

the Lord President and Chair of the Judicial Studies Committee to the effect that training for judicial roles should not be associated with perception of weakness and should instead provide proactive support.

4.61 There is considerable interest from most members and many chairs in training that is targeted to skills that will make tribunal hearings and decision-making work better. The fact that there are contrasts in view about the need for training may be in part due to a lack of attention in training to what makes a tribunal most effective, viewed from the perceptions of its President, members, and chairs as well as its users. There is also interest in having more opportunities to discuss performance in an informal way with tribunal colleagues within their particular tribunal system and in other tribunal systems. Such opportunities could be arranged to coincide with training events or other support activities, bearing in mind that most tribunal work is not a full-time role for the person concerned. Value for money in training must also be balanced with valuing the time of tribunal participants to engage in meaningful training and by paying for time spent on training or giving the training a transferable currency.

4.62 Tribunal members are themselves a resource of ideas to generate training options, and to assist in delivery, but much is to be gained from building upon training resources developed for other tribunal systems and jurisdictions.

4.63 The report of the AJSG at paragraph 49 notes that “tribunal users in Scotland should have access to tribunal performance and delivery that is equivalent to or better than, that available to users elsewhere” (AJSG, 2008). The wishes of users informed the reviews in England and Wales and in other jurisdictions which are discussed in the next chapter. Many of the areas of training which members and chairs had been given do appear to support the Leggatt Principles of independence and impartiality, skilled judiciary and a coherent system, but gaps in training were identified by some of the respondents and many showed an interest in training and support beyond that already received.

CHAPTER FIVE COMPARATIVE CONTEXT FOR TRIBUNAL TRAINING NEEDS AND REFORMS

Academic writing

Tribunal dynamics in England & Wales

5.1 Although there is not a great deal of recent academic writing regarding training for tribunals, recent commentaries exist regarding the Leggatt Report (Adler, 2002, 2006) and the Department of Constitutional Affairs White Paper in so far as it proposes proportionate dispute resolution (Adler, 2006).

5.2 Some study has been made previously into tribunal dynamics in decision-making, particularly with regard to the operation of the Mental Health Review Tribunals (MHRTs). Peay's first research into the functioning of these tribunals in the 1970s found that tribunal members often brought their own knowledge and attitudes and past experience of reaching decisions into their tribunal decision-making (Peay, 2003). The research demonstrated a great deal of variation among decisions, both individually and between tribunals. Group decisions were frequently reflections not of the group's view but of that of the most dominant member. Peay notes that this research was conducted at a time when there was no meaningful training of MHRT members in their roles. Peay repeated her study in the late 1980's and found that little had changed (Peay, 1989)

5.3 Further research was conducted in 2002 by Perkins, again on MHRTs. Perkins found enormous variation in statutory interpretation by tribunal members, with the legal members of the tribunal being "heavily guided" by the medical experts who were themselves unsure about the meaning of some of the terms (Perkins, 2002). Both Perkins and Peay found a preferential reliance on medical evidence and various other flaws in the decision-making process. These problems with decision-making were arguably the product of poor basic skills that tribunal members ought to have. Peay again notes that there have been recent significant efforts to improve the training of tribunal members to try to achieve greater uniformity of practice (Peay, 2003).

Tribunal dynamics in Scotland

5.4 Concern about dynamics in tribunal decision making based on professional hierarchies external to the tribunal and the role of training in dispelling these has been discussed with respect to the Mental Health Tribunal for Scotland (Turner, 2005; Ross, 2006, Atkinson, 2006). Turner (a tribunal chair who resigned shortly after appointment) expressed concern about bias against patients of psychiatrist members and noted that community psychiatric nurses also sitting on the tribunal would be similarly biased and prone to following the lead of the psychiatrists. Such perceptions (whether based in fact or not) that in certain situations the majority of the three member panel would bring their own professional biases inappropriately to the tribunal process is potentially damaging to the dynamic of tribunals and the confidence that users will have in the fairness and impartiality of the tribunal.

Role of training in core tribunal skills

5.5 In general it has been noted that for review tribunals to be effective the members must conduct an accurate and fair review of administrative decisions (Richardson & Genn 1994). In order to ensure that this is done properly and consistently it is suggested that training in core skills be made available to all tribunal members rather than assumed within core competencies on appointment. Training has been identified as important to addressing diversity issues effectively in tribunals (Genn et al 2006).

Comparator Jurisdictions

England and Wales

5.6 The tribunal system in England and Wales, and Northern Ireland is currently undergoing restructuring (Ministry of Justice Tribunals Service, 2007; 2008). While these changes may have future implications for the provision of training to tribunal members, the legislation itself does not directly address training needs.

5.7 The *Tribunals, Courts and Enforcement Act 2007* does not specifically address training issues, but places a general duty on, and grants corresponding powers to, the Lord Chancellor to “ensure that there is an efficient and effective system to support the carrying on of the business of” certain tribunals; assisted in this by the Senior President of Tribunals who must report to the Lord Chancellor annually, and by the Administrative Justice and Tribunals Council which has an oversight function.

5.8 Although changes to the structure and composition of tribunals could produce varied training needs or require changes to the format of training provision, the core skills for tribunal members identified by the Judicial Studies Board would remain the same. Training provision for tribunal members has been and continues to be comprehensively dealt with by the Judicial Studies Board (JSB, 2007).

5.9 Since 2002, in response to the Training Needs Analysis (TNA) carried out on behalf of the Tribunals Committee, the JSB has published a number of pieces of detailed guidance as to standards and training of tribunal members (Judicial Studies Board, 2007). The JSB identified a number of “core competences” and “additional competences” required of tribunal members, including specialists and Chairs. These were generic skills applicable to all tribunals. These include effective communication, proper management of the hearing, and decision-making skills. Using these competences meant a “shift in focus of their training towards the acquisition of judicial skills – in addition to continuing to learn about the substantive law essential to their work.”(Genn & Cole, 2002) The TNA recommended national co-ordination of training schemes to ensure uniformly high standards and the JSB has produced a range of guidance available to all tribunals to aid in this.

5.10 The JSB publications provide a framework for training tribunal members in generic skills and for evaluation of that training, thereby producing a standard which all tribunal members must reach (JSB 2003(1), 2003(2), 2004, 2006). The training methods include induction, mentoring, and continuing development (including residential training and on-line

programmes), as well as the monitoring and appraisal of training. Although the emphasis is on core competences the framework allows for the needs of individual tribunals to be addressed too.

5.11 If it is decided that changes need to be made to the provision of tribunal training in Scotland, then the access to this material is invaluable. Not only is the material carefully thought out and comprehensive, but it is also familiar to those members of devolved tribunals who also have experience of sitting on tribunals already using the system. Several respondents stated that they had already been exposed to the JSB training and that they found it useful.

5.12 As well as emphasising continuing education/professional development other jurisdictions are working towards creating tribunal networks to encourage good standards and practice. The Tribunals Service and the Administrative Justice and Tribunals Council could be used to facilitate the sharing of information and experience among tribunals as is currently the situation in Australia and New Zealand, and Canada noted below.

Australia

5.13 The Australian system is similar to that in Scotland in that it consists of federal tribunals, analogous with Scotland's reserved tribunals, and state tribunals which may be compared with the devolved Scottish tribunals. As in Scotland, tribunals at both these levels deal with a wide range of issues.

5.14 In the early 1990s the Australian Administrative Appeals Tribunal (AAT) conducted a training needs analysis. The 1992 national training needs assessment conducted by the AAT found that there was a diverse range of professional development needs of tribunal members, and that

*“the nature of these needs was influenced significantly by a number of factors including the **role** of member (presidential: President, Judges and Deputy Presidents; or non-presidential: Senior Members or Members), **qualifications** and **experience** (law trained or non-law trained), **nature of appointment** (full time, part time or sessional), **seniority** (inexperienced or experienced), and **registry** (size of registry and geographic location). In essence, the AAT research disclosed that the needs of members may vary depending on their role, qualifications, nature of appointment, tribunal and registry.”(quoted in Armytage, 2004)*

5.15 At this time it was noted that the continued professional development of tribunal members was highly important. As regards the members of the AAT, it was stated that the AAT members appointed from the legal profession or other areas of law bring legal methods of doing things with them, but

“[p]rofessional development can be a useful means of equipping members with different, non-legal techniques which they can use in conducting matters in the Tribunal.” (O'Connor, 1998)

5.16 In response to this analysis various changes were made to the provision of training for tribunal members, and as of 1997 training for federal tribunal members consisted of an in-

house induction for new appointees and ongoing professional development training (in-house). Training was also provided in the form of seminars and conferences (organised by the Australian Administrative Review Council (ARC) and Australian Institute of Administrative Law (AIAL)).

Training focus

5.17 The training covered areas such as decision making, mediation, case management and cultural and gender issues (ALRC 1998). Manuals and publications on procedural and substantive matters were also made available to tribunal members. Some tribunals, for example, the Social Security Appeals Tribunal had a mentoring system in place. Training methods varied from tribunal to tribunal with no common system for all tribunal members.

Role of Australian Law Reform Commission

5.18 In the late 1990's the Australian Law Reform Commission (ALRC) conducted a comprehensive review of the Australian Justice System, part of which was an examination of the functioning of the tribunal system. In its issue paper on federal tribunal proceedings, the ALRC considered the provision of member training as it stood in 1997 (ALRC 1998). In this discussion it was noted that a legal background is not a prerequisite to tribunal appointment, and members come from a diverse range of occupational backgrounds.

Essential and desirable skills for tribunal members

5.19 The ALRC paper goes on to list a number of skills that the Australian Administrative Review Council (ARC) considered essential or desirable for tribunal members. Although some, such as statutory interpretation, are primarily legal skills, the majority are placed under the sub-headings and are more generic in nature.

5.20 The following sub-headings are used

- “Analytical skills,” for example, the ability to analyse evidence and apply relevant law;
- “Personal skills and attributes,” for example, empathy, gender and cultural awareness, ability to work cooperatively as part of a team; and
- “Communication skills,” for example, written and oral communication skills, listening skills, ability to give concise and clear reasons for decisions.

5.21 These apply to all areas of decision making and can be considered “generic” skills, and the ARC recommended development of a “minimum set of core skills and abilities required of an effective tribunal member, for use in organizing professional development of members and in the process of developing selection criteria.”

Common Training Program

5.22 The AAT had also, at the time of publication of this Issue Paper, discussed developing a common program for all tribunal members with the Australian Institute of Judicial Administration (AIJA). The responses to these enquiries were dealt with in the comprehensive report *Managing Justice: a review of the federal civil justice system* (Australian Law Reform Commission, 2000). Although the Issue Paper had sought responses on the effectiveness of the then current in-house training and asked if the training of tribunal members should be linked to judicial education and training programmes. The Report considered that an Australian judicial college should be set up, and that it could provide some training to tribunal members; in addition, universities could be encouraged to offer training programmes for tribunal members including offering graduate certificates in tribunal procedures. These could be made available on-line, would cover topics applicable to all tribunals, and would be relevant to tribunal members with different backgrounds. The ALRC recommended that

“[e]very federal review tribunal should have an effective professional development program with stated goals and objectives. This should include access to induction and orientation programs, mentoring programs, and continuing education and training programs. In particular, training in administrative law principles relevant to decision making should be made available to members of tribunals who do not have legal qualifications.” (ALRC 2000, recommendation 9)

5.23 A further recommendation that is relevant to the development of tribunal members is that multi-member tribunal panels should be used where appropriate – one noted basis/advantage for their use was the continuing professional development of tribunal members, particularly with regard to the idea of “mentoring” of less experienced members by their participation on panels with more experienced tribunal members (recommendation 119).

Professional development and judiciary

5.24 Since this consultation there has been a move toward providing professional development to tribunal members in a similar way to the training provided to members of the judiciary. The Australian Institute of Judicial Administration (AIJA) develops and conducts “educational programmes for judicial officers, court administrators and members of the legal profession in relation to court administration and judicial systems.” AIJA now offers this type of education to tribunal members.

5.25 It held its Inaugural Tribunals Seminar in 1998, and over the past 11 years this has developed into a two-day conference which provides continuing professional development on a variety of generic topics. Some sessions are targeted towards members of tribunals dealing with particular types of issue but for the most part the training offered is applicable to all tribunals and includes decision-making (on papers and after oral argument), pre-empting difficulties and dealing with contemptuous behaviour (AIJA, 2008).

5.26 In addition to this move towards provision of training on a similar basis to members of the judiciary, Australasia has also seen progress in the area of pooling expertise in order to provide a benchmark standard of competency for tribunal members with information and

training accessible to members of all tribunals and both state and federal level. The ALRC recommended the establishment of a

“Council on Tribunals ... as a national forum for tribunal leadership to develop policies, secure research and promote education on matters of common interest. The membership of the Council on Tribunals should include the heads of federal and State tribunals engaged in administrative review and the President of the Administrative Review Council. The functions of the Council on Tribunals should include: developing performance indicators, charters, benchmarking, and best practice standards in tribunal management, practice and procedure, and professional development; improving and coordinating data collection arrangements; developing research and information services for decision making; and developing policies on tribunal member selection, induction and training.”(ALRC, 2000)

5.27 The Council of Australasian Tribunals (COAT), established in 2002, “is intended to facilitate liaison and discussion between the heads of tribunals. It will support the development of best practice models and model procedural rules, standards of behaviour and conduct for members and increased capacity for training and support for members.” (<http://www.coat.gov.au/objects.htm>) Member organisations of COAT include various Australian federal and state tribunals, and some New Zealand tribunals.

5.28 However, membership is not universal. Among COAT’s specific objectives are the establishment of a national network of tribunal members through which common issues and areas of interest may be discussed, and to provide training and support to tribunal members, particularly those of smaller tribunals whose training funding may be limited (<http://www.coat.gov.au/objects.htm>). In order to facilitate this COAT maintains a tribunal register although that does not contain training information such as found in the Tribunal Training Register Scotland. It does provide a Practice Manual for Tribunals covering key competencies for tribunal members that were developed in response to the AAT national training needs assessment conducted in 1992. (Armytage, 2004)

5.29 Although the 1992 assessment revealed that the training needs of the federal AAT members varied depending on factors such as their role or qualifications, it was also felt that the COAT membership diversity was greater than that of the AAT and so the COAT manual should provide more generic training and proceed on the basis that members would have limited access to additional training and professional development resources. At the same time, COAT should encourage the use of additional training resources where already in place, and develop professional development programmes for members. The manual, although generic, could be tailored to individual tribunal’s needs.

5.30 COAT proposes that the “one-size fits all” approach should “establish, promote and support a universal benchmark standard of competence and best practice for all tribunal members” on which to build with the addition of induction training and continuing professional development.

5.31 Another demonstration of the attempts being made to combine resources and share expertise can be seen by the collaboration between COAT, the Australian Institute of Administrative Law (AIAL) and bar associations to provide continuing education to tribunal

members.³ The AIAL national executive also organises seminars some of which are targeted at tribunal members.

5.32 Although there is still no standardised method of delivery of tribunal training to members of Australian tribunals, the overall picture is one of induction training with ongoing mentoring within the tribunal, bolstered by continuing professional development. This may be delivered in the form of seminars and conferences in a manner similar to that provided to members of the judiciary by organisations such as AIJA. The majority of this professional development is generic with individual tribunals left to provide continuing education tailored to the specific area of competence of the tribunal.

Role of HE institutions

5.33 Universities are also involved in the provision of training to tribunal members, for example, Monash University has offered graduate programmes in tribunal procedures, including a Graduate Certificate in Tribunal Procedures, a Graduate Diploma in Law (Tribunal Procedures) and a Master of Laws (Tribunal Procedures).⁴ These programmes are targeted towards tribunal members, and have options for members with both law and non-law backgrounds. Again, many of the units making up these programmes emphasise generic skills applicable to tribunals whatever their subject matter, for example, decision making, negotiation and mediation skills, fact finding in administrative procedures, and administrative justice issues. However, it should be noted that these programmes are currently under review and are not enrolling additional students at this time.

Resource materials for sharing

5.34 In addition to the provision of continuing professional development, some of it accredited, by bodies such as the AIJA and universities, the development of resource materials - such as COATS' Model Practice Manual - made accessible to all tribunal members and the development of tribunal networks is intended to assist in creating a benchmark standard of practice across all tribunals.

New Zealand

5.35 As noted above, some New Zealand tribunals are member of COAT and use the resources made available through that organisation. New Zealand is, however, currently undertaking a review of its tribunals, part of which is a consideration of the competency of tribunal members and the provision of ongoing professional development (NZ Law Commission, 2008). As to training of members, the Issues Paper references both the findings of the Judicial Studies Board in 2003 regarding key competencies for tribunal members in Great Britain and the recommendations of the Australian Law Reform Commission in 2000 regarding the establishment of professional development programmes for tribunal members.

³ <http://law.anu.edu.au/aial/AboutAIAL/AbIndex.html>

⁴ <http://www.law.monash.edu.au/postgraduate/law-tribunals.html>

5.36 Training for New Zealand tribunal members is “haphazard,” according to the Issues Paper, with some tribunals offering their members comprehensive training including induction courses, mentoring programmes, and day or weekend training sessions. On the other hand, the members of some tribunals receive no training at all, or there is an initial induction but no continuing professional development.

5.37 The Issues Paper identifies a need for continuing professional development and suggests that training for tribunal members consist of new-member induction, development of generic skills such as conducting hearings and writing decisions, and keeping members informed of developments relevant to the particular tribunal. In addition tribunals should be encouraged to share information and expertise with each other, and possibly with the judiciary. Chairs would require additional training but it was noted that this may be problematic where the Chair is the one who organises and delivers training for the tribunal members. To deal with this situation it was suggested that an overarching training programme for Chairs was required.

5.38 Noting that the Institute of Judicial Studies provided extensive ongoing training to the judiciary, the Issues Paper suggested that a similar approach was needed for tribunal members, even those who had legal or judicial backgrounds.

5.39 The report of the Commission’s findings has not yet been published, but the issues raised and the suggestions made echo the deliberations of their counterparts in England and Australia.

Canada

5.40 Council of Canadian Administrative Tribunals (CCAT) is a national non-profit organisation that supports administrative tribunals and promotes excellence in administrative justice (<http://www.ccat-ctac.org/en/index.php>). The organisation emphasises continuing professional development and develops training programmes for tribunal members and staff. Membership includes individuals from federal, provincial, and territorial tribunals. The training programmes offered include on-line courses and conferences, with materials available on-line such as conference papers, educational materials including relevant court decisions, and information on recent developments. CCAT also offers a network through which tribunal members can collaborate and share experiences.

5.41 The Canadian Institute for the Administration of Justice (CIAJ) performs similar functions and develops training programmes for members of both the judiciary and administrative agencies (<http://www.ciaj-icaj.ca>) It organises conferences that promote interaction between members of different tribunals and between tribunals and the courts. The training courses offered cover areas common to all tribunals, for example, the hearing process, decision writing, and evidence.

5.42 As with Australia, the aim is to support good standards in administrative decision-making and emphasis is placed on the provision of easily accessible training and continuing professional development programmes delivered in a similar style to those provided for judges, and on the sharing of information between tribunal members.

Conclusions

5.43 The training needs analyses carried out in both England and Wales and Australia have highlighted a need for using training to equip tribunal members with certain generic skills – the “core competencies” of the English review - to aid them in the performance of their tribunal duties. These skills are applicable to members of all tribunals and include effective communication, hearing management, evaluation of evidence and decision-making. In addition, the Australian review noted that training should also be informed by the individual tribunal member’s attributes – the role that individual played in the tribunal, their qualifications and experience – as well as the nature of the tribunal itself, including location and size. In order to give effect to both these aspects of training it would seem that the identification of training needs should be driven both from the centre – the identification of core generic skills – but also from the tribunal members themselves using systems of appraisal and reporting. Both these jurisdictions – as do some of the Scottish tribunals studied – use induction training and mentoring to support their tribunal members.

5.44 In terms of delivery of training the Australian experience is very informative. There is an emphasis on the use of accredited continued professional development as a worthwhile mode of training delivery (this is echoed by the arrangements in Canada and the current discussion in New Zealand). Australia has embraced the use of a judicial training model administered by a centralised body, and has included universities in the provision of training. These approaches for delivery should be carefully considered for application in Scotland.

5.45 In the commonwealth comparator jurisdictions studied, the pooling of expertise is of high importance. In the Australian context this was driven by the desire to create a benchmark standard of competency for members of all tribunals at both state and federal level. COAT was established to facilitate this and has successfully produced a Model Practice Manual available to all member tribunals covering key generic competencies. This manual can then be built on to tailor further training to the specialised needs of particular tribunals. The network created allows for the communication of ideas and issues related to training between tribunals. It also makes the training materials easily accessible to the tribunal members. However, COAT’s membership is not universal which works against the aim that all tribunal members are provided with the training required to obtain a minimum standard of performance. Any introduction of this type of network to Scotland should take place with the understanding that to obtain the maximum benefit all tribunals should be included.

5.45 A great deal of transferable training material has been produced in England and Wales in the wake of the recent reforms there. The expertise of the bodies established and training materials produced should be utilised in any changes to tribunal member training in Scotland.

5.46 There is considerable synergy and resonance between what is being considered about tribunal training for Scotland and what is being developed or under discussion in other comparator countries. The challenge is to ensure that the best of a federal system of training is combined with strengths for regional training so that no one system is left to claim superiority or to feel subservient or less advanced in training. Even in the highly sophisticated COAT system, not all tribunals have opted to participate. Policy makers in the much smaller jurisdiction of Scotland may wish to consider what is the priority between what will secure highest level inclusion and what may be in accordance with comparative and absolute best practice.

CHAPTER SIX CONCLUSIONS AND RECOMMENDATIONS

Conclusions

6.1 The evaluation revealed

- autonomous approaches to design and delivery of training within the devolved tribunal systems (whether existing before devolution or created thereafter);
- a more integrated approach to training in reserved tribunals, but some Scottish specialisation in areas of that training, directed to members in particular;
- a range of reactions to training needs, provision and support mechanisms, with divergence of view often linked to the prior experiences of the respondent whether within or outwith the tribunal context;
- chairs' and members' differing perceptions of training value, and of dynamics within the tribunal hearing;
- a general desire (with a few exceptions) for high return, challenging and interactive training;
- significant interest in mentoring or other opportunities for sharing experiences and reflective practice.

Autonomy vs integration in training

6.2 The existing fractured, autonomous and remote system is inappropriate, with some tribunals producing a high level of training input while others are unable to do so due to type, size and financial constraints. Although no tribunals are understood to operate without any training the term “haphazard” which has been used in relation to tribunal training in New Zealand and to pre-Leggatt tribunals in Great Britain is perhaps relevant to the operation of tribunal training in Scotland, particularly given the contrast between sophisticated models applying to SSCSA or in the smallest of reserved tribunals and the ad hoc forms of support offered in some devolved tribunals. The disparity of approaches to training may not indicate poor quality of support, but comments from Presidents and from those chairing or sitting on tribunals identify scope for development or improvement. Disparate approaches may not play out in ways that are directly evident to tribunal users, but are perceived by some respondents to create a variable performance within different tribunals hearings which in turn may affect the experience of the disputants and undermine the integrity of process and decision. It is important that tribunal members as distinct from chairs feel confidence in the contributions that they are able to make in tribunal hearings, and respondents have identified training and feedback as key to growth in confidence. Confident and well-supported tribunal members (and chairs) can generate user confidence in the tribunal system and its decision for that user. Training and support that builds confidence is consistent with the Leggatt principles, against which the AJSG have measured options for an integrated tribunal system for Scotland.

6.3 The fragmentation of devolved tribunals in Scotland contrasts sharply with the highly integrated system operating, and being developed further, in England & Wales and for the GB wide aspects of reserved tribunals in Scotland. The system in Scotland for devolved tribunals is evolutionary in nature due to the recent introduction of new tribunal systems alongside others of long standing. Some harnessing and sharing of effective training methods for devolved tribunals is essential in order to disseminate good practice and, since most

training activities are funded by the public purse, to achieve best value. Respondents are receptive to the idea of shared training in generic tribunal skills in particular.

6.3 Will exists within the tribunals sampled to reflect upon and enhance training for tribunals. However, the development of training resources in isolation within tribunal systems is not cost effective. Moreover, tribunal chairs and members may underestimate the self-development aspect of training and its benefit beyond that particular tribunal system and beyond the specific hearing context. At the same time respondents see the need for specific training for their own tribunal context in a form that is targeted, and functional.

6.4 In order to achieve broader recognition of effective training and efficiency of support, a regulatory body could oversee, regulate, guide and advise the tribunals in their training methods. Lessons can be drawn from the experience of reserved tribunals. Many favourable comments were made in respect of the SSCSA but some room for improvement was noted for Employment Tribunals in Scotland. That particular system appears to sit uneasily within the reserved tribunal domain where it is supported by the Tribunals Service, because it has in the past enjoyed more autonomy in training and administration in Scotland.

6.5 Some devolved Tribunal training procedures, more so than reserved, showed flexible development of training in range and content. Scope also exists for related support mechanisms such as mentoring, appraisal and buddy schemes. It should be noted that very positive comments were received from members and chairs on the Private Rented Housing Panel (phrp) training and, to some extent, that provided for MHTS.

6.6 Because of practical issues preventing cascade mailing via the Tribunal Service in particular (which in itself raises a practical issue for dissemination of training materials in a national system) evidence is not available for ASNTS or SSCSA to support or contradict some evidence about training successes in those spheres. The Tribunal Service aims to limit its emailings to regular consolidated issues rather than flooding its members (who tend to undertake tribunal work part time) with frequent mailings of separate items of information. However some tribunal members or chairs in these systems received the mailing as a chair or member of another surveyed tribunal and included material about these systems in their responses. A database of those occupying tribunal roles across Scotland could be a useful product of reform.

6.7 The devolved tribunals may benefit from importing appropriate training methods from other systems or countries, and reciprocal agreements on shared training may be possible in some areas.

Tribunal dynamics

6.8 In all tribunal systems sampled, freetext comments disclosed some degree of distance between the chair (usually legally qualified) and members (qualified in other disciplines or “lay” in a sense of having experiences of using the service to which the tribunal is linked). Perceptions of training need varied between some chairs and members.

6.9 Legally qualified chairs may consider themselves approachable on an informal basis and able to conduct mentoring or appraisal without difficulty. However members can feel

cowed by a perceived gap of skill or knowledge between member and chair, and a lack of understanding of procedures (in which training is targeted to chairs).

6.10 Although decisions on procedural matters are, according to most tribunal procedural rules, firmly the domain of the chair, members appear to crave more training on procedural issues, and their exclusion from such training may fuel a sense of distance from the chair. Training for members on procedures per se would have to make clearer what procedural decisions do lie with the chair, whilst acknowledging that members require familiarity with procedures in order to feel comfortable with their own role on the tribunal.

Access to training for Scotland

6.11 Consultation with the Judicial Studies Board (Tribunals Committee) in England and Wales should be a priority on the topic of generic skills training and training in tribunal dynamics. A national body in Scotland could administer the standards and methods of training for the devolved tribunals, especially in the light of the number of tribunals recently established in Scotland. Whether that body should include reserved tribunals operating in Scotland is a matter still open for debate, but is identified by the AJSG as an option appropriate in a devolved Scotland where justice is a devolved issue. From a user standpoint a Scottish system for all tribunals operating in Scotland has more coherence, but there would have to be a protocol or memorandum of understanding between the national bodies.

6.12 A national body to oversee the appointment and management of tribunals operating in Scotland has been proposed by the AJSG in their first report (AJSG , 2008). Such a body could take an oversight role in relation to training, but there may be value in following the model used in England and Wales and for reserved tribunals of delegating that training to the Judicial Studies Committee which in turn could draw upon training models and contents already operating in Scotland. Indeed even if the national body for reserved tribunals remains the Tribunals Service, training for tribunals operating in Scotland could be delegated to the Judicial Studies Committee to ensure that training is consistent with devolved justice in Scotland. An alternative approach would be for the training to be a collaborative venture of e.g. the Scottish Tribunals Forum. Whatever the centralised provision of generic training, there would be some need for training particular to a tribunal jurisdiction. However that too could be overseen by a national body, to assist with the perception of independence from the budgets and agendas of sponsoring departments. Options for training provision are discussed further in the recommendations below.

Generic skills overlaid on prior skills and knowledge

6.13 Training in generic skills such as decision-making and evaluation of evidence is arguably paramount where a tribunal member brings specialist knowledge or experience to a tribunal. Following the findings of Peay and Perkins it should be recognised that even though an individual brings extensive knowledge in a particular area to the tribunal, it does not necessarily follow that they also automatically bring the skills needed to be an effective and fair tribunal member. Those who have experience working within a particular sector may, albeit unwittingly, give effect to certain biases or schools of thought to which they subscribe in their decision-making. At the same time, those tribunal members who have been appointed precisely for that experience require training in how to use it effectively and appropriately within the tribunal.

6.14 Evidence from surveys of user groups also suggests that members when given the scope for discussion may respond true to type/discipline/prior agenda (AJTC 2008). Even if many do not do so, the perception of this risk amongst users of the tribunal should be considered when training is developed.

6.15 Although Turner anecdotally dismisses training for MHTS as ineffective (Turner, 2005) a clearly articulated training and professional development programme in generic skills - including those related to impartial decision making - would not only provide tribunal members with the skills they need but could potentially go some way to allaying perceptions or fears of bias. In turn this can reassure those who use the tribunals that they are being given a fair hearing, but the best source of evidence on that point would be users groups.

6.16 A survey of users groups operating in England & Wales published in February 2008 (AJTC 2008), albeit low in volume response at 17%, suggests a need for participative practices and more inclusive chairing skills. The ASNTS President reported using user group feedback to influence training.

Paying for training

6.17 Compulsory, remunerated induction training both specific to jurisdiction and generic could be introduced across the tribunal spectrum in Scotland as a basic requirement. Budgets may be tight, but money spent on training (particularly if pooling reduces the need for development of some training in-house or using external providers) should provide long term gain in effective working of tribunals. Alternatively more effort is needed to identify for tribunal decision-makers the transferable benefit to them of funded (but not remunerated) training.

Recommendations

Pooling of training expertise and resources for devolved tribunals

6.17 There are a number of avenues to achieve the desired pooling of training expertise, knowledge and resources for devolved tribunals. The SCAJTC could take a facilitative role, or the STF could promote greater voluntary collaboration. If a national body is created to take responsibility for tribunals in Scotland, this body could take oversight of standards and provision of training. However in terms of generic skills training there would be considerable overlap between the training provided by the JSC for the professional and lay judiciary operating in the courts and that needed by tribunal decision-makers.

6.18 A Tribunals arm of the JSC could take responsibility for (at least) generic training for devolved tribunals in Scotland. The JSC could design and deliver such training and could do so acting in consultation with the SCAJTC and STF pending the establishment of any national tribunals service for Scotland.

6.19 The training should address the topic of tribunal dynamics and the skills needed to achieve the most effective working of all participants on the tribunal panel. This project reveals that this important topic has a generic aspect (multi-person decision-making) and a

system-specific aspect (addressing pre-existing professional hierarchies amongst member groups). However ample resources exist via the Tribunals Committee of the JSB and the Australasian bodies to influence development of training in this area. The JSC and the STF (supported by the SCAJTC) could work with this body of material to design training that acknowledges and makes the most of the peculiarly Scottish context (a small country, devolved government, efficient government agenda, respect for tribunal integrity and respect for disputants preferences in Scotland as identified in the *Paths to Justice Scotland* study (Genn & Paterson, 2001)).

Training for reserved tribunals operating in Scotland

6.20 More attention should be given to how those populating *reserved* tribunals operating in Scotland can be supported and trained for their work in Scotland. Training dedicated to activities in Scotland was called for in particular in responses from chairs and members of the Employment Tribunal (Scotland). An option identified by AJSG to address the needs of reserved tribunals in Scotland, is that a national body for tribunals in Scotland would include such tribunals. They could obtain training from the JSC in accordance with the recommendation above for devolved tribunals. However those who are engaged with reserved tribunals other than Employment Tribunals (many of whom are Scots also populating devolved tribunals) think highly of the integrated and targeted training regimes that operate for reserved tribunals under the oversight of the Tribunals Committee of the JSB.

6.21 Training for reserved tribunal operations in Scotland should draw appropriately on the existing expertise of the JSB (Tribunals Committee). Through collaboration between the JSB and the JSC a training protocol could operate as a bridge between the Tribunals Service, and any new national body for tribunals in Scotland. However discussions should acknowledge and address the differences between the legal and justice systems of Scotland and England and the social cultures of its parties and tribunal decision-makers.

Training records

6.21 Training records are not kept routinely by tribunal systems in Scotland. Any central body overseeing training provision and standards in Scotland should initiate and maintain a database of chairs and members and a record in standard form for each chair and member which the individual could carry from one tribunal role or system to another.

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APPENDIX 1

List of Tribunals operating in Scotland by subject matter, taken from Scottish Committee Annual Report for 2006-2007 Annex D

A = Tribunals under the direct supervision of the Scottish Committee

B = GB tribunals supervised in Scotland by the Scottish Committee on behalf of the Council

A

AGRICULTURE

Agricultural Arbiters under S.63 of the Agricultural Holdings (Scotland) Act 1991

B

AVIATION

The Civil Aviation Authority constituted in accordance with S.2 of the Civil Aviation Act 1982

B

BETTING LEVY

The Horse Betting Levy Appeal Tribunal for Scotland under S.29 of the Betting Gaming and Lotteries Act 1963

A

CHARITIES

Scottish Charities Appeal Panel appointed under the Charities and Trustee Investment (Scotland) Act 2005

B

COPYRIGHT

The Copyright Tribunal under S.145 of the Copyright, Designs and Patents Act 1998

B

CRIMINAL INJURIES

Criminal Injuries Compensation Adjudicators appointed under S.5 of the Criminal Injuries Compensation Act 1995

A

CROFTING

Crofters Commission under S.1 of the Crofters (Scotland) Act 1993

A

EDUCATION

Additional Support Needs Tribunals for Scotland under S.17-21 and sch. 1 of the Education (Additional Support for Learning) (Scotland) Act 2004
01.08.05 to 31.07.06

Education Appeal Committees under S.28D of the Education (Scotland) Act 1980

A

EMPLOYMENT

The Employment Tribunal under the Industrial Tribunals Act 1996

B

FAIR TRADING/COMPETITION

The Director General of Fair Trading under sch.1 to the Fair Trading Act 1973
Competition Appeal Tribunal established under S.12 of the Enterprise Act 2002

B**FINANCE**

Financial Services and Markets Tribunal under S.132 of, and sch.13 to, the Financial Services and Markets Act 2000

A**FORESTRY**

Forestry Committees appointed in Scotland for the purpose of the Forestry Act 1967

B**GENDER**

Gender Recognition Panel under sch 1 to the Gender Recognition Act 2004

B**IMMIGRATION**

Asylum Support Adjudicators under S.102 of the Immigration and Asylum Act 1999

Asylum and Immigration Tribunal under S.81 of the Nationality, Immigration & Asylum Act 2002

B**INFORMATION**

Information Tribunal constituted under S.6 of the Data Protection Act 1998

Information Commissioner appointed under S.6 of the Data Protection Act 1998

B**INSOLVENCY**

Insolvency Practitioners Tribunal under S.396 of the Insolvency Act 1986

A**LAND**

Lands Tribunal for Scotland under S.1(a) of the Lands Tribunal Act 1949

A**LOCAL TAXATION**

Valuation Appeal Committees under S.29 of the Local Government (Scotland) Act 1994 and Local Government Finance Act 1992

A**MENTAL HEALTH**

Mental Health Tribunal for Scotland under the Mental Health (Care and Treatment) (Scotland) Act 2003

A**NATIONAL HEALTH****SERVICE**

Discipline Committees in accordance with S.19 of the NHS (Scotland) Act 1978

National Health Service Tribunal under S.29 of the NHS (Scotland) Act 1978

National Appeal Panel for Entry to Pharmaceutical Lists under sch.4 to the NHS (Pharmaceutical Services) (Scotland) Regulations 1995

B**NATIONAL SAVINGS**

National Savings Bank and National Savings Stock Register Adjudicator under S.84 of the Friendly Societies Act 1992

B**REVENUE**

General Commissioners of Income Tax under S.2 of the Taxes and Management Act 1970

Special Commissioners of Income Tax under S.4 of the Taxes and Management Act 1970

B**ROAD TRAFFIC**

Scottish Parking Appeals Service under S.73 of the Road Traffic Act 1991
The Traffic Commissioner under part 1 of the Transport Act 1985 and the Public Passengers Vehicles Act 1981

B

SOCIAL SECURITY

Social Security Commissioners under sch.4 to the Social Security Act 1998
Child Support Commissioners under S.22 of the Child Support Act 1991
Social Security and Child Support Appeals under the Social Security Act 1998

A

SOCIAL WORK

Children's Hearings under the Children (Scotland) Act 1995

B

TRANSPORT

Transport Tribunal under sch.4 to the Transport Act 1985

A

VALUE ADDED TAX

VAT and Duties Tribunals for Scotland under sch.12 to the Value Added Tax Act 1994

APPENDIX 2

QUESTIONNAIRE FOR TRIBUNAL MEMBERS AND CHAIRS

Research into the Provision of Training for Tribunal Members in Scotland Questionnaire for Tribunal Members and Chairs

The School of Law at the University of Aberdeen has been sponsored by the Scottish Government (Civil and Analytical Division) to carry out a short study of the training for chairs and members of tribunals operating in Scotland. This research is supported by the the Scottish Committee of the Administrative Justice and Tribunals Council and the Judicial Studies Committee.

The Presidents or Chief Officers of your Tribunal Service have contributed to the study and have agreed to pass on to you this short questionnaire. The responses will be collected online by the University of Aberdeen and will be known only to the research team. Should you wish to, you may give your name but equally you may remain anonymous. We will not attribute any responses to a particular individual.

PLEASE COMPLETE THE QUESTIONNAIRE ONLINE BY MONDAY 9 JUNE 2008.

Research team: Margaret Ross, Lynda Reid and Sarah Bleichner
Please tell us about your current tribunal membership(s) in Scotland and elsewhere

How many tribunal memberships and tribunal chairing roles do you have in total?

- 1 2 3 3+

Name of tribunal 1

—

Role in tribunal

- member Chair

Is your membership related to a particular qualification or specialism?

- Yes No

If, yes what is that qualification or specialism?

Number of years in post

- 0-2 3-5 over 5

Name of tribunal 2 (if applicable)

—

Role in tribunal

- member Chair

Is your membership related to a particular qualification or specialism?

- Yes No

If yes, what is that qualification or specialism?

Number of years in post

- 0-2 3-5 over 5

Is this your only other tribunal role?

- Yes No

Name of tribunal 3 (if applicable)

Role in tribunal

- member Chair

Is your membership related to a particular qualification or specialism?

- Yes No

If yes, what is that qualification or specialism?

Number of years in post

- 0-2 3-5 over 5

Is this your only other tribunal role?

- Yes No (if this is the case please add further details in the comments box at the end of the questionnaire)

Please tell us more about your training experiences for tribunals that sit in Scotland

Induction

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered induction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was induction compulsory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you able to attend induction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find induction useful in content?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find induction useful in volume?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What form did your induction training take?	_____		
Comments on induction training	_____		

"Pre-post" training (offered by some tribunals separately from induction)

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered pre-post training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was pre-post training compulsory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you able to attend pre-post training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the pre-post training useful in content?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the pre-post training useful in volume?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What form did your pre-post training take?	_____		
Comments on pre-post training	_____		

In-post (ongoing or refresher) training

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered in-post (ongoing or refresher) training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was it compulsory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you able to attend in-post training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the in-post training useful in content?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the in-post training useful in volume?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was this training to reflect <i>changes</i> in law or procedure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What form did your in-post training take? _____

Comments on in-post training _____

Some training may be termed generic to all tribunals. Did you receive training on the following generic skills? (tick all that apply)

- | | | | |
|---|--|--|--------------------------------|
| <input type="checkbox"/> Questioning | <input type="checkbox"/> Note-taking | <input type="checkbox"/> Decision-making | <input type="checkbox"/> Other |
| <input type="checkbox"/> Active listening | <input type="checkbox"/> Assessing credibility | <input type="checkbox"/> Recording decisions | |

What 'Other' training did you receive in generic skills? _____

If you received generic skills training

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Was it compulsory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find it useful in content?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find it useful in volume?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What form did your generic training take? _____

Comments on generic training _____

Some tribunals share training with other tribunal jurisdictions

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered shared training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you participate in shared training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would you be interested in the opportunity of shared training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What form did shared training take? _____

Comments on shared training _____

- | | | |
|---|---|------------------------------------|
| <input type="checkbox"/> Questionnaires at conclusion of training | <input type="checkbox"/> Discussions with tribunal colleagues | <input type="checkbox"/> Appraisal |
|---|---|------------------------------------|

Discussions with course provider Periodic post-training feedback Other
 Other (please specify) requests

Assessment and support of personal training needs

Some tribunals carry out an individual training needs analysis

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Did you complete a training needs analysis?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was it in the form of a self-review in paper form?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was it in the form of a discussion with a tribunal colleague?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was that colleague a training officer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was that colleague the president?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was that colleague a mentor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the analysis lead to training that you found useful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments on training needs analysis _____

Some tribunals keep a record of training which may be transferable to other contexts

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Do you have a record of training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is that record transferable to another tribunal's jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is that record accessible for professional CPD purposes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would the contents of that record be recognised by a college or university for credit transfer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was any part of your training a credit-bearing course from a college or university?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you carried training from one tribunal jurisdiction (country or topic) to another?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments on record of training _____

Some tribunals offer a mentor and/or buddy scheme for new or continuing members

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Do you have a tribunal mentor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do you have access to buddy scheme in your tribunal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would you value nomination of a mentor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would you value allocation of a tribunal "buddy"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments on mentor or buddy schemes _____

Some tribunals have appraisal schemes

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Have you been appraised in your tribunal experience?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the appraisal compulsory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Did you receive training on appraisal in advance of the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the appraisal carried out by the president?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the appraisal carried out by another tribunal member or chair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the appraisal effective?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the appraisal involve completion of a self-evaluation form?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the appraisal involve an interview with the appraiser?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the appraisal involve a report back to you as appraisee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you receive training as a direct result of the appraisal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the appraisal process useful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments on being appraised _____

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Have you appraised tribunal members or chairs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you think the process effective?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you offered training in appraisal in advance of conducting the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments on conducting appraisal _____

Comments not given previously.

Any comments that you have on tribunal training issues are valuable to this project. Please enter them here. No comments will be attributed in a way that allows identification of the commentator.

Your contact details

If you wish you may provide your contact details here.

Thank you very much indeed for completing this questionnaire.

APPENDIX 3

Membership and training budgets of sample Tribunals

Tribunal (Interviewee)	Jurisdiction	Membership (Scotland)	Responsibility for Training in Scotland	Training Budget
Additional Support Needs Tribunals for Scotland (ASNTS) (President)	Devolved	9 Convenors, 23 Lay, Specialised, and Legal Members	President	Not provided
Asylum and Immigration Tribunal (Resident Immigration Judge)	Reserved	Immigration Judges and Lay Members (unspecified)	Senior Immigration Judge on behalf of President	UK-wide training costs of approx. £500,000 p.a.
Employment Tribunals (Scotland) (ETS) (Vice President – Scotland)	Reserved Overall	220 Members	President and Vice- President for Scotland	Not provided
Land Tribunals for Scotland (President)	Devolved	President, 2 senior lawyers, 2 part-time surveyors	President	No budget allocation made for training
Mental Health Tribunal for Scotland (MHTS) (Business Manager)	Devolved	Pool of 300 Members from which each Tribunal Panel selected – each Panel consists of a Legal Member, Medical Member (psychiatrist), and General Member (experience or qualifications in social care)	President and Business Manager	Not provided
Private Rented Housing Panel (prhp) (President)	Devolved	33 Members	President	Not provided
Scottish Charity Appeals Panel (SCAP) (Secretary to the Panel – there is no President for Scotland)	Devolved	8 Chairs, 16 Members	Secretary to the Panel	Initial training cost of approx. £60,000 with approx. £5,000 annual top-up envisaged

Social Security and Child Support Appeal Tribunals in Scotland (SSCSA) (District Chairman)	Reserved	Approx. 2,000 Members	President (Great Britain), training committee and Judicial Training Advisory Group. Each region has its own training officer – for Scotland this is the District Chairman interviewed.	Budget of £993,000 p.a. across Great Britain
VAT and Duties Tribunal (Vice President – Scotland)	Reserved	20 Members	Vice-President for Scotland	Approx. £2,000 – 3,000 p.a.

APPENDIX 4

Questionnaire responses by percentage

|

Please tell us about your current tribunal membership(s) in Scotland and elsewhere

How many tribunal memberships and tribunal chairing roles do you have in total?

85.6% 1 7.2% 2 3.9% 3 3.3% 3+

Name of tribunal 1

99.4%

Role in tribunal

72.8% member 26.7% Chair

Is your membership related to a particular qualification or specialism?

80.6% Yes 17.8% No

If, yes what is that qualification or specialism? 81.1%

Number of years in post

36.7% 0-2 27.2% 3-5 35.6% over 5

Name of tribunal 2 (if applicable)

16.1%

Role in tribunal

6.7% member 8.9% chair

Is your membership related to a particular qualification or specialism?

12.2% Yes 2.8% No

If yes, what is that qualification or specialism? 11.7%

Number of years in post

3.3% 0-2 5.0% 3-5 7.8% over 5

Is this your only other tribunal role?

13.3% Yes 5.6% No

Name of tribunal 3 (if applicable)

8.9%

Role in tribunal

2.8% member 5.6% chair

Is your membership related to a particular qualification or specialism?

7.2% Yes 0.6% No

If yes, what is that qualification or specialism? 7.2%

Number of years in post

3.9% 0-2 2.2% 3-5 2.2% over 5

Is this your only other tribunal role?

10.0% Yes 2.8% No (if this is the case please add further details in the comments box at the end of the questionnaire)

Please tell us more about your training experiences for tribunals that sit in Scotland

Induction

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered induction?	93.3%	4.4%	1.1%
Was induction compulsory?	85.0%	8.3%	5.6%
Were you able to attend induction?	93.9%	3.9%	0.6%

Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	89.4%	6.7%	1.1%
Did you find induction useful in content?	92.2%	3.9%	1.1%
Did you find induction useful in volume?	83.9%	8.3%	4.4%
What form did your induction training take?	89.4%		
Comments on induction training	77.2%		

"Pre-post" training (offered by some tribunals separately from induction)

	Yes	No	Don't recall
Were you offered pre-post training?	47.2%	31.7%	11.1%
Was pre-post training compulsory?	31.7%	33.3%	11.7%
Were you able to attend pre-post training?	43.9%	21.1%	7.8%
Did you find the pre-post training useful in content?	42.8%	16.7%	7.8%
Did you find the pre-post training useful in volume?	40.0%	18.3%	8.9%
Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	42.2%	15.6%	7.8%
What form did your pre-post training take?	48.3%		
Comments on pre-post training	36.7%		

In-post (ongoing or refresher) training

	Yes	No	Don't recall
Were you offered in-post (ongoing or refresher) training?	95.6%	3.3%	0.0%
Was it compulsory?	52.8%	36.1%	6.1%
Were you able to attend in-post training?	88.3%	6.7%	0.0%
Did you find the in-post training useful in content?	86.7%	2.2%	0.0%
Did you find the in-post training useful in volume?	77.2%	10.6%	0.0%
Was this training to reflect <i>changes</i> in law or procedure?	62.2%	21.7%	2.8%
Did the training focus on your specific tribunal jurisdiction (e.g. employment, child support, land)?	83.3%	2.2%	0.0%
What form did your in-post training take?	80.0%		
Comments on in-post training	66.7%		

Some training may be termed generic to all tribunals. Did you receive training on the following generic skills? (tick all that apply)

61.7%	Questioning	20.6%	Note-taking	80.0%	Decision-making	22.8%	Other
56.1%	Active listening	28.3%	Assessing credibility	60.6%	Recording decisions		
	What 'Other' training did you receive in generic skills ?	87.8%					

If you received generic skills training

	Yes	No	Don't recall
Was it compulsory?	53.9%	21.1%	12.2%
Did you find it useful in content?	71.1%	4.4%	4.4%
Did you find it useful in volume?	65.6%	8.3%	5.0%
What form did your generic training take?	60.0%		
Comments on generic training	42.8%		

Some tribunals share training with other tribunal jurisdictions

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Were you offered shared training?	3.9%	88.9%	1.1%
Did you participate in shared training?	4.4%	66.7%	1.1%
Would you be interested in the opportunity of shared training?	37.2%	32.8%	2.8%
What form did shared training take?	6.7%		
Comments on shared training	9.4%		

What procedures exist for you providing feedback on the usefulness of your training (tick all that apply)

94.4%	Questionnaires at conclusion of training	56.7%	Discussions with tribunal colleagues	44.4%	Appraisal
36.7%	Discussions with course provider	10.0%	Periodic post-training feedback requests	3.3%	Other
	Other (please specify)		5.0%		

Assessment and support of personal training needs

Some tribunals carry out an individual training needs analysis

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Did you complete a training needs analysis?	20.6%	69.4%	7.8%
Was it in the form of a self-review in paper form?	18.3%	31.7%	2.8%
Was it in the form of a discussion with a tribunal colleague?	10.6%	36.1%	2.8%
Was that colleague a training officer?	0.6%	38.3%	2.8%
Was that colleague the president?	2.8%	37.8%	1.7%
Was that colleague a mentor?	1.1%	38.3%	1.7%
Did the analysis lead to training that you found useful?	11.1%	28.3%	3.3%
Comments on training needs analysis	24.4%		

Some tribunals keep a record of training which may be transferable to other contexts

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Do you have a record of training?	33.9%	55.6%	8.3%
Is that record transferable to another tribunal's jurisdiction?	2.2%	30.6%	27.8%
Is that record accessible for professional CPD purposes?	28.9%	23.3%	10.0%
Would the contents of that record be recognised by a college or university for credit transfer?	2.8%	33.3%	24.4%
Was any part of your training a credit-bearing course from a college or university?	0.6%	55.0%	6.1%
Have you carried training from one tribunal jurisdiction (country or topic) to another?	3.3%	55.0%	4.4%
Comments on record of training	18.3%		

Some tribunals offer a mentor and/or buddy scheme for new or continuing members

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Do you have a tribunal mentor?	8.3%	89.4%	0.0%
Do you have access to buddy scheme in your tribunal?	5.0%	79.4%	2.2%
Would you value nomination of a mentor?	27.2%	46.7%	2.8%
Would you value allocation of a tribunal "buddy"?	26.7%	48.9%	1.7%
Comments on mentor or buddy schemes	30.0%		

Some tribunals have appraisal schemes

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Have you been appraised in your tribunal experience?	32.8%	61.7%	2.8%
Was the appraisal compulsory?	39.4%	16.1%	2.8%
Did you receive training on appraisal in advance of the process?	13.3%	38.9%	4.4%
Was the appraisal carried out by the president?	6.7%	46.1%	2.2%
Was the appraisal carried out by another tribunal member or chair?	30.6%	18.9%	2.2%
Was the appraisal effective?	29.4%	15.0%	5.6%
Did the appraisal involve completion of a self-evaluation form?	29.4%	18.3%	4.4%
Did the appraisal involve an interview with the appraiser?	33.3%	15.6%	2.8%
Did the appraisal involve a report back to you as appraisee?	32.8%	16.1%	2.2%
Did you receive training as a direct result of the appraisal?	1.7%	42.8%	3.9%
Did you find the appraisal process useful?	28.3%	16.7%	4.4%
Comments on being appraised	33.9%		

	<i>Yes</i>	<i>No</i>	<i>Don't recall</i>
Have you appraised tribunal members or chairs?	5.6%	90.6%	0.6%
Did you think the process effective?	7.2%	15.0%	3.9%
Were you offered training in appraisal in advance of conducting the process?	5.6%	18.9%	2.2%
Comments on conducting appraisal	8.3%		

Comments not given previously.

Any comments that you have on tribunal training issues are valuable to this project. Please enter them here. No comments will be attributed in a way that allows identification of the commentator.

Your contact details

If you wish you may provide your contact details here. 26.7%

Thank you very much indeed for completing this questionnaire.