

## **Pro Bono Panel – Minutes**

Monday 25th June

Allen and Overy LLP, One Bishops Square, London

**Attendees:** Paul Yates (Freshfields) (Chair), Helen Rogers (Allen and Overy), Marion Edge (Herbert Smith Freehills) Samantha Ward (Clifford Chance), Diane Sechi (Simmons and Simmons) and Heidi Bancroft (Secretary to the AJC)

### **1) Welcome and introductions**

HB gave an introduction on the purpose of the meeting and reminded the panel that in the previous meeting the SPT had requested for them to identify areas which they would like to focus on.

The panel decided that “access to justice” was the proper focus of this panel and that what this meant in practice was ‘ensuring effective access to legal rights’.

### **2) Digitisation of Tribunals**

There was a discussion about digitisation and the difficulties faced by litigants who were not computer literate. The on-line social security appeals (SSCS1) form had been difficult for litigants to use. The panel were informed that one of the firms had carried out an assessment to see whether people needed help to use the form and none of the people assessed were able to fill the form out on their own. Another issue was that people were reluctant to give their personal information when they saw the ‘gov.uk’ logo at the top of the form. It was also highlighted that whilst there was a list of places that offered digital assistance, not all of them were aware they had been listed as a local hub.

A national contract for assisted digital services had been signed with an organisation called the Good Things Foundation. It was agreed that that viewing the Good Things Foundation pilot would be useful and looking at the data on the number of people who had received assistance.

### **3) Artificial Intelligence for decision-making**

Artificial intelligence (AI) for decision-making was suggested as an area for the panel to focus on. Simmons and Simmons had looked into the idea of using AI and IDEO had been recommended to them as a design company for this project. They had already done similar work for disability allowance.

The panel discussed the feasibility of the project. PY was concerned about whether AI would be able to make an accurate assessment but he suggested doing a pilot to test its effectiveness. DS thought it would be an exciting area to take forward and she would find out how much it was likely to cost.

**Action** – DS to source a quote from a design company to design an artificial intelligence programme.

### **4) “Stage 1” (Briggs) automated triage**

PY summarised the 3 stages proposed by the Briggs review, and suggested that the stages were being implemented by the reform programme in reverse order:

- Stage 1 - automated guidance to help understand your case and the evidence needed to prove it;

- Stage 2 - the case officer who will provide case management, including attempting settle and/or narrow issues, refer for ADR;
- Stage 3 - decision from a judge.

He was concerned that at Stage 1 there was still often a blank page for litigants to fill out. He pointed out that this was an access to justice concern and would affect people of limited means. He was concerned that although there was assistance with technology there was so far less activity on the substantive side as yet.

The panel agreed that they should write a practical paper on what works elsewhere and try to ensure that HMCTS has tested projects before implementation.

#### **4. Difference in courts and tribunals administrative process**

ME suggested that the panel look at the difference in the quality in the administrative process between courts and tribunals. There was a disparity between the two when it came to compliance with deadlines. Local authorities were particularly bad at complying with tribunal timetables.

The panel agreed that they should champion stronger adherence to the rules regarding decisions in tribunals. PY suggested there should be a different set of values for the tribunal system when it came to state parties: there could be financial consequences for failing to comply with orders and deadlines. Homelessness and social security cases were given as examples where delays from administrative decision-makers could affect vulnerable people.

#### **5. One-way tribunal costs**

PY suggested that there could be one-way fixed “costs” in tribunals. The appellant would have no cost risk but there would be a fixed fee for the state party to pay who had an appeal decided against them. The system could be set up to incentivise departments such as the Department for Work and Pensions and the Home Office to make correct decisions and would subsequently save money for the Ministry of Justice and for public spending generally. The panel suggested picking a tribunal and providing a pilot.

#### **6. Remedies**

The panel had a discussion about remedies. Current remedies, including public bodies’ internal complaint’s procedures, were inadequate and something else was needed to bolster up the system. It was suggested that having a set of Ombudsman that covers everything between them would be one option. However, they would need to be made quicker and more readily accessible. There could be legislation around them to simplify and speed up the process.

ME stated that the complaints process needed to be simplified. It was suggested that they looked at administrative decision-making and areas such as mandatory reconsideration. The panel agreed that another area they could explore was whether there could be a unified complaints and Ombudsman process across government departments and local authorities.

#### **Logistics**

The panel agreed to provide a venue for Council meetings.



PY agreed to draft the paper for the meeting. It was suggested that the panel would draft a terms of reference once they knew the areas they would focus on. They agreed that other people could join the panel.

**Action** – 1) PY and DS to check room availability for the Council meeting on 13th July; 2) PY to draft a paper to be sent to the Council.

Heidi Bancroft  
Secretary to the AJC