

New legislation for tribunals marks welcome change

Tribunals Bill welcomed by The Scottish Government's Justice Committee

A Bill intended to create an improved system of independence and better quality of service for those using tribunals in Scotland has been welcomed by the Justice Committee in its report published today.

The stage 1 report on the Tribunals (Scotland) Bill proposes creating a new, two-tier structure for devolved tribunals – a First-tier and an Upper Tribunal – to be known as the Scottish Tribunals. The former will hear the vast majority of cases and the latter will hear appeals from the first-tier. The Lord President of the Court of Session will head both Tribunals.

Committee Convener Christine Grahame MSP said:-“We believe this Bill brings forward a much-needed restructuring of the tribunals system in Scotland. It is a system that aims to help individuals resolve their case against bodies or another party, without resorting to the costly and more adversarial courts system. This Bill should make it simpler and more accessible for individuals to do that.

“While our Committee recognises the reservations of some witnesses we heard from on perceived moves towards more “judicialisation” of the tribunals’ process, we believe there are enough safeguards in place to ensure each tribunals independence is upheld.”

The Committee made further recommendations including:

- * The Scottish Government should resolve the delay in the production of rules for the Upper Tribunal as a matter of urgency.

- * The Scottish Government should set out a definition of what a tribunal is within the Bill, in order to protect the character and nature of tribunals.

- * Where a tribunal proposes introducing fees and expenses for the first time, consultation should be carried out with users and stakeholders of the tribunal.

On a UK level, both the Tribunals, Courts and Enforcement Act 2007 and the creation of the newly merged HM Courts and Tribunals Service in 2011, made changes to the tribunals' service. While these reforms affected reserved tribunals sitting in Scotland, the devolved tribunals were not affected.

Introduced in May 2013, the Policy Memorandum for the Bill notes that devolved tribunals have "been established in an ad hoc fashion, with no common leadership, appointments, practice and procedure or reviews and appeals". It also says that this complex and fragmented system can lead to a "narrowness of outlook" and a variation of the standard and performance of tribunals. The Bill seeks to improve the independence and perception of independence of the devolved tribunals and facilitate improvements in the quality of service offered to users.