**User group meeting notes**

**September to October 2018**

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| **LSE User Meeting****24 September 2018** | **South West User meeting 25 September 2018** | **Northern User Meeting 8 October 2018** | **Midland User Meeting 15 October 2018** |
| 11.30am MeetingAttendees:Judge TudurJudge McConnell, Judge Rozanna Head-RapsonJason Greenwood, Sue Harrison (Note Taker)Simon ThompsonKirsty DennisLynn BakerNicole Emma LeeThomas MarkwellLouise BartosFiona SlomovicHannah AdamsMichelle HullandEleanor WrightCarolyn PowellFiona GardinerClaire FranklinLorna PapeLorraine ParkesLaura ThompsonJacqui MunroSunil ChothiElizabeth Daley | 2.30pm meetingAttendees: Judge Tudur Judge McConnell, Judge Rozanna Head-RapsonJason Greenwood, Sue Harrison (Note Taker)Drew ThompsonJulie CareJennifer WrightStephen MartinJulie EveleighDoug HamerKaty ElliottLaxmi PatelChris ReesDeborah HaySerena FassiSue NorgateGreg BramwellBeckie WalshErin SmartJayne HowarthEsther MaynardAllan Wells,  | Attendees:Judge TudurJudge McConnellJason GreenwoodJudge John AkersSue Harrison (Note Taker)Phil SaintLisa FullerNigel PughEmily ToyneGiusi BarbagalloMelanie AldredAllison Thiele-CallanEmma TrevettJulie RuddickSue LoaderTina EmeryNatalie BennettKirsty CollierEmily Joyne | Attendees:Judge TudurJudge McConnellJudge Rozanna Head-RapsonJason GreenwoodSue Harrison (Note Taker)Jill HughesPatrick DavisLinda WrightJanet BrennandJayne ParrishGeraldine EnglishNick DuffJames BettsSarah DoddsBridge MorkLyn AbbottPat WilsonThomas MitchellAnnette BensteadTracy BirdMaxine LewisJulie JacksonEileen PictonJason LeesAudrey TaplinElizabeth MacDonaldGilliam BucklowGurvinder KaurShona WabyNicola RhodesClaire Weaver | Attendees:Judge McConnell Mark Deegan, Judge Rozanna Head-RapsonSue Harrison (Note Taker)Nick TayntonGurvinder SamriMichelle LoweNatalie BarkerHelen JonesSteven BaylisWendy RainbowKarthi Srikanthan Helen WilkinsonRuth BarrenJon Ludford-Thomas |
| **Apologies:**Audrey Dorival, Miriam Henson, Corinna Bourke, Marsha Serioux SmithHayley Mason | **Apologies:**Adam Friel, Daisy Russell | **Apologies:**Karen Jacobson,  Ben Allchin, Liz Smith,  | **Apologies:**Michelle ChesterPam VarleyAshok PatelRoisin BeressiDavid PhillipsJudith Nash | **Apologies:** Lauren GoodletSarah GeeKelly AlexanderLynne BowenCarol Rowan |

1. **Apologies, Notes and Matters Arising**

Apologies noted above for each meeting. No matters arising.

All questions were answered on the day at the respective user group meetings.

**2. Administrative Update**

**Performance**

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| --- | --- | --- |
|  | August | YTD |
| Cases registered within 10 working dates | 96% | 97% |
| Decisions issued with 10 working days | 92% | 92% |
| Cases disposed within 22 weeks | 94% | 93% |
|  |  |  |

Still working overtime at weekends. Live caseload: Currently stands at 1,909 live appeals which is the highest ever recorded caseload in the Tribunal’s 20-year history. Normally for this time of year approx. 1200.

Receipts: (these are school years, and 17-18 data is currently being validated)

2016-17 – 4,725

2017-18 – 5,640

2018-19 – Forecast 6,000 +

**Staffing**

The Tribunal has had an increase of resources to deal with the increase of appeals with 5 permanent staff appointed in Darlington to expand the team. The team are still working mostly 6 days a week to process appeals within the timeline, and the position continues to be monitored and work is ongoing to streamline the process. If anyone has any ideas for improvement it would be great to hear them.

**Phone Team**

The phone team are currently dealing with a higher volume of calls than anticipated at the moment. The Tribunal cannot give any view or legal advice on the telephones as the call agents are administrative staff and can only advise on the Tribunal’s processes. Contrary to the expectation, August was not quiet this year. Jason explained that he has not received any complaints that people could not get through to the telephone team and that resources will not be increased if no complaints are received. He reminded users however that if there is something that they with to draw to the Tribunal’s attention, the most effective contact means is to email the office. Unless the administration are aware of a problem, it is a basic system. If he gets complaints about the telephone team he can monitor the system.

**48 Hour Rule**

The introduction of the 48-hour rule for requests was successful – the meetings generated praise for giving notice to users and the overwhelming response is that this can be further extended and the 5-day rule will be reinstated from the 1 October 2018. No request will be dealt with by the Tribunal within 5 working days of a hearing. Parties will be required to turn-up to a hearing and make an aplcaition unless there are exceptional circumstances.

**RCJ**

SEND Tribunal hearings are being relocated from the West Block basement courts – to move into more suitable hearing rooms in Courts 64 – 66 in the East Block. There are limited consultation rooms with 2 only available for the 3 hearing rooms, but there is space outside of the rooms where conversations can take place. If the Sixth Floor hearing rooms in Thomas More are full together with Courts 64 – 66, it may occasionally prove necessary to use the basement courts but only in exceptional circumstances.

**National Trial**

Receipts of National Trial appeals are higher than anticipated, with 250 appeals received since the trial commenced.

**Case Management**

Case management will commence for all cases over the next few months – National Trial appeals will be automatically subject to case management. The Tribunal will consider in each case whether parties are required to participate in a telephone case management hearing. Case managing cases at bundle issue stage has meant that parties avoid having to attend a hearing that would have been adjourned. This worked really well when introduced before the summer holidays and there was a marked drop in the number of adjournments of cases on the basis that they were not ready to proceed to a hearing.

**Timetable apology**

It has become aware that some dates directed throughout the summer set the LA response and final evidence date as the same date deadline. This was an error in the software and this has now been rectified. If you have any cases like this please contact the office, as your feedback is crucial.

**Upcoming initiatives**

**Binary Hearings** – Video hearings – panels in hearing room and beaming in a judge by video from a different hearing location.

The plan is to have the parties and panel in a room and only the judge would be beamed in. If the trial is successful then this could reduce the number of hearings being postponed due to lack of a judge. At present, the issue is the IT infrastructure but hoping to test on a small scale in the near future. If it is successful, then we may look to extend the use for witnesses and parties. The proposal is different from the pilot in the Tax Chamber which was via video hearing and everyone joined by video.

**Bundle Guidance -** Change for LA’s to provide a paper copy to the Parent or young person directly, instead of the Tribunal.

**Digital bundles shared space –** A new pilot is being launched and volunteer LAs are sought to sign up for a Digital Bundle sharing facility with the Tribunal. Similar to One Drive or Dropbox, GOV.uk have set up a facility which is currently being used by the Family Courts for LAs to upload their bundles to a secure shared space where the Tribunal can download them. This saves the user having to send in part 1 of 6, 2 of 6 etc in multiple emails. If you would like to sign up let us know. We are hoping to setup a meeting in October with the developers and MoJ in Havant to look at the technology.

**Annual Report -** A date for your calendar is the Annual Report, where the Tribunal’s school year of date is published. This is due for release on 13th December on GOV.uk.

**3. National Trial Update**

The Tribunal has registered over 250 National Trial appeals and the procedure is to case manage every case at registration. One of the issues which is already recurring is the Tribunal being asked to resolve disputes between the LA SEND team and the LA Social Care Team. It is not the Tribunal’s remit to resolve such disputes and the Tribunal will direct the LA to sort out disputes between their own teams as they are one authority. A summons has been issued to one Head of Children’s Services to attend a hearing to explain non compliance with the Tribunal’s directions and a failure to engage with the Tribunal’s processes.

The health issues in most appeals have been minimal and tend to be on specification of provision already being delivered. The Tribunal’s role is not to make clinical decisions. As a general rule, by the time of the second case management review, the health issues are falling away. It is at the second case management review that a final decision is made on the estimated the length of the hearing but in reality after case management has addressed the issues outstanding then the appeal is normally dealt with within one day. Complex cases will be a 2 day hearing.

**4. Changes to the Tribunal’s processes**

A greater number of cases have been registered by the Tribunal than ever before in the Tribunal history and the Tribunal has not had the proportionate rise in the level of staff or judges. There seems to be an indication emanating from DFE that the level of appeals will drop but it is unclear on what evidential basis that prediction is made. The Tribunal is currently aiming to case manage 2 weeks before the hearing date, with both qualified Registrars and judges reviewing the cases to ensure that they are ready for hearing. If parties for instance have not made it clear at the final evidence stage the legal basis relied upon in opposing the appeal the Tribunal will issue case management directions because too many cases are not ready to be heard which leads to adjournments. At present, with the increase in appeal numbers, the Tribunal is having to stand down hearings on a daily basis due to a lack of judicial time and venues. Every postponed hearing will have a TCMH put in place. Case management allocates each appeal by priority: for instance a priority 1 case would be where a child is out of school; the case has been previously postponed or the appeal is a complex appeal. Every attempt will be made to cover priority 2 cases where possible. Priority 3 are those ready for hearing but where there is no pressing need for them to go ahead. If any user is of the view that a case would benefit from case management, a request can be made at any time. Case management was introduced just before summer.

1. **Bundle Guidance -** The bundle guidance came into effect from the 1 October 2018 and relates to any appeals registered after 1 October 2018. Parties will get a copy of the bundle guidance when they register their appeal and it imposes a cap on the number of pages of evidence which each party can automatically submit which is very generous. If a party needs to put in more pages, they will need to decide why and if challenged by the other party, the issue will be considered by the judge and panel at the beginning of the hearing. If the number of pages are not raised as an issue this will be fine. The guide is to get people focused on what they are putting in as the Tribunal do not need to see a large bundle of documents obtained through a freedom of information request in the bundle which is not relevant to the appeal. Parties must use Arial 12 font in their documents and by the bundle deadline the LA must send an electronic copy of the bundle to the Tribunal and parent and deliver a paper copy to parent.
2. **48 Hour Rule** – The 48 hour Rule was introduced just before Summer, this is not new and has always been within the Tribunal directions.
3. **5 Day Rule – From the 1 October,** the Tribunal reintroduced the 5 day rule where requests from parties would not be dealt with within 5 days of the hearing. There will always be exceptions. If parties come to agreement you will have to come to the hearing and ask for a consent order.

**6. Agenda items from other meetings “issues relating to expert evidence”**

Issues were raised by users about the use of expert reports and the power of the Tribunal to direct single joint expert reports in appeals. Judge McConnell confirmed that cases will be considered on an individual basis. It is important that the Tribunal have enough information in the evidence to make a decision. The issue will be considered as part of the case management of individual appeals. There is no hard and fast rule about the necessity for expert evidence but the Tribunal have powers to order a party or third party to produce or give evidence if they conclude that is necessary in the circumstances of the case. The Tribunal will look at the core evidence and any additional assessments. The Tribunal cannot require the instruction of a single joint expert where that would impose a cost on the parties without their consent. The issue has been resolved in the past, where the relevant expert was not available to the LA internally, by their paying for a single joint assessment or parties have agreed payment between both parties. There is however no hard and fast rule about the instruction of a single joint expert although the Tribunal would be keen to encourage parties to instruct a single joint expert where the circumstances permit.

**Any Other Business**

* The bundle software package that some LA’s use is Adobe Pro 11 and this has proved very effective for use within digital bundles because of the indexing and tabbing.

**Date of next meetings – end January/February 2019.**

Susan Harrison

Note Taker