

Academic Panel – 30th November 2018

Simmons & Simmons

Minutes

Attendees:	University/Organisation
Robert Thomas (RT)	(Co-Chair) University of Manchester
Naomi Creutzfeldt (NC)	(Co-Chair) Westminster/Oxford University
Alex Walters (ARW)	JUSTICE (for Heidi Bancroft)
Brian Thompson (BT)	Liverpool University School of Law
Christopher Hodges (CH)	Oxford University
Huw Pritchard (HP)	Cardiff University
Richard Kirkham (RK)	University of Sheffield
Margaret Doyle (MD)	UK AJI
Sarah Nason (SN)	Prifysgol Bangor University
Chris Coxtton (CC)	MoJ Analytics Team
Rohan Grove (RG)	HMCTS, Insight and User Research Division
Charlotte O'Brien (COB)	University of York
Grianne McKeever (GM)	Ulster University
Ann Sherlock (AS)	Aberystwyth University
Diane Sechi (DS)	Simmons & Simmons
Paul Yates (PY)	Freshfields
Apologies:	University/Organisation
Stephen Hardy	Coventry University
Joe Tomlinson (JT)	Kings College
Tamara Hervey	University of Sheffield
Abi Adams	Oxford University
David Cowan	University of Bristol Law School
Lindsay Stirton	University of Sussex
David Southern QC	Queen Mary University of London
Helen Fenwick	Durham University
Graham Gee	University of Sheffield
Heidi Bancroft (HB)	Secretary to the AJC
Chris Gill	University of Glasgow

1) Welcome and Introductions

RT welcomed attendees to the third meeting of the Academic Panel.

2) Pro Bono Panel

(a) Polluter pays – Paul Yates

PY gave the panel an update on the “polluter pays” research. One key area that the Pro Bono Panel had been looking at is how financial penalties change ‘polluter’ behaviour as well as how different cost rules impact on litigant conduct. He is looking to have the framework of a general report to present to the steering group meeting on the 11th of January and invited any members of the academic panel with experience or knowledge of the effectiveness or otherwise of financial incentives to change organisational behaviour to pass that research onto him.

CH suggested the importance of taking a considered approach to cost rules, noting that in Financial Ombudsmen Service cases costs implications seemed to have had little impact on the corporate behaviour of banks. He suggested that ultimately organisational culture is more important than costs leverage and that regulatory agencies have sought to move away from fines and instead look to support the behaviours of organisations they deal with. PY suggested that rather than this being the silver bullet it could simply be an extra-tool to use to change culture and behaviour of front-line decision makers. CC noted that there was likely to be some changes to relevant aspects of the costs regime through the LASPO Pt II legislation which is due around the New Year and that the academic panel might want to note any recommendations that arise.

It was suggested that AS might email the group/RT specifically with respect to the significance of devolution issues in this space.

(b) Digitisation project – Diane Sechi

DS gave the background to the digitisation project she has been working on, which has involved HMCTS working with clients at the South West Law Centre who have PIP appeals they are lodging online. The sense is that HMCTS has not truly considered how many people might need Assisted Digital, nor completed sufficient stakeholder engagement with front-line services to understand how people enter the online journey and to let them know that PIP forms are going online.

RG noted that HMCTS is at the first stage of the digital roll out, applicants have the choice of using the online form, and about 30% of people are using online PIP forms to appeal with the remainder using paper applications. There has been very low uptake of the Assisted Digital pilot where people phone up a contact centre to make an appointment for assistance. HMCTS is looking at that and whether people are aware of the service at all and noted that the DWP continuous online resolution pilot is currently being tested. There was also a suggestion that the AJC would benefit from certain surveys conducted by HMCTS. A lot of participants suggested that they would go to friends and family for help with online processes and that HMCTS wanted to unpick that data. The panel noted general concerns around assistance for vulnerable cohorts; whether they know digital is an option and where front-line agencies are with digitisation.

DS told the panel she is looking at getting a structured online questionnaire out to legal centres, who can then in kind identify the kinds of users who ought to be surveyed. She is hopeful that this can be sent to ‘advice deserts’ – particularly important as PIP forms go online, to ensure that access to justice is not eroded. CC offered HMCTS assistance in question design and structural sampling, while RG noted that there was data available that maps postcodes from which people are applying digitally. He will get that information to the AJC.

Action: RG to provide DS with geographic data on digital applications

3) Workshops

a) Decision-making workshop-feedback – RT had written a report which will be published in due course

b) Tribunal modernisation workshop - judges and the tribunal’s modernisation sub-group involved.

c) Ombudsman Reform – workshop organised by RK on 18th January in Sheffield. The workshop will be a series of 1 hour sessions, with academic speakers who will produce a paper that will be available for participants to access prior to the event. The panel suggested that pairing academics with practitioners, and coming up with something that could be brought to parliamentarians with a realistic prospect of change, would be a useful exercise, with the potential to have an evening in parliament with MPs and Peers with an interest.

d) Proposal for pop-up event – NC raised the idea of a longer-term plan for research where the panel brainstorm some ideas for potential research. This might be of interest for PHD students, the idea of “speed-dating” for academics and practitioners, where they come up with themes and ideas that can be canvassed at this event and then procure funding to make the model sustainable. RG noted that HMCTS gets a lot of requests for data and would be very happy to be involved in the process, while CC noted that there was evidence/research gaps associated with LASPO Pt 1.

Action: NC to set up pop-up civil and administrative justice research event

4) Working groups

RT noted that there are currently 4 working groups within the academic panel: Ombudsman; tribunal modernisation; data access; and administrative decision-making and procedures. NC suggested having different people take ownership of discrete parts of individual working group. JT was volunteered as the leader of the data-group subset.

CH told the panel that he is close to finishing a high level but broad horizontal analysis review of every main type of dispute resolution, including problems with Woolf, Jackson, Briggs etc. as well as modernisation of techniques and regulatory process. He would welcome the opportunity to share IT early next year with the AJC and CJC.

MD agreed to put together some work on what already existed on ‘mapping’ administrative justice in England.

RG offered members contact with Luc Altmann from his team for any members who wanted to discuss academic research as it related to administrative law and tribunals.

Action: MD to produce a paper on what exists in terms of mapping a particular area of law

Action: CH to present a preview summary paper of his review to the AJC steering group meeting

5) Feedback for full Council

RT invited specific feedback for full council and suggested that he would provide an updated note.

6) Any other business

ARW advised the panel that the website was due to be launched and invited panel members to contact HB if they had an issue with their biography.

MD noted the ongoing work of UKAJI in this space and invited members to an informal UKAJI convened meeting on the 16th of January at Kings College on how citizens experience institutions.

NC noted that the AJC will find out by mid-January if there might be additional funding for workshops.

7) Date of next meeting

The next meeting would take place in March and HB would be in touch with potential dates.