

Information Tribunal User Group Meeting

17 March 2009, Audit House, London

Present: John Angel (Tribunal Chairman); Mel Porter (PA to Mr Angel); Andrew Moseley (TCE Policy and Legislation Manager); Claire Taylor (Information Tribunal Deputy Chair); Marion Saunders (Tribunal Lay Member); Graham Cresswell (Information Tribunal Manager); Maurice Frankel (Campaign for Freedom of Information); Michele Voznick, Mark Thorogood (Information Commissioner's Office); Gillian Brooks (Senior Policy Officer TCE Act Implementation); Georgina Closs (Bar Pro Bono); Robert Dedman (FSA); Rezzan Huseyin (PDP Journals); Phil Michaels (Friends of the Earth); Rebecca Hilsenrath (Law Works); Nic Newling, Philippa Dainty, Jo Wallwork (Treasury Solicitors); Rebecca Wilkie (Bar Pro Bono); Anna Fairclough (National Council of Civil Liberties); Preet Dhiraj (Information Tribunal Acting Team Leader); Andrew Button (Information Tribunal Case Worker).

Minutes: Andrew Button, Preet Dhiraj, Graham Cresswell, Mel Porter.

1. Welcome and Introductions

Mr Angel (JA) welcomed those present. He explained that the Information Tribunal would be transferring into the General Regulatory Chamber of the First-tier Tribunal in January 2010 and that he is currently judicial lead for the GRC.

2. Action Points from last meeting

a) Guidance notes for Litigants in Person

JA thanked Mr Timothy Pitt-Payne for his preliminary draft of these notes. The notes are now available on the Tribunal's web site. He asked the meeting for comments on whether the Notes achieve what is required, but added they will have to be revised in light of the new GRC Rules.

b) Access to Decisions

JA explained that the new Decisions web page, was launched last autumn on the Tribunal's web site, which now gives users the facility to search by a number of criteria. Mark Thorogood (MT) said he found it really helpful.

Others suggested it would be useful to be able to search by Tribunal panel members and by words in the text of judgements. JA said he will look into this. Michele Voznick (MV) said that searches by party name were not necessarily reliable; JA said that it was necessary to ensure the party name was as stated in the determination, e.g. a search for DBERR would not return results for Department of Business, Enterprise and Regulatory Reform.

Maurice Frankel (MF) asked why confidential annexes to decisions were not published after any expiry of embargo. JA said some remained permanently confidential, but that it should be clarified with Chairs whether some could be published.

JA explained that appeal decision are also published of the High Court, Court of Appeal and House of Lords, but that currently the web site does not allow for more than two appeal decisions to be published.

JA mentioned that case summaries are now provided for precedent setting decisions.

c) Witness Bundles

MT discussed witness bundles: the Information Commissioner (IC) has found cases where these have not been provided for witnesses at hearings. JA agreed parties should be aware that if they are calling witnesses that they need to provide additional copies for them. JA invited the IC to submit a draft direction to this effect to be included in the Tribunal's standard directions.

3. Tribunal Performance

a) Targets

JA explained the Tribunal's performance against its targets. Appeals were 40% down on the previous year. MT for the IC thought this would even out over the year.

JA discussed the 30 week target [to complete the appeal process]: 62% has been achieved to date against the 75% target (this time last year the outcome was 46%). However the result is affected by a high level of old cases still in the system, including some stayed at a point of preliminary issue, plus the complexity of managing consolidated cases. He said Information Tribunal cases tend to be complex, requiring witnesses, counsel etc.

JA asked all present for their help in keeping down the level of adjournments, and requests for further directions etc. At the directions hearing it would be helpful if the full hearing date could be agreed – if dates are not agreed at this stage then targets were often missed. Also changes to venues were one of the main reasons for a loss of flexibility over hearing dates.

b) Appeals

JA explained that there were now a number of appeal decisions in relation to Tribunal decisions and these were helping to provide better precedents for FOII practitioners.

JA said another six Information Tribunal cases are currently being appealed.

4. Changes

JA discussed the Tribunals, Courts and Enforcement Act 2007 and the new framework for the Tribunal Initially up to 1/3 of cases may be first heard in the Upper Tribunal. NSAP appeals will go straight to the Upper Tribunal.

5. GRC Rules

Andrew Moseley (AM) explained the draft General Regulatory Chamber Rules and the current consultation process. Marion Saunders asked whether lay members could sit in both tiers. AM clarified that those able to sit in the Upper Tribunal will be able to sit in both. However current lay members will transfer in to the First-tier Tribunal. Members of the NSAP will transfer in as deputy judges in the Upper Tribunal. All other Chairs and lay members will transfer in to the First-tier. JA reminded users that they should respond to the consultation by 8 May 2009.

6. Question & Answer Session

Robert Dedman asked whether embargoed draft judgements that contain information affecting the commercial interests of a third party could be made available to that party for comments. JA said that would only be possible if the third party were joined to the appeal. He said the purpose of an embargoed draft was not to allow a review of the draft decision, but only to give an opportunity for the parties to point out any accidental omissions or errors.

JA thanked all those who had attended and suggested another meeting in March 2010 to consider how the new GRC was progressing. The meeting concluded at 11:55 am.
