [Tribunals \(Scotland\) Act 2014](#), I have assigned myself, President of Scottish Tribunals, as Vice-President of the Upper Tribunal for Scotland. This allows me to preside over one or more divisions of the Upper Tribunal. At present there is only one division of the Upper Tribunal. At this stage the volume of appeals is such that a single division is sufficient.

Further detail on the Upper Tribunal can be found at Annex B.

3.2 First-tier Tribunal

In this reporting period, the following jurisdictions have transferred into the First-tier tribunal:

Chamber	Date of Transfer
Housing and Property <ul style="list-style-type: none"> • Home Owner Housing Panel and Private Rented Housing Panel • Private Rented Sector⁴ • Letting Agents⁵ 	1 December 2016 1 December 2017 31 January 2018
Tax (Scottish Tax Tribunals)	24 April 2017
Health & Education (Additional Support Needs Tribunal)	12 January 2018
General Regulatory (Scottish Charities Appeals Panel)	12 January 2018

A report on the activity of each Chamber is included as an Annex in this report.

⁴ On 1 December 2017 the Sheriff's jurisdiction for civil cases relating to the private rented sector was transferred to the Housing & Property Chamber ([s.16 of Housing \(Scotland\) Act 2014](#)) as well as the introduction of a new private residential tenancy regime [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#)

⁵ On 31 January 2018 registration of letting agents became compulsory as did compliance with a code of practice. Applications are made to the Chamber in relation to code of practice disputes, see part 4 of [Housing \(Scotland\) Act 2014](#).

3.3.1 Lord President's Responsibilities

Conduct

The Scottish judiciary is committed to attaining and maintaining high standards of judicial conduct. The adoption of a widely accepted framework of judicial ethics helps to ensure that both the judiciary and users of the justice system are aware of the principles by which judges are guided in their personal and professional life.

The Lord President has the responsibility for making and maintaining appropriate arrangements for the investigation and determination of any matter concerning the conduct of ordinary and legal members of the Scottish Tribunals and the review of any such determination. Last year, he published the [Complaints Against Members of the Scottish Tribunals Rules 2018](#).

These rules are aligned to that which exist for courts judiciary to ensure consistency in approach and are also administered by the Judicial Office for Scotland. [A guidance leaflet](#) and [complaints form](#) were devised.

Further, [complaint guidance for children](#) has also been developed and published.

Since 1 December 2016 to 31 March 2018, the following number of complaints have been received and concluded:

Complaints concluded under the Rules		
Rule	Outcome	Total
8	Dismissed by Judicial Office	2
11	Dismissed by President of Scottish Tribunals	3
18	Withdrawn by complainer	1
	Total	<u>6</u>

Whilst the rules are in place only for those tribunal members that have transferred into the new structure, the [Mental Health Tribunal for Scotland](#) has developed an [interim procedure](#) whereby they are following a similar style of complaint rules.

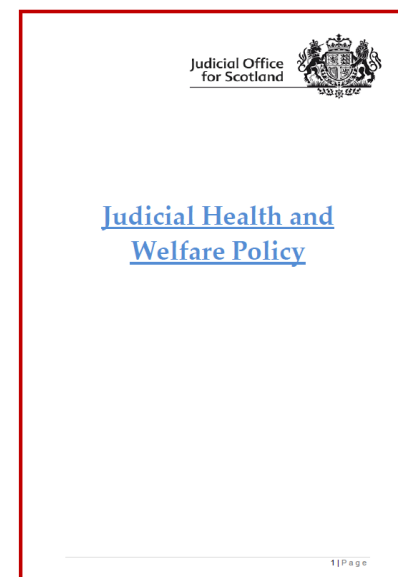
They have appointed the Judicial Office to manage the administration of complaints against their members until the formal transfer of the jurisdiction has taken place.

Since 1 December 2016 to 31 March 2018, the following number of complaints against members of the MHTS have been received and concluded:

Complaints concluded under the Interim Procedure		
Rule	Outcome	Total
5 (3)	Dismissed by Judicial Office	2
5(5)	Complaint submitted to President of MHTS for consideration.	5
	Total	7

Welfare

The Lord President and I regard the well-being of the judiciary as vital to the delivery of justice in both courts and tribunals. Support is offered by the Judicial Office for Scotland on a case by case basis in line with this policy to ensure individual needs are met.



In the past year, a new welfare policy for the Scottish Judiciary was issued by the Lord President. This new policy bolsters the support available to all members of the judiciary, ensuring there is a clear and consistent framework for workplace assessments and occupational health referrals. There is also greater clarity on the responsibilities of senior judges in relation to these matters.

Training

Existing tribunal training is of a specialist nature and specifically targeted towards the particular skills and knowledge which are required in each tribunal.

Under direction from the Lord President, the Judicial Institute for Scotland provides judicial training for all Senators, Sheriffs, Justices of the Peace and, now, also for tribunals. The training courses which they provide broadly fall into two categories, those are:

- i. generic training in judicial skills; and
- ii. subject-specific, specialist training.

The tribunals that have transferred into the 2014 Act structure continue to provide specialist training for members who have appointments within their jurisdiction, an approach which I fully endorse. Further details on this are contained in each Chamber's report.

Places will be made available for tribunal members to attend the generic judicial skills training. A Head of Tribunals Training post has been created and the successful candidate is due to take up post in April 2018. The purpose of the role is to develop

and implement the strategy and policy for the training of tribunal members in the devolved First-tier tribunal system in Scotland, as required by section 34 of the [Tribunals \(Scotland\) Act 2014](#).



3.3.2 President of Scottish Tribunals Responsibilities

Efficient Disposal of Business

The Tribunals Operations Division of the Scottish Courts and Tribunals Service, led by Martin McKenna, is responsible for the provision of administrative support to the Scottish Tribunals and its members. During the transition of the tribunals into the new structure, the front-line operational delivery was fully maintained and specialist staff and venues were retained allowing the continued provision of a “business as usual” service to users.

Vital to the efficient disposal of business has been, and continues to be, the leadership of each Chamber President, including those aspects of their leadership which involve regular reporting to and liaison with me and the sharing of information and best practice with their peers in the tribunal world.

Chamber	President
Housing and Property	Aileen Devanny
Tax	Anne Scott
Health and Education	May Dunsmuir
Mental Health	Dr Joe Morrow ⁶
General Regulatory	TBC ⁷

To aid the efficient disposal of business, it is sometimes necessary to issue directions as to the practice and procedure to be followed in the First and Upper tier in accordance with section 74 of the [Tribunals \(Scotland\) Act 2014](#). To date I have issued three, all to address issues arising in the Housing and Property Chamber.

- [Practice Direction No.1](#) – Application by a Party to a Tribunal to give Directions
- [Practice Direction No.2](#) – Documentation to be issued by a Tribunal
- [Practice Direction No. 3](#) – Lodging of Productions

⁶ Whilst no tribunals have yet transferred into the Mental Health Chamber, Scottish Ministers have written to Dr Joe Morrow confirming that it is their intention for him to become Chamber President of that Chamber in accordance with section 22 of the [Tribunals \(Scotland\) Act 2014](#).

⁷ No President has been appointed as yet.

Review

The continued professional development and effectiveness of members of the Scottish Tribunals is vital to the efficient disposal of business.

It is a condition of appointment for members to engage in a professional development review. To assist in this process, review guidance has been developed and implemented to encourage self-analysis and reflection with a view to improving the standards and consistency of service delivered by members of the Scottish Tribunals. The review process also helps to ensure public confidence in the judiciary of Scottish Tribunals remains high.

Reviews are currently conducted by Chamber Presidents or members appointed by the Chamber President. Reviewers receive training before undertaking any reviews.

Assignment

The power to assign members between chambers and tribunals exists to allow the work of the tribunals to be dealt with in the most efficient and effective manner whilst, at the same time, ensuring that the specialisation of each tribunal is not diluted.

As required by the 2014 Act, I developed my assignment policy which has been utilised in the reporting period when we undertook our first exercise to seek additional legal members for the Health and Education Chamber of the First-tier tribunal. More details of this will be given in that chamber's report.

Judicial Engagement

Engaging with the tribunals judiciary, both those under my leadership and in all tribunals operating in Scotland, is very important to me, especially during this transition period; it is bound to have caused uncertainty for many of them. I manage this through the following forums:

Scottish Tribunals Forum and Reserved Tribunals Group

The Scottish Tribunals Forum and Reserved Tribunals Groups are chaired by myself and meet twice yearly to discuss with other interested parties matters of common concern in relation to the operation of Tribunals in Scotland on both the devolved and reserved side.

Scottish Tribunals Strategic Development Group (STSDG)

Established in 2017, the STSDG was formed to keep the work of Scottish Tribunals under review whilst planning for future transition and development. This group serves to ensure that Scottish Tribunals operate in an efficient and effective manner, that the rights of individuals are at the heart of its decision-making and that the specialism, ethos and the desirable distinctiveness of individual tribunals is retained. I act as chair and membership includes all chamber presidents and officials from SCTS, as required.

Tribunals Judicial Executive Board (TJEB)

TJEB is the Senior President of Tribunals discussion and decision making forum. The objective of the Board is to provide leadership, strategic direction and support to the reserved tribunal judiciary, both generally and in the specific context of courts and tribunals reform, devolution, and wider change initiatives affecting tribunals and their judicial office holders. I attend to represent the interests of Scottish tribunals in their work and to further the valuable cross border relationships that have been soundly established over many years.

Miscellaneous Events

I have also attended numerous training events and seminars in my capacity as President.

4. Future Developments

4.1 Transition of devolved Tribunals

The remainder of the devolved tribunals are currently scheduled to transfer into the 2014 Act structure on the following dates:

Tribunal	Proposed Transfer Date
Mental Health Tribunal	November 2018
Police Appeals Tribunal	April 2019
Parking & Bus Lane Adjudicators	April 2019
NHS Tribunals	April 2020
Education Appeals Committees	April 2021
Valuation Appeals Committees	April 2022

4.2 Social Security Chamber

The [Scotland Act 2016](#) provided for the devolution of eleven benefits to the Scottish Parliament:

- Disability Living Allowance;
- Personal Independence Payment;
- Attendance Allowance;
- Severe Disablement Allowance;
- Industrial Injuries Scheme;
- Carer's Allowance;
- Sure Start Maternity Grants;
- Funeral Payments;
- Cold Weather Payments;
- Winter Fuel Payments; and
- Discretionary Housing Payments.

On 25 April, the new Scottish Social Security Bill was passed transposing the eleven benefits onto a Scottish Legislative platform, enabling the Scottish Parliament to legislate and to establish a Scottish benefits system.

With the first benefit due to go live in late 2018, it was decided that a new chamber of the First-tier Tribunal (known as the Social Security Chamber) should be established as the forum to hear appeals against decisions of the new Scottish social security agency in determining an individual's entitlement to assistance. It is expected that the new chamber will come into being in November 2018.

The Scottish Government has consulted on the suite of regulations required to set up a new chamber to hear appeals for devolved social security assistance. Responses are currently being considered. A Judicial Reference Group has been set-up to assist policy colleagues in the development of their thinking on the detail of the secondary legislation and I would like to thank Mrs Anne

Scott and Mr Donald Ferguson for giving their time and expertise to the group.

4.3 Glasgow Tribunals Centre

The new Tribunals Centre at 3 Atlantic Quay, Glasgow will be operational from the start of April 2018. The centre will initially house two reserved tribunals, namely the Criminal Injuries Compensation Authority and the First-tier (Social Security and Child Support) tribunal (supported by HMCTS) and the Housing & Property and Health & Education Chambers (supported by SCTS). Other reserved tribunals will follow at a later date.



4.4 Tribunals Training

In April 2018, Jonathan Kidd joined the Judicial Institute (JI). Jonathan has an initial brief to undertake a scoping exercise to understand the tribunal training landscape and identify how the JI will support each chamber in the delivery, design, evaluation and quality assurance of training for tribunal members.

In terms of future opportunities, there is a strong desire to collaborate and work together – for example in relation to topics such as tribunal craft, decision writing and ethics as well as reviewer training and training the trainer. Generally, it is widely recognised and understood that a training model based on quality assurance should be implemented to cover all tribunal training, that this model should be flexible in approach and should be based on ongoing partnership between the JI and each of the chambers to balance the specialist nature of tribunal member education with the educational expertise of the JI.

4.5 Devolution of Reserved Tribunals

Ten years have passed since the Lord Chancellor wrote to the then Lord President, Lord Hamilton, outlining his intention to transfer the judicial leadership and administration of those reserved tribunals operating in Scotland, into Scottish control.

Since then, two key events – the Smith Commission Report of November 2014 and the passing of the Scotland Act 2016 – laid the ground for the devolution to the Scottish Parliament of all administrative, judicial and legislative powers in relation to the management and operation of reserved tribunals dealing with Scottish cases, whilst leaving the relevant underlying substantive law reserved. The two governments have consulted and continue to consult the relevant judiciary via a Judicial Working Group under the joint chairmanship of Sir Brian Langstaff and I.

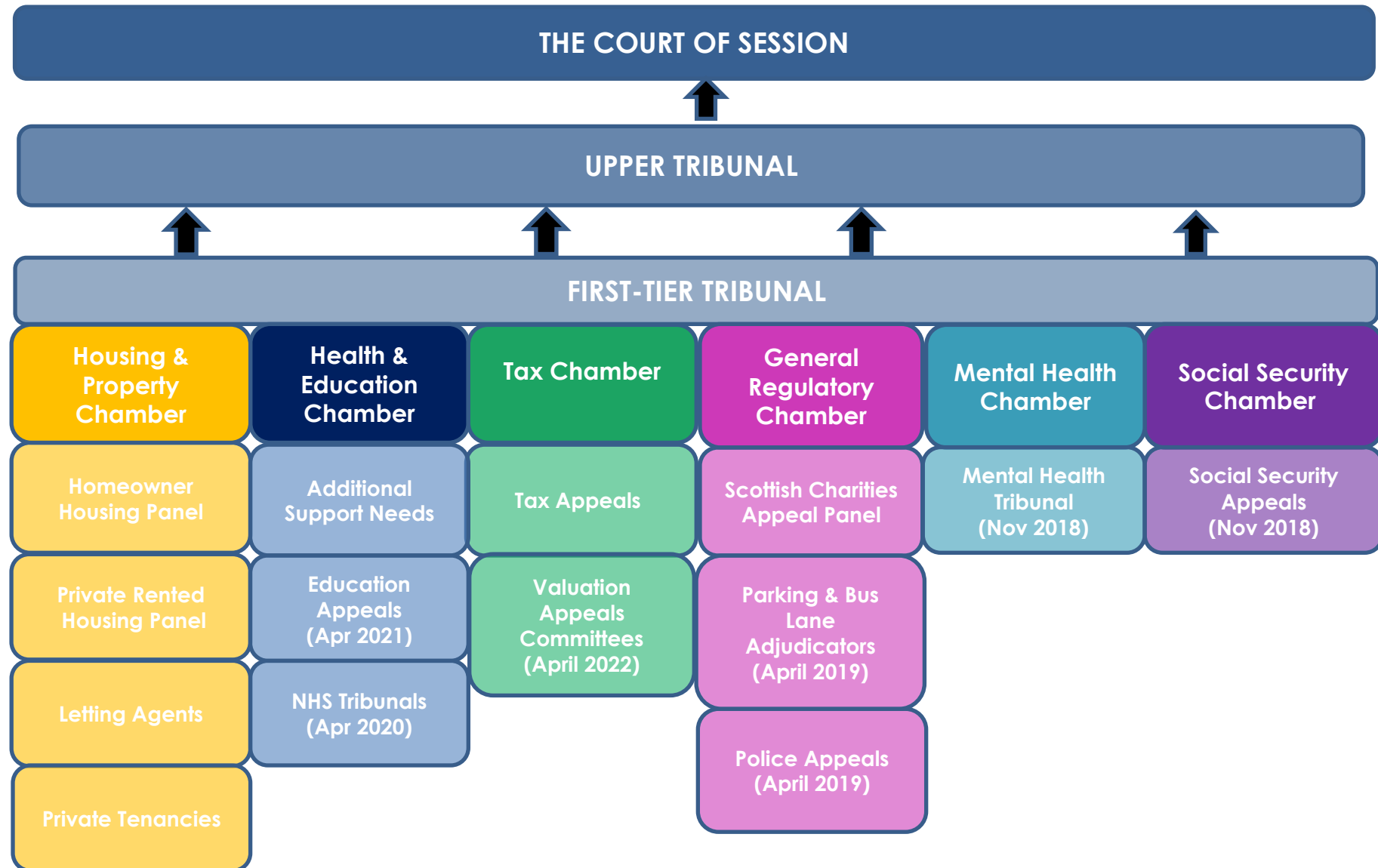
It is planned that transfers from Westminster to Scotland will take place in two tranches. The first will involve the

transfer of employment, tax and social entitlement jurisdictions. During this reporting period, there has been little by way of development. The reserved tribunals continue to operate as before. Scottish Government have agreed that any transfer of judicial office holders from the reserved tribunals to the Scottish tribunals should occur with no detriment to their existing terms and conditions, but it is not yet clear what precisely this will mean in practice. There appears to be agreement that some means should be found to entrench the tenure of the judiciary transferring from the reserved system. However, in their current form, the provisions of the [Tribunals \(Scotland\) Act 2014](#) do not afford legal members of Scottish tribunals the same secure tenure as is conferred on tribunal judges in the reserved system. There appears also to be an acceptance that there is no principled objection to respecting the fact that all tribunal judiciary in the reserved system hold statutory appointments as “judges” of the tribunal to which they are appointed by continuing to confer full judicial status

on them after devolution. There is as yet no confirmation of how this will be achieved.

An Order in Council will be used as the legislative mechanism by which devolution of the relevant reserved tribunals will be achieved. Although it was hoped that a draft would be available last autumn, nothing was produced. It is hoped that a first draft dealing with the transfer of three reserved tribunals (Employment, Tax and Social Security / Child Support) will be available for initial consideration during the summer. It must be acknowledged that this is complex and difficult work which is not easily rushed; nor should it be. It may also be that the financial implications of devolution have first to be resolved. The consequent delay to achieving any positive steps towards the transfer is regrettable. It also means that it is too early to report on how cross-border judicial co-operation in the interests of securing consistency of the underlying substantive law – as required in terms of the Smith Commission report and subsequent legislation - should best be achieved.

Annex A: Scottish Tribunals – Chamber Structure



Annex B: Upper Tribunal for Scotland

Upper Tribunal Members

The members of the Upper Tribunal include:

- The Lord President
- Vice President of the Upper Tribunal – Lady Smith
- Judicial members
- Legal members
- Ordinary members

Six judicial members have been assigned to the Upper Tribunal to deal with appeals from the Housing and Property Chamber. They are all sheriffs, one from each sheriffdom, who have experience of dealing with housing cases. They bring invaluable experience and specialist knowledge in respect of housing matters to the Upper Tribunal and their geographical spread enables this appellate jurisdiction of the Upper Tribunal business to be dealt with locally whenever possible.

For appeals to the Upper Tribunal from the Tax Chamber, and for complex tax cases which are heard at first instance in the Upper Tribunal, one judicial member (a judge of the Court of Session) and two legal members have been assigned.

Prior to the Additional Support Needs Tribunal transferring into the First-tier Tribunal, appeals from its first instance decision were to the Inner House of the Court of Session. As such, it is my intention to assign judges of the Court of Session to the Upper Tribunal to deal with any appeals from the Health and Education Chamber. This will ensure consistency of approach and that they are handled by judiciary with the relevant skills and experience.

Annex C: Housing & Property Chamber

Introduction

The Housing and Property Chamber (HPC), the first chamber within the First-tier Tribunal for Scotland, was created on 1 December 2016. On that date, two



*Aileen Devanny,
Chamber President*

existing tribunals - the Private Rented Housing Panel and the Homeowner Housing Panel – transferred into the chamber, and the existing judicial membership of the panels transferred into the First-tier Tribunal and were assigned to the chamber.

Further new jurisdictions were added into the chamber in 2017 and 2018, following the implementation of Parts

3 and 4 of the [Housing \(Scotland\) Act 2014](#), as discussed further below.

Decisions made by the HPC can have a significant impact on parties. They can involve outcomes which affect the use and enjoyment of a person's home or property and the ability to remain in occupation of their home.

They can also affect a person's ability to earn a livelihood in certain sectors and may result in criminal proceedings against them. HPC decisions can also impact on others.

For example, it has power to continue with repairs cases even where the applicant withdraws their application, where there is a public interest such as health and safety concerns or impact on third parties. It also considers

applications for eviction based on the alleged anti-social behaviour of a tenant or occupier, which can impact on neighbours and others. The letting agent, property factor and landlord registration cases have a regulatory element which involve public interest. The HPC also considers the requirements for disabled adaptations to private rented houses.

Because of the potential for human rights challenges in eviction and regulatory cases, legal aid is available to parties (applicants and respondents) depending on the type of application. The overriding objective of the First-tier Tribunal is to deal with the proceedings justly. This includes ensuring, so far as practicable, that the parties are on an equal footing procedurally⁸, and tribunal members receive training to enable unrepresented parties to fully participate in the proceedings. The tribunal adopts an inquisitorial approach to facilitate this. The tribunal has

powers to make inquiries as it thinks fit for the purposes of exercising its functions.

All chamber decisions and statements of reasons for those decisions are published on the chamber website and are therefore publicly available. All forthcoming hearings are also advertised due to the interest which surrounds some cases, and members of the press and observers can and do attend. In its recent Research Roadmap for Administrative Justice, the UK Administrative Justice Institute noted that the HPC presents an example of transparency that assists research through the publication of all decisions⁹.

The Chamber Jurisdictions

The HPC has a very wide jurisdiction, covering 49 different application types. These involve the application of around 12 different statutes. The law relating to private tenancies is particularly complex, being contained in numerous

⁸ Rule 2 of Schedule 1 to the [First-tier Tribunal for Scotland Housing and Property Chamber \(Rules of Procedure\) Regulations 2017](#)

⁹ See https://administrativejusticeblog.files.wordpress.com/2018/02/final-ukaji_research_roadmap_web.pdf at page 37, footnote 30

statutes and having evolved through case law. Cases involving property factors often raise complex issues of property law, as well as agency law and consumer law, among others.

1. Repairing Standard applications

Under the [Housing \(Scotland\) Act 2006](#), private rented sector tenants can apply to the tribunal to seek to compel their landlord to carry out necessary repairs to ensure that their property meets the statutory “repairing standard”. Third parties (specifically the local authority) can also make applications, in the same way as the tenant.

2. Landlord (Right of entry) applications

Private landlords can apply for assistance in exercising their right of entry to tenanted property to view the state and condition of the property and/or to carry out works to meet the requirements of the repairing standard under the 2006 Act.

3. Rent assessment applications

Under the [Rent \(Scotland\) Act 1984](#), both landlords and tenants can appeal against rents registered by Rent Officers in relation to regulated tenancies, and seek a determination of a fair rent for their property.

Under the [Housing \(Scotland\) Act 1988](#), the tribunal can consider, in relation to assured and short assured tenancies:-

- a) Appeals by tenants against the level of rent set by landlords and to decide a market rent for such properties in accordance with that Act, and
- b) Appeals by landlords or tenants where the other party has proposed a review of the terms of the tenancy.

4. Homeowner (Property Factor) applications

Under the [Property Factors \(Scotland\) Act 2011](#), homeowners can bring an application concerning a dispute with their property factor under two possible grounds:

- a) That the property has failed to carry out its duties as a property factor in relation to the management or maintenance of land.
- b) That the property factor has failed to comply with the statutory code of conduct for property factors.

5. Private rented sector applications

On 1 December 2017, the sheriff's jurisdiction for civil cases relating to the private rented sector was transferred to the chamber. A new private residential tenancy regime was introduced on the same date, and the chamber provides the dispute resolution mechanism for issues arising from these new tenancies. The private rented sector jurisdiction deals with a wide range of private rented tenancy issues.

These include applications relating to:

- eviction and recovery of possession
- drawing up the terms of a tenancy

- payment orders
- provision of a written tenancy agreement
- recovery of tenancy deposits
- landlord registration appeals
- requirements for disabled adaptations for private rented properties

6. Letting agent applications

On 31 January 2018, the registration of letting agents became compulsory, and compliance with a statutory code of practice for all registered letting agents became mandatory. From that date, tenants, landlords and Scottish Ministers can apply to the chamber in relation to letting agent code of practice disputes.

7. Case volumes

Between 1 December 2016 and 31 March 2018, the chamber received 1352 applications. More than half of these (688) were private rented applications. Of the remainder, 308 were repairing standard applications, and

243 related to property factors, with smaller numbers in each of the remaining jurisdictions. Given that the private rented sector jurisdiction did not come in until 1 December 2017, these figures suggest that this is likely to become the chamber's primary area of business in terms of case volumes.

8. Members

There has been a significant increase in the number of tribunal members within the chamber. During the period covered by this report, 30 new legal members and 19 ordinary (housing) members were appointed, prior to the commencement of the new private rented sector and letting agent jurisdictions.

As at the end of March 2018, this brought the total number of tribunal members within the chamber to 120. Of these, 66 are legal members, and the remaining 54 are ordinary members. These are either qualified surveyors (who sit on repairs, rent assessment and property factors cases) or members with knowledge and experience of

housing issues (who deal with applications relating to property factors, right of entry cases, private rented sector issues and letting agents).



This has been a period of significant change for tribunal members. Since the transfer into the chamber, new jurisdictions have been added to the workload of members and members are now required to deal with requests from parties for reviews of their decisions and/or requests for permission to appeal those decisions.

Other changes arising from the transfer to the tribunal structure include the possibility of members being assigned to other jurisdictions within other chambers of the First-tier Tribunal; the introduction of a standardised policy for development and review of members' performance; and the introduction of a new process for

complaints about judicial conduct, which are now dealt with by the Judicial Office.

9. Training events

Following the introduction of the new jurisdictions, and the appointment of many new members, the period covered by this report saw a significant investment of time and resources by both chamber staff and members in providing members' training.

During the period covered by this report, a total of 26 days of training was delivered to tribunal members. This included:

- Induction training for new members
- Training for legal and housing members on private rented sector/private residential tenancies
- Letting agent training for legal and housing members
- Upper tribunal training for sheriffs
- Property factor induction training for legal and surveyor members

- Repairing standard refresher training for legal and surveyor members
- Right of entry refresher training for housing members
- Rent training for legal and surveyor members

Feedback from members on the training has been very positive.

10. Current and future challenges

The introduction of the new private rented sector (PRS) jurisdiction has presented some significant challenges. A total of 688 PRS applications were received within the first four months of operation, and current projections suggest that the overall number received within the first year will be around 2500, which is 3 times the projected caseload.

However, this figure may be higher as monthly application intakes continue to grow. The high volume of PRS applications has had a significant impact on the availability of resources within the chamber, including caseworkers, hearing clerks and other staff, hearing

venues and tribunal members. Some legislative difficulties have also been identified, including areas where the legislation is not clear and in some cases, where the tribunal does not have powers equivalent to those of the sheriff. These legislative difficulties have been referred to Scottish Government for their consideration.

There have been a number of other administrative challenges for the chamber during the period covered by this report. Immediately prior to the transfer into the chamber in December 2016, the administration moved office. There was a further move to offices within the new Glasgow Tribunals Centre in late March 2018. Both office moves occurred during a time when there were major changes in jurisdictions, processes and caseloads. There were also major administrative staff changes, including the recruitment of further staff and the creation of new teams for the additional jurisdictions. This has brought challenges in terms of training staff and bringing them up to speed with new jurisdictions and processes.

The process for PRS cases is still being tested, and it will take some time for members, caseworkers and clerks to become fully familiar with the process, and for the process to be fine-tuned. So far, however, the flexible procedures, and particularly case management discussions, appear to be generally working well. Most cases are being disposed of at the case management discussion without the need for a further hearing - there is often no discretion if an eviction action is brought on grounds where it is mandatory to grant an order. In addition to the high volumes of PRS cases, it is anticipated that there will be an increase in letting agent applications, with a projected caseload of around 240 cases per annum. While only 11 applications were received during the first three months, it is likely that applications will start to rise as more letting agents become registered, and awareness of the code of practice grows among landlords and tenants. This was previously experienced in relation to property factor cases, following the introduction of that jurisdiction.

During the period covered by this report, there were no applications relating to the new private residential tenancies, which came into force on 1 December 2017. It is anticipated that in time, these applications will begin to come in, with a projected caseload of around 800 cases per year. While applications under the other pre-existing jurisdictions are broadly expected to continue at roughly current levels, it is possible that the volume of other types of application will increase, as the profile of the chamber grows following its recent expansion. Rent assessment applications, for example, are expected to increase as the new private residential tenancies become more common.

11. Notable appeal cases

The first appeal judgment issued by the Upper Tribunal for Scotland related to a decision made by the chamber. This was an important judgment relating to the property factor jurisdiction, which clarified who is a “homeowner” in terms

of the relevant legislation.¹⁰ The appeal concerned the rejection of two applications made to the chamber on the grounds that the applicants were not “homeowners” at the time the applications were made, and could not therefore competently bring an application under section 17 of the [Property Factors \(Scotland\) Act 2011](#). The Upper Tribunal judge took the view that section 17 should be construed purposively in order to give effect to the objectives and policy underlying the legislation, and that it therefore required only that the applicant was a homeowner at the time of the alleged failure by the property factor. The decisions were therefore quashed and the cases remitted back to the tribunal for further consideration.

A second important appeal judgment was issued by the Inner House of the Court of Session concerning a rent assessment decision made by a private rented housing

¹⁰ Shields and Blackley v First-tier Tribunal (Housing and Property Chamber). Available from: http://www.scotcourts.gov.uk/docs/default-source/tribunals/upper-tribunal-decision--uts-ap-17-0002-amp-uts-ap-17-0003_redacted.pdf?sfvrsn=2

committee.¹¹ The tenant appealed the committee's decision about the fair rent for the property which he rented from a housing association under a Scottish secure tenancy, which had prior to 2001 been a registered tenancy under the [Rent \(Scotland\) Act 1984](#). In cases where the 1984 Act applies, as was the case here, section 48 provides that in determining what would be a fair rent, the rent officer must, among other things, apply their knowledge and experience of current rents of comparable property in the area.

The questions before the court were whether the committee erred in law in: (1) its interpretation of the term "current rents of comparable property in the area" under section 48; (2) its application of *Western Heritable Investment Co Ltd v Hunter*, 2004 SC 635, which held that in determining a fair rent regard must be had to rents for dwelling houses of a comparable nature; and (3) failing to

have regard to registered social rented sector rents and instead by having sole regard to open market rents in the private rented sector.

The court upheld the appeal by a majority decision. It found that there was no justification for treating properties let by housing associations in a fundamentally different manner from other rented property for the purpose of fixing a fair rent. Privately rented housing and social housing did not form two wholly distinct markets, but formed different aspects of a single market in low or moderate cost rented housing. The committee had wrongly given priority to evidence on market rents over registered rents, and appeared to have given particular significance to a single local comparable property and to a range of properties discovered through an internet search. If both registered and market rents were available, both should be taken into consideration and reasons given if they were to be disregarded. The committee's determination that the method of using

¹¹ Wright v Elderpark Housing Association (2017) CSIH 54. Available from: <https://www.scotcourts.gov.uk/search-judgments/judgment?id=65873aa7-8980-69d2-b500-ff0000d74aa7>

comparable market rents obtained by an internet search was the best evidence available was wrong where it was not apparent that the figures obtained were truly comparable.

The chamber is now responsible for deciding rent assessment applications. As in the above case, decisions made by private rented housing committees could be appealed to the Court of Session. It should be noted, however, that following the transfer of this jurisdiction into the chamber, decisions in rent assessment cases involving regulated and assured tenancies are appealable to the Upper Tribunal for Scotland and cases involving private residential tenancies are not appealable¹².

⁸ In terms of rule 37 (3) (j) of Schedule 1 to the [First-tier Tribunal for Scotland Housing and Property Chamber \(Rules of Procedure\) Regulations 2017](#), which states that no application to appeal may be made in relation to and order made by the First-tier Tribunal setting rent under section 29 of the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#)

Annex D: Tax Chamber

Introduction

The Tax Tribunals for Scotland, which consisted of an Upper Tribunal and a First-tier Tribunal, ("the original Tribunals") were created under the [Revenue Scotland and Tax Powers Act 2014](#) and commenced operations on 1 April 2015 and were abolished on 24 April 2017. Their functions and all existing cases were transferred to the First-tier Tribunal for Scotland Tax Chamber ("the Tax Chamber") and the Upper Tribunal for Scotland on 24 April 2017.



Anne Scott,
Chamber President

All four Tribunals were and are administered by the Scottish Courts and Tribunals Service. Both the original

Tribunals and the Tax Chamber had and have jurisdiction in relation to the devolved taxes which are currently Land and Buildings Transaction Tax and Scottish Landfill Tax. The anticipated devolution of air passenger duty has not materialised as yet.

Our People

I am indebted to my predecessor Ruthven Gemmell who was latterly acting President of the original Tribunals until their abolition. He did not accept assignment into the Tax Chamber but has been assigned into the Upper Tribunal where I am sure that his tax and tribunal expertise will be valued.

The five Legal Members and three Ordinary Members did accept assignment into the Tax Chamber.

Caseload

The case load remains very light and only 10 appeals were lodged in the period from 1 December 2016 to 31 March 2018 and one of those was withdrawn. Thus far there have been no oral hearings.

Appeals

Two appeals related to Scottish Landfill Tax. One was allowed in part and has not been appealed. The other is currently progressing through the appeal process.

Two of the Land and Buildings Transaction Tax appeals were dismissed. Two concurrent appeals for the same appellant have been appealed but the appeals have been sisted awaiting the outcome of Revenue Scotland's appeal in the remaining two cases which raise the same point of principle.

Training

In November 2017, those Legal and Ordinary Members who had decided any of the appeals since 1 April 2015 met for a valuable training day but equally importantly to pool experiences and identify future training needs.

In March 2017, I and one of the Legal Members, Kenneth Campbell QC, attended the Tax Judiciary Conference for the UK Tax Tribunal Judiciary. Kenneth has kindly agreed to assist me in providing training for all of our members.

Challenges

The biggest ongoing challenge is redesigning the website and the Notice of Appeal with Guidance Notes. The Procedure Rules are currently also undergoing a process of review.

Annex E: Health & Education Chamber

Jurisdictional Landscape

The Additional Support Needs Tribunal for Scotland transferred into the Health and Education Chamber of the First-tier Tribunal for Scotland on 12 January 2018 by virtue of the provisions of the Tribunals (Scotland) Act 2014, and became the Additional Support Needs jurisdiction within the Chamber.

The wealth of work undertaken in the period leading up to transfer was impressive, ranging from website development, re-drafting of all tribunal literature and all tribunal communications for parties, re-branding, drafting of rules of procedure and other regulations, the transfer and assignment of all members, members taking the judicial oaths, a new appeal and review process, updating the electronic case management system, drafting a judicial complaints process for children –

and developing a process for children – and developing a new children's area on the tribunal's website, to name but a few.

None of this would have been possible without those committed staff and tribunal members who participated and assisted in the many and varied projects. There was a strong atmosphere of collaboration during the lead up to the transfer and this has helped to lay a strong foundation for the development of the chamber.

It is intended that the *NHS Tribunal for Scotland*, the *National Appeal Panel for Entry to the Pharmaceutical Lists* and the *32 Education Appeals Committees* (currently delivered by the local authorities in Scotland) will transfer into the Health and Education Chamber by April 2021.

Additional Support Needs Jurisdiction

The Additional Support Needs jurisdiction hears references (appeals) from parents and young people against decisions of education authorities regarding the provision of educational support under the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#). Children aged between 12 and 15 years who have capacity to make a reference (and where their wellbeing will not be adversely affected) can also make two types of references:

- A reference in relation to a co-ordinated support plan (CSP)
- A reference appealing against the education authority's assessment of the child's capacity or wellbeing

The Equality Act 2010 provides the right to make a claim in respect of disability discrimination relating to pupils in school education. Claims may be made by the parent,

the young person or the child (where the child has the capacity to make the claim).

Our people

Mrs May Dunsmuir is the President of the Health and Education Chamber. Mrs Dunsmuir was appointed as President of the Additional Support Needs Tribunals (ASNTS) on 12 May 2014, and became the President of the Health and Education Chamber on 12 January 2018. The President, together with



*May Dunsmuir,
Chamber President*

17 legal members and 21 ordinary members, serve within the Additional Support Needs jurisdiction.

The Scottish Courts and Tribunals Service administration team is made up of a Senior Operations Manager, Mrs Hazel McKay, an Operations Manager, Mr Paul Stewart, and case officers. The team provides administrative support to the President and tribunal members, to ensure that every case is provided with a high level of service and attention.

The President has a PA/Member Liaison Officer, Ms Lynsey Brown, who is responsible for a range of matters, which include managing the President's diary, liaison with tribunal membership and member record keeping.

Mr Derek Auchie was appointed as the Chamber's first In-house Convener in January 2018. He determines permissions to appeal and review applications, pre-allocation interlocutory work and organises judicial training (induction and all-member).

Member training

Two training events were held for tribunal members within the reporting period: a two day induction for new legal

and ordinary members in February and March and the all members' conference in March. Our induction training had been planned for 27 and 28 February; however, following the significant snowfall on 28 February in Glasgow the second day had to be cancelled. This was then re-scheduled to take place the day before the all member event.

Members' feedback from both events has been very positive. The peer led model of training which has now been in place for 4 years appears to be working well in practice.

Our induction training introduced new members to the Additional Support Needs jurisdiction and focused on developing judgecraft. Our all members' training was entitled '*It's all about me*' – a reminder that the child must remain at the centre of our process.

Judicial Handbook

The Additional Support Needs Tribunals for Scotland ('ASNTS') Judicial Handbook was updated to reflect the

new Chamber. The new Health and Education Chamber Handbook was issued to all members in February and March. The Handbook is intended to act as a judicial resource, an *aide memoir*, and a learning tool. The ASNTS Case Digest is contained within, and this was updated to reflect changes in tribunal procedure and developing case law. This is now the Case Digest for the Additional Support Needs jurisdiction.

Legislative landscape

Children aged between 12 and 15 years who have capacity (and where their wellbeing will not be adversely affected) were granted rights under the [Education \(Additional Support for Learning\)\(Scotland\) 2004 Act](#) ('the 2004 Act') on 11 January 2018 when the amending legislation, the [Education \(Scotland\) Act 2016](#), was commenced. This includes a right to make two different types of references to the Additional Support Needs jurisdiction:

- A reference in relation to a co-ordinated support plan (CSP)
- A reference appealing against the education authority's assessment of the child's capacity or wellbeing

The named person provisions within the [Children and Young People \(Scotland\) Act 2014](#) have not yet been amended following a high profile case to the Supreme Court. As such, it is unclear what role, if any, the named person will play in relation to our tribunal proceedings.

Children and young people

The President has consulted directly with children and young people on a number of tribunal processes and new innovations. These include children with a range of complex additional support needs and children who are care experienced.

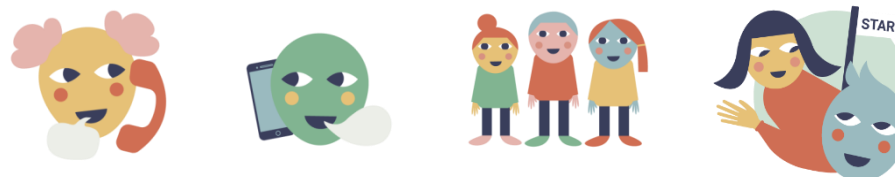


The Young Ambassadors for Inclusion are pictured here. They were consulted on the tribunal hearing experience and the new children's website *needs to learn*.

All of the views of the children and young people have helped to shape and influence a number of new tribunal processes which have been introduced to support children, some of whom themselves may be a party, to voice their views, give their evidence and participate in their hearings.

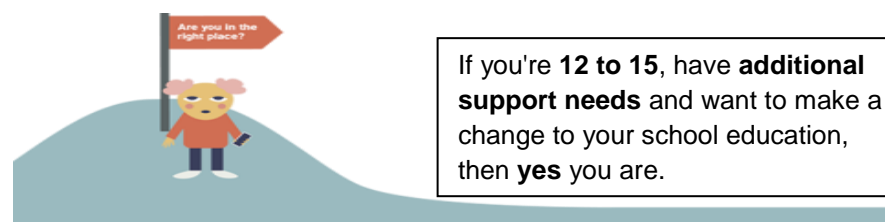
Needs to learn

A children's section has been developed on the Chamber's main website, called "[needs to learn](#)", which has been designed for children aged 12 to 15 years. This uses unique imagery, which is designed to emphasise the independence of the jurisdiction from their school and any other organisation or agency which the child may receive services from. With this comes new child friendly forms and guidance which can be accessed on the site.



Website

The *needs to learn* website was launched in February and responses to date have been very positive.



Hearing suites

We have aspirations for new hearings facilities in the Glasgow Tribunals Centre – which are designed *by* children, *for* children. Children have shared their experiences of what works and what doesn't in terms of feeling included in their hearings process. They wanted choices about how they can participate in the hearings process.

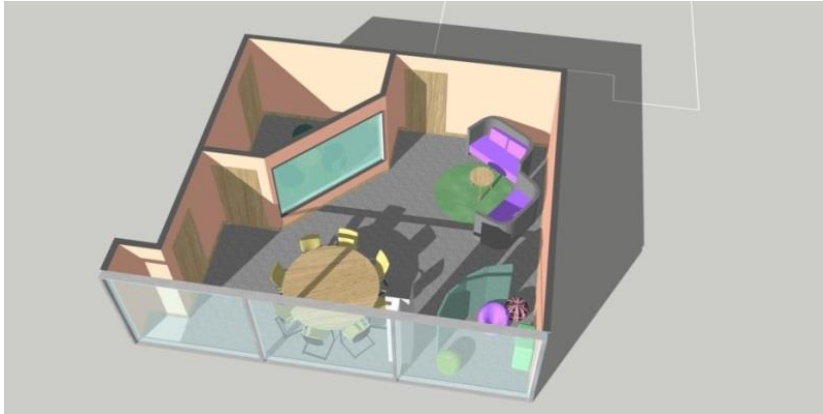
Their model of an inclusive hearing room has three distinct areas –

- An area with a round table with equal height chairs which look the same, where the tribunal members, parties and their representatives, the child and the witness will sit while evidence is being heard.
- An area with two small sofas, where the child and the tribunal members and any appropriate others can sit, if the child would prefer to give their views or evidence there.

- A break out area, with a screen, a beanbag and small fridge, where the child can take a break from the hearing, whilst still remaining in the room, with access to fresh water and snacks.

In addition to the hearing room, children would like a separate sensory room, where they could go to rest or de-stress, and they welcomed the idea of a 1:1 evidence room where a child could give their evidence to one questioner, who would have an agreed list of questions. During this experience the questioner and the convener of the hearing (the legal member) would have a live hearing link. The tribunal members and the parties would be able to see the child and the questioner. The child would be aware that others are observing but would not see or hear them. The 1:1 evidence room would be softy furnished with two armchairs and tactile features.

Their model tribunal hearing room (with 1:1 evidence room attached) would look something like this:



My views!

Children will now be given an opportunity to write their views in a new form which has been designed to help them do this – the “My Views” form was introduced in January 2018.

My views!

An application (request) has been made to the Additional Support Needs part of the Tribunal. The Tribunal will make a decision about what happens at school. You can find out more about the Tribunal here:

www.needstolearn.scot

You are the most important person in the case.

The tribunal wants to know what you think. There are lots of different ways you can tell the tribunal what you think. You can use this form to write what you think. You can ask someone to help you to fill out the form.



My name:

Date the form is being filled out:

Date of my tribunal hearing:

Activity in the reporting period

During the reporting period the volume of case activity and hearings has continued to rise (since April 2017), with an increase in types of application across all areas. We have seen a significant rise in placing requests and a corresponding, although smaller rise in co-ordinated support plan and transition references and in disability discrimination claims. The majority of cases continue to be for boys and for children with autistic spectrum disorder. We have also seen a small rise in the number of cases for pre-school children (those under primary school age).

The President will continue her cycle of visits to education authorities throughout the coming year, which provides her with an opportunity to identify potential factors giving rise to an increase in activity, and to share information about jurisdictional developments

Discrimination claims

The Equality and Human Rights Commission Scotland continue to fund certain claims, including exclusions from school for children with a disability. One such case was reported in the media in February.

[The City of Edinburgh Council v R \[2018\] CSIH 20](#)

One outstanding appeal sat with the Inner House prior to our transfer. The court's decision was issued on 23 March, refusing the appeal.

Background

The case was heard on appeal from a decision of a tribunal on a disability discrimination claim related to a delayed and then inadequate co-ordinated support plan ('a CSP'). The appeal was raised on a number of grounds, but was refused on each one. The decision provides guidance on the interpretation of certain provisions in the [Equality Act 2010](#) ('the 2010 Act'), as well as on decision reason adequacy.

Discrimination arising in consequence of a disability (2010 Act, s.15)

On this form of discrimination, the court held (para [14]) that the two building blocks are:

- (a) The authority treating the pupil unfavourably; and
- (b) The cause of this being something arising in consequence of the pupil's disability.

The court went onto explain that the 'something' in (b) above in this case was the delayed and then inadequate CSP. In other words, the relevant causal link is not one directly between the disability and the unfavourable treatment; rather there is a middle stage. The pupil's disability leads to something happening and that something can be categorised as unfavourable treatment of the pupil. The court went on to explain that even if the impact of the treatment would have been the same for a disabled pupil as for a non-disabled pupil, this is not a defence to a s.15 discrimination claim. No comparison with non-disabled pupils is necessary (in fact,

such a comparison is irrelevant). The court refers, with approval, to a number of other cases (employment and housing) in which similar interpretations of s.15(1) have been adopted.

Decision reasons

The court reiterated the point (made in a number of earlier appeals) that the fact that the tribunal is a specialist one is relevant to the interpretation of their reasons, and in this case, that specialist nature allowed the tribunal to infer that certain deficiencies in the CSP would lead to certain consequences (para [8]).

The court did agree that the tribunal's reasoning in respect of a particular part of s.85 of the 2010 Act was unclear, but since this finding by the tribunal was not 'material to the ultimate order' (para [12]) it was not a lack of clarity which should affect the outcome of the appeal.

CSP and provision of education

Finally, the court held that the definition of ‘the way [the education authority] provides education for a pupil’ (in s.85(2)(a)) is wide enough to cover issues around a CSP, referring to a CSP as ‘an important part of the authority’s educational objectives’ (para [10]).

President’s Guidance

The President issued two new guidance notes (01/2018 and 02/2018, as below) in January 2018 to coincide with the commencement of the provisions of the 2016 Act and to align with earlier guidance on independent advocacy ([GUIDANCE TO TRIBUNAL MEMBERS No 03/2018 INDEPENDENT ADVOCACY](#)).

GUIDANCE TO TRIBUNAL MEMBERS No 01/2018 THE VIEWS OF THE CHILD

The purpose of this guidance is to clarify the various ways in which a tribunal can hear the views of a child.

A tribunal has a duty to seek the views of the child¹³. This is distinct from a duty to obtain the views of the child. There may be limited circumstances where it is not possible to obtain the views of the child, or where the child does not wish to express a view. The threshold for obtaining the views of a child engaged in tribunal proceedings is low, and every effort should be made to overcome any barriers to this.

In order to discharge this duty a tribunal must consider which steps may need to be taken to hear the views of the child, consistent with the spirit of the 2004 Act, other relevant legislation, the Code of Practice, Tribunal Guidance and international obligations. A tribunal shall take all necessary steps to ensure that the views of the child are obtained in a way appropriate to the age, maturity understanding, welfare, choice and needs of the child. A child should be given every opportunity to

¹³ r.44 [The First-tier Tribunal for Scotland Health and Education Chamber \(Procedure\) Regulations 2017](#)

express his or her views. Rarely will a child be unable to express any view.

GUIDANCE TO TRIBUNAL MEMBERS No 02/2018 CAPACITY AND WELLBEING

The purpose of this guidance is to clarify the approach to be taken by a tribunal when considering the two new tests of 'capacity' and 'wellbeing', which are set out in section 3 of the 2004 Act. The guidance explores the "wellbeing test" and provides a framework for deciding capacity.

When determining capacity, a tribunal shall assess the child's level of maturity and current understanding in relation to the specific right the child seeks to exercise. Sufficient maturity and understanding as a concept is not age specific. A child may be described as having a particular intellectual age, but this does not necessarily mean this particular age applies to everything. Capacity is not a static concept. A child may lack capacity to exercise certain rights, but hold capacity to exercise

others. Capacity must be measured in relation to the particular child and the exercise of the particular right at the particular time. There is no single formulation to assess a child's capacity against the range of rights within the 2004 Act.

The Mental Welfare Commission for Scotland recommends a functional approach when determining capacity to make a decision¹⁴. This focuses on whether an individual is able to make the particular decision at the particular time when the decision has to be made. Tribunal members should have regard to this definition when considering the meaning of capacity, but they are not bound by it.

When considering the child's capacity a tribunal shall consider a number of factors, which include:

¹⁴ Consent to Treatment, A guide for mental health practitioners - Mental Welfare Commission for Scotland <http://www.healthscotland.com/documents/2306.aspx>

- the child's age¹⁵ and stage of learning
- the child's practical understanding of the particular right he/she is seeking to exercise
- the extent to which the child appears to understand the consequences of exercising the particular right at the particular time
- the child's level of achievement and ability to understand core learning in relation to literacy and numeracy
- the views of the child in relation to the particular right
- the views of the child's parent in relation to the particular right
- the views of the child's class teacher, support teacher or pastoral teacher who knows the child well

A child is not to be treated as lacking capacity by reason only of a lack or deficiency in a faculty of communication, if that lack or deficiency can be made good by human, electronic or mechanical aid (whether of an interpretative nature or otherwise)¹⁶.

¹⁵ A child who is 12 years of age and in primary education is still able to exercise rights under the 2004 Act.

¹⁶ s.3(3)

NHS Tribunal for Scotland (family health service practitioners)

National Appeal Panel for Entry to the Pharmaceutical Lists

Implementation work in respect of the NHS Appeals (family health service practitioners) will commence in autumn 2018, for a planned transfer into the Chamber in April 2020.

The Scottish Government's "[Achieving Excellence in Pharmaceutical Care](#)" strategy was issued at the end of 2017. This could change the way in which the planning and provision of NHS pharmaceutical care services are governed, and may impact on the appeals process. At the moment, there is no clear timeframe for the consultation on the Strategy. Consideration of the potential transfer into the Chamber will be scheduled once the consultation process is completed.

Education Appeals Committees

The education appeals committees will transfer into the Chamber in April 2021.

The President has completed a review of all 32 appeals committees in preparation for their transfer and is engaging with education authorities to establish a scheme of observations, to assist in analysis of current practice and to inform future developments.

Contact Us

HEChamberPresident@scotcourtribunals.gov.uk
0141 302 5863

www.healthandeducationchamber.scot

Additional Support Needs

We consider two types of appeals – references, regarding the provision of educational support under the 2004 Act; and claims, in respect of disability discrimination in school education, under the 2010 Act.

[Additional Support Needs](#)

Needs to Learn

If you're 12 to 15, have **additional support needs** and want to make a change to your school education, then **yes** you are.

[Needs to Learn](#)

www.needstolearn.scot

All children in Scotland should benefit from a school education. When this isn't happening we look at each child's individual circumstances and their unique **needs to learn**.

Annex F: General Regulatory Chamber

Scottish Charity Appeals Panel

The Scottish Charity Appeals Panel (SCAP) was established by the [Charities and Trustee Investment \(Scotland\) Act 2005](#), in order to hear appeals against certain decisions of the Office of the Scottish Charity Regulator.

The functions and members of the SCAP transferred into the Scottish Tribunals system on 12 January 2018 and became the first tribunal to transfer into the General Regulatory Chamber.

Members

Eight members were assigned to the Chamber, five ordinary members and three legal members.

Cases

To date there have been no cases heard.

Annex G: Tribunal Statistics

Upper Tribunal	Housing & Property Chamber	Tax Chamber	Health & Education Chamber	General Regulatory Chamber
Receipts 13	Receipts 1750	Receipts 17	Receipts 173	Receipts 0
Disposals 7	Disposals 1042	Disposals 13	Disposals 160	Disposals 0
Hearing Days 1	Hearing Days 713.5	Hearing Days 0	Hearing Days 79	Hearing Days 0

This table provides detail on the receipts, disposals and hearing days for each chamber.

Whilst this Annual Report covers the period 1 December 2016 – 31 March 2018, the data is held in financial years therefore the statistics displayed cover the period from 1 April 2016 – 31 March 2018 including tribunals pre and post transfer.

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for Scotland



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October 2018
