

ANNE CURRAN
REGIONAL TRIBUNAL JUDGE

31st May 2018

Commission on Justice in Wales
JusticeCommission@gov.wales

Dear Sirs

Re: Commission on Justice in Wales – Call for Evidence

I am the Regional Tribunal Judge for Wales and South West England for the Social Security and Child Support (SSCS) jurisdiction. I am responding in a personal capacity and, relatively briefly, as I was only aware of the call for evidence two days ago. Unfortunately, pressure of work prevents me from providing a more detailed response with supporting evidence.

The Social Security and Child Support jurisdiction is not devolved and is administered by HM Courts and Tribunals Service. The salaried and fee-paid judicial office holders are appointed by the Judicial Appointments Commission. There are five salaried District Tribunal Judges based in Cardiff, Port Talbot and Wrexham. There is a salaried Regional Medical Member who works 50% of the time. In terms of fee-paid judicial office holders there are thirty-seven fee-paid judges, fifty-six fee-paid medical members, thirty-two disability members and one financially qualified member. At present Wales is receiving around a thousand appeals a month and is the largest tribunal jurisdiction.

Appeals are made against decisions from first-tier agencies such as the DWP, HMRC and local authorities. Appellants are some of the most vulnerable members of society, the majority of whom suffer from a range of physical and mental health conditions. Appellants attend appeal hearings in venues across Wales and they are usually unrepresented.

Some of the questions posed by the Commission are not of direct relevance to the SSCS jurisdiction since it is administered on a national basis by HMCTS. However, close working relationships with the Delivery Director for Wales, the Head of Civil, Family and Tribunals, the cluster manager together with the wider judiciary provide good channels of communication and an awareness of the legal landscape in Wales. That task is easier in Wales than in regions in England, where there can be multiple clusters and less coherence.

Because the processing centre for SSCS appeals in Wales and the South West is in Cardiff, I have been able to pilot innovations such as hearings by Skype, hearings on Saturdays, hearings by video link from Llangefni and the triaging of appeals to avoid the need for a hearing. The tribunal caseworkers for Wales and the South West region are based in the Cardiff office and are supervised directly by their mentor District Tribunal Judge and by me. To summarise, these innovations have been facilitated by a close working relationship between the SSCS judiciary in Wales and HMCTS.

Question 4 is particularly relevant to the SSCS jurisdiction. Many appellants used to be represented by welfare rights groups. In the last few years the position has changed due to lack of funding and, whilst some appellants can still obtain advice from the dwindling number of advice agencies, they are rarely represented at the actual hearing and a written submission is usually provided by the representative. The position in England and Wales contrasts markedly with Scotland where the majority of appellants are represented as SSCS hearings. It is a well known fact that appellants have a better chance of success at a hearing if they are represented. Consideration should be given to increasing the provision of advice although how that is done and how it is funded is not for me to comment. However, there are already tried and tested examples of collaboration with universities so that advice can be provided by law clinics with students supervised by member of staff. The pro bono scheme could be increased and supported to provide advice and representation.

The Reform programme will result in the digitalisation of what is currently a paper-based process in the SSCS jurisdiction. Similar reforms are happening in the courts. Consideration should be given to the provision of sufficient resources in Wales to support those who cannot access IT in order to access justice either because they are digitally excluded or because there is no internet signal in the area in which they reside.

In terms of the Welsh language, the SSCS jurisdiction can provide hearings in the Welsh language as there are some tribunal members and judges who are proficient in the Welsh language. Where that is not possible, the Welsh Language Unit provides simultaneous translation.

The appointment of Mr Justice Wyn Williams as President of Welsh Tribunals is a significant step forward in bringing together the devolved tribunals in Wales and, I hope, a dialogue with the reserved tribunals not only for the mutual benefit of all concerned, but for the profile of tribunals in Wales and those who use them.

Yours sincerely

ANNE CURRAN
Regional Judge