

## **Pro Bono Panel Meeting**

14:00-15:30, Thursday 6th September

Simmons and Simmons LLP, London

**Present:** Paul Yates (Freshfields), Marion Edge (Herbert Smith Freehills), Heidi Bancroft (Secretary to AJC), Stephanie Needleman (JUSTICE), Dr Naomi Creutzfeldt (University of Westminster), Diane Sechi (Simmons & Simmons), Natalie Wellings (Freshfields), Isobel Annan (Simmons & Simmons)

**By phone:** Tom Dunn (Clifford Chance), Helen Rogers (Allen & Overy)

### **Minutes**

DS introduced the panel's 3rd meeting.

#### **1. AJC meeting feedback (Paul Yates)**

PY noted that minutes had been circulated from the 13 July AJC meeting, and that there was an interesting mixture of people including, encouragingly, senior MoJ and HMCTS attendees.

The panel had hoped that the council would give a steer in prioritising between their 6 potential focus areas. However, the feedback from the council was positive but not consistent regarding their focus. There was a discussion about the feedback from Lady Anne Smith on focus areas 4 and 5 (she suggested the panel focus instead on change in culture), but there was contradictory feedback on this point and the panel considered the change in incentives envisaged in areas 4 and 5 to be potentially powerful ways to encourage cultural change.

#### **2. Update from academic panel (Dr Naomi Creutzfeldt)**

All agreed it was important to align the work of the pro bono and academic panels where possible. NC reported that the academic panel had decided to further explore a range of topics through a series of workshops, which members of the pro bono panel were encouraged to attend. HB would circulate details of upcoming workshops. She informed the panel that the plan is to have a conference at the end of next year, with a policy paper produced. NC will report back to the forthcoming academic panel to ensure the panels are aligned and there isn't a duplication of work.

#### **3. Prioritising the focus areas**

The panel discussed two potential ways of working: either allocating each topic to a firm or coming together and working collaboratively. After discussion, it was decided the panel would work on topics collaboratively. They then discussed each of the 6 potential focus areas and proposed the following.

**Topic 1** (DS lead) – a combination of focus areas 1 & 3 (ie, digitisation of the courts and "Stage 1" automated triage), focused on the new online social security tribunal as a living example. PY suggested that they keep in mind that the "work product" is likely to be a report to the council making recommendations – so any research needs to be designed with this in mind. The panel

discussed sending observers (e.g. trainees) to watch users accessing the social security tribunal pilot to see what works well and what could be improved. It was noted that while they would focus on the social security tribunal, any recommendations were likely to be of wider application. They agreed to consider the effectiveness of “assisted digital” services as well as “Stage 1” assistance. The geographical remit would be national. NC suggested any paper could also be used in an academic workshop.

**Topic 2** (PY lead) – a combination of focus areas 4 & 5 (i.e. stricter enforcement of tribunal rules on state parties and one-way tribunal costs) – which are two ways of achieving the same goal. The panel would explore the imposition of one-way fees/costs for (a) losing an appeal, and (b) non-compliance with procedural rules. After a literature review (guided by the academic panel) they could look at comparative research on how such systems have been implemented elsewhere, then produce a report making recommendations, including potentially working up a costed economic model.

For both topics the panel would need buy-in from HMCTS / MoJ to give them access to data / to the tribunal pilot.

Focus areas 2 & 4 – on the use of Artificial Intelligence in decision making and the unification of complaints/ ombudsman systems – would be put on hold. This panel is better placed to speak to the topics above.

There was a discussion on mandatory reconsiderations. The concern was that there are many vulnerable individuals who are not seen as they are put off accessing their rights before they even reach a lawyer, let alone a court or tribunal. HB mentioned that a third-sector panel was also being formed, and the panel decided to suggest to that panel that they might be well placed to research the general issue of individuals who present to front-line agencies but are not able to access ongoing help so cannot pursue their rights. (With an offer to help work through data if helpful.)

#### **4. Resources**

It was agreed that funding was not required for the time being. The panel discussed the potential use of interns / vacation schemers but it was decided that they would not be around long enough although this would be kept under review. ME raised the possibility of sending trainees on secondment for a couple of weeks. This option will also be kept under review as work plans develop.

#### **5. Website**

HB asked everyone to think about what content the panel wants on the pro bono panel page of the new AJC website. Timeframe is late-September to mid-October.

#### **6. Next steps**

It was agreed that the minutes with the proposed two topics would go to the academic panel (by 12th September) for suggestions on relevant literature and to the steering group (by 12th October) for their comments and approval. Then DS and PY will produce discussion drafts of initial work plans in each area and circulate for comments.