

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]@justice.gov.uk<
Sent: 13 December 2021 09:50
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Tribunal Members Travel Expenses

Hi [redacted – sec 38(1)(b)],

Hope you had a nice weekend. I've been promised a response on this from our Judicial Expenses policy team by Wednesday and will send over as soon as I have it.

Just to update on the JWG OiC questions also, the response to the JWG is out for comment with OGDs – it's taken a little longer than I'd hoped but I remain optimistic we'll have a reply soon.

Thanks,

[redacted –

sec

38(1)(b)]

From: [redacted – sec 38(1)(b)]@gov.scot <[redacted – sec 38(1)(b)]@gov.scot>
Sent: 06 December 2021 14:54
To: [redacted – sec 38(1)(b)]< [redacted – sec 38(1)(b)]@justice.gov.uk>
Cc: [redacted – sec 38(1)(b)]@gov.scot; [redacted – sec 38(1)(b)]@gov.scot
Subject: Tribunal Members Travel Expenses

Good afternoon [redacted – sec 38(1)(b)],

[redacted – out of scope]

I look forward to hearing from you, thanks in advance.

Kind regards

[redacted – sec 38(1)(b)]

[redacted – sec
38(1)(b)]

Senior Policy Officer

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**

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[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]@scotcourts.pnn.gov.uk>
Sent: 20 December 2021 12:32
To: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals - JWG on 26 July 2021

Chasing them up just now, I don't think they were.

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]Head of Strategy and Governance | Judicial Office for Scotland
Parliament House | Parliament Square | Edinburgh | EH1 1RQ | Tel: **[redacted – sec 38(1)(b)]**

From: [redacted – sec 38(1)(b)]@assured.systems.gov.scot <[redacted – sec 38(1)(b)]@assured.systems.gov.scot>
Sent: 17 December 2021 14:57
To: [redacted – sec 38(1)(b)]@scotcourts.gov.uk>
Subject: Devolution of Reserved Tribunals - JWG on 26 July 2021

Hi **[redacted – sec 38(1)(b)]**

Are you able to advise if minutes of the Judicial Working Group meeting on 26 July were ever issued? I have no record of having received them, however just wanted to check if there were any.

Thanks in advance. Hope you have a good break over Christmas.

Kind regards

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

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[redacted – sec 38(1)(b)]

From: Gollan J (Jennie)
Sent: 22 December 2021 11:48
To: **[redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)]**
Subject: RE: Devolution of Reserved Tribunals - Meeting

Hi **[redacted – sec 38(1)(b)]**,

Yes please, many thanks.

And yes, that was basically what I was going to relay to you – but might still be worth having a quick chat first before you action that.

Speak in new year,

Jennie

From: **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>
Sent: 22 December 2021 11:46
To: Gollan J (Jennie) <Jennie.Gollan@gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>
<**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** @gov.scot>
Subject: RE: Devolution of Reserved Tribunals - Meeting

Jennie

I think we can make any time in that slot. Shall I send a calendar request?

Denise had a conversation with the Minister last week and I understand she would like a note from her to CSJV with the potential for him to similarly write to FM and DFM.

[redacted – out of scope]

I was going to take this forward first week back but will wait for meeting with you first.

Thanks

[redacted – sec 38(1)(b)]

From: Gollan J (Jennie) <Jennie.Gollan@gov.scot>
Sent: 22 December 2021 11:39
To: **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>
Subject: Devolution of Reserved Tribunals - Meeting

Hi all,

Would be grateful if we could get a short meeting scheduled in the new year so I can update on Cab Sec/Minister's thinking on the submission sent up on 7 October.

I've currently got availability between 11-2 on Wed 12 January if there is any time in that slot that would suit?

Thanks,

Jennie

Jennie Gollan

Special Adviser to the First Minister

Tel: 0131 244 [redacted – sec 38(1)(b)]

Mob: [redacted – sec 38(1)(b)]

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[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 18 January 2022 11:39
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals

Thanks [redacted – sec 38(1)(b)]

This is a very good letter. I've added some comments, and as track change doesn't make it clear I've tried to bold them for clarity. I've also asked a question which relates to the current status of the no detriment paper.

I think [redacted – sec 38(1)(b)] would want to look this over

before it goes. [redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>
Sent: 17 January 2022 17:16
To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: Devolution of Reserved Tribunals

Click on the link to open 'DRAFT Note on Devolution of reserved Tribunals - Jan 2022' - <https://erdm.scotland.gov.uk:8443/documents/A36109334/details>

Hi [redacted – sec 38(1)(b)]

As you know, we sent up a submission on progressing the devolution of reserved tribunals in October last year. A meeting was held with the Minister towards the end of October to discuss the suggested options. The Minister advised at that point that she wanted to consider matters.

[redacted – sec 38(1)(b)] and I met with Jennie Gollan last week. She suggested drafting a note for FM/DFM outlining support for option 3 and inviting views.

I attach the draft note and would be grateful for your comments. [redacted – sec 38(1)(b)] have provided their input.

Kind regards
[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 24 January 2022 10:24
To: Gollan J (Jennie)
Cc: Director of Justice; [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)]
Subject: DRAFT Note on Devolution of Reserved Tribunals
Attachments: DRAFT Note on Devolution of reserved Tribunals - Jan 2022.docx

Hi Jennie

Further to our meeting on 12 January, please find attached a draft note on the devolution of reserved tribunals as discussed.

I would be grateful for your views on this.

Kind regards

[redacted – sec 38(1)(b)]

[redacted – sec
38(1)(b)]

Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted – sec 38(1)(b)]

From: Rennick NS (Neil)
Sent: 24 January 2022 07:17
To: **[redacted – sec 38(1)(b)]** Director of Justice
Cc: **[redacted – sec 38(1)(b)]** **[redacted – sec 38(1)(b)]** **[redacted – sec 38(1)(b)]**
Subject: RE: DRAFT Note on Devolution of reserved Tribunals - Jan 2022 (A36109334)

[redacted – sec 38(1)(b)]

Thank you. This is an excellent submission. Subject to any views from Jennie, I'm happy for it to go to the cab Sec.

Neil

From: **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>
Sent: 18 January 2022 15:53
To: Director of Justice <DirectorofJustice@gov.scot>
Cc: **[redacted – sec 38(1)(b)]** **[redacted – sec 38(1)(b)]** >; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>; **[redacted – sec 38(1)(b)]** <**[redacted – sec 38(1)(b)]** @gov.scot>
Subject: DRAFT Note on Devolution of reserved Tribunals - Jan 2022 (A36109334)

Hi Neil

Click on the link to open 'DRAFT Note on Devolution of reserved Tribunals - Jan 2022' - <https://erdm.scotland.gov.uk:8443/documents/A36109334/details>

As you know, we sent up a submission on progressing the devolution of reserved tribunals in October last year. A meeting was held with the Minister towards the end of October to discuss the suggested options. The Minister advised at that point that she wanted to consider matters. I understand that she subsequently spoke to **[redacted – sec 38(1)(b)]** in the run up to Christmas indicating that **[redacted – sec 29(1)(a)]**, with the expectation that we seek to subsequently re-open **[redacted – sec 29(1)(a)]**

[redacted – sec 38(1)(b)] and I met with Jennie Gollan last week, who suggested drafting a note to the First Minister / Deputy First Minister outlining **[redacted – sec 29(1)(a)]**.

I attach the note and would be grateful for your views. **[redacted – sec 38(1)(b)]** and **[redacted – sec 38(1)(b)]** have all provided input – I have accepted the various track changes so that there is a 'clean' draft.

Kind regards
[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Sent: 18 February 2022 14:11
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals - draft Order in Council

Hi [redacted – sec 38(1)(b)],

I am thanks, hope you are too.

We are still working to respond to the questions raised by the Judicial Working Group on the Order in Council. We recognise that this process has been very slow - while the MoJ is coordinating this work, we are dependent on input from other government departments to progress it. We are continuing to work with other departments to provide these answers and hope to be able to respond shortly.

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 17 February 2022 14:35
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Cc: [redacted – sec 38(1)(b)] @gov.scot; [redacted – sec 38(1)(b)] @gov.scot
Subject: Devolution of Reserved Tribunals - draft Order in Council

Hi [redacted – sec 38(1)(b)]

I hope you are well.

I just wanted to touch base and see if you were in a position to provide any update on the draft Order in Council?

Kind regards
[redacted – sec
38(1)(b)]

[redacted – sec 38(1)(b)]
Senior Policy Officer

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
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[redacted – sec 38(1)(b)]

From: Gollan J (Jennie)
Sent: 23 February 2022 16:20
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: DRAFT Note on Devolution of Reserved Tribunals

Hi,

Apologies for delay. Cab Sec is going to raise this on the resource spending review call with Liz Lloyd tomorrow and I will come back after that on next steps with the sub

Thanks

Jennie

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 16 February 2022 16:15
To: Gollan J (Jennie) <Jennie.Gollan@gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: FW: DRAFT Note on Devolution of Reserved Tribunals

Hi Jennie

I refer to [redacted – sec 38(1)(b)] email below and wonder if you are able to provide an update

on this. Kind regards

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

From: Gollan J (Jennie) <Jennie.Gollan@gov.scot>
Sent: 01 February 2022 09:17
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: DRAFT Note on Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I have a conversation with Liz Lloyd around spending review tomorrow where I was going to float this suggestion with her for a view before coming back on note as I think that would be a helpful sounding board.

J

From: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>

Sent: 01 February 2022 09:11

To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>; Gollan J (Jennie) <Jennie.Gollan@gov.scot>

Subject: RE: DRAFT Note on Devolution of Reserved Tribunals

Hi Jennie

Know you're busy but wondered if you'd had a chance to consider?

Regards

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 24 January 2022 10:24

To: Gollan J (Jennie) <Jennie.Gollan@gov.scot>

Cc: Director of Justice <DirectorofJustice@gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>;

[redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot> **Subject:** DRAFT Note on Devolution of Reserved Tribunals

Hi Jennie

Further to our meeting on 12 January, please find attached a draft note on the devolution of reserved tribunals as discussed.

I would be grateful for your views on this.

Kind regards

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]

Senior Policy Officer

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**

[Redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 05 April 2022 09:03
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)]

Thanks for the detailed response and for covering this in [redacted – sec 38(1)(b)] absence. Reading between the lines, I think we are all in same mind-set over this query as it presently stands.

As you are probably already aware from the e-mails below, we are still awaiting a DWP response to some further enquiries that we made on the matter. Depending on what they provide us with, I think it might be worthwhile taking you up on the offer of a that catch up, so that we can gather our thoughts collectively and decide how best to handle this request.

As soon as we hear anything back, I will share the detail with the group and if necessary will schedule in a quick call for us all.

Thanks again,

[redacted – sec

38(1)(b)]

[redacted – sec 38(1)(b)] Strategic Finance | Social Security Directorate

Scottish Government | 1st Floor 4 Atlantic Quay

Please contact me on Microsoft Teams or email as I am not contactable by phone at this time

Postal address: 5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU [redacted – sec

38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)

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gov.scot

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>

Sent: 04 April 2022 16:00

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>; [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] >

Subject: RE: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] off on leave over the Easter break so passed this on to me.

I've had a read through below. I think there has possibly been a conflation the work that is underway to devolve benefits with the establishment and expansion of the Social Security

Chamber in the devolved Scottish system and the devolution of reserved tribunals work.

On the former, we do not have a [redacted – sec 29(1)(a)] around what the [redacted – sec 29(1)(a)] would be to take forward the work. Without being sighted on any existing [redacted – sec 29(1)(a)].

The Order in Council is the responsibility of the UK Government to draft and take forward which has been substantially delayed. There is very little chance of the devolution taking place by 2024 as once it has been passed, SCTS would require two years to implement it and we would be required to take forward a raft of regulations ourselves. We have been chasing the MoJ for an updated OiC for about a year now and still haven't received anything so I'm also struggling to see why they would need over £1m in the next financial year for an IT project.

I'd be happy to catch up on it if helpful.

Cheers

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 01 April 2022 16:17
To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @socialsecurity.gov.scot>
Subject: FW: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)]

Sorry to bother you but as you will see from below, I was passed your name as someone who might be able to assist.

This query is in relation to DWP wanting to recharge the Scottish Government for DWP work/costs related to the delivery of devolution to the Scottish Courts & Tribunal Services. I would be extremely grateful if you could take the time to review this e-mail trail to bring yourself up to speed and then advise if there is anything further you can add and/or if this is an area you are able to assist with.

As you will notice, we are still awaiting more detail from DWP but once we have this it might be prudent for us and [redacted – sec 38(1)(b)] to get together for a quick catch up to see if we can get a better understanding of the ask.

Should you have any queries yourself or require more information then please do not hesitate to contact me.

Many thanks,

[redacted – sec

38(1)(b)]

[redacted – sec 38(1)(b)] Strategic Finance | Social Security Directorate

Scottish Government | 1st Floor 4 Atlantic Quay

Please contact me on Microsoft Teams or email as I am not contactable by phone at this time

Postal address: 5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU [redacted – sec 38(1)(b)] @gov.scot

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W: beta.gov.scot/policies/social-security/



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From: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>

Sent: 31 March 2022 16:58

To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>

Subject: RE: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)]

Thanks for the update.

[redacted – sec 38(1)(b)] email address is [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] **Senior Finance**

Business Partner Scottish Courts and

Tribunals Service Saughton House

Broomhouse Drive

Edinburgh EH11 3XD

Tel: 0131 248 [redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)

http://myscs/Pages/Support/Finance/Finance_Forward/

From: [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot) <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>

Sent: 31 March 2022 15:05

To: [redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>; [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@socialsecurity.gov.scot](mailto:[redacted – sec 38(1)(b)]@socialsecurity.gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@scotcourts.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourts.gov.uk)>

Subject: RE: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)],

Thank you for your response below and apologies for the delay in responding but we have been caught up on other business this week. I think this possibly evidences that we need more information from DWP before committing ourselves to anything, especially given that we are unsure where any funding is coming from.

[redacted – sec 38(1)(b)] has since gone back to DWP and posed the following questions to them to try and see if they can clarify the issue/requirement a little more:

- Any high-level policy or project planning documents setting out the scope of the work to take place and the agreement between SG and DWP to work together on this. Does DWP have something to let us get to grips with an overview of the Devolution of Tribunals team's work both in the devolved and reserved areas?

- Confirmation DWP believe that these costs are due to SG under the terms of the Concordat between SG and DWP and in turn the Fiscal Framework, and if anyone on the SG side has affirmed this understanding?
- Contacts in SCTS or SG that DWP have been liaising with and are responsible on our side for this programme of work?

Once we receive any answers/responses we will share these with you and perhaps arrange a quick call with yourself and [redacted – sec 38(1)(b)] to discuss.

In the interim, do you happen to have details on the correct e-mail address for [redacted – sec 38(1)(b)] so that we can bring him up to speed and also include him in future conversations going forward?

Thanks again,

[redacted – sec

38(1)(b)]

[redacted – sec 38(1)(b)] Strategic Finance | Social Security Directorate

Scottish Government | 1st Floor 4 Atlantic Quay

Please contact me on Microsoft Teams or email as I am not contactable by phone at this time

Postal address: 5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)

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W: beta.gov.scot/policies/social-security/



[@SocSecScot](https://twitter.com/SocSecScot) & [@ScotGovFairer](https://twitter.com/ScotGovFairer)



gov.scot

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>

Sent: 25 March 2022 16:23

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@socialsecurity.gov.scot](mailto:[redacted – sec 38(1)(b)]@socialsecurity.gov.scot)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourts.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourts.gov.uk)>

Subject: RE: Devolution of Tribunals Cost Recovery Agreement with SG

Hi [redacted – sec 38(1)(b)]

This looks to cover both the devolved benefits that we were discussing earlier in the week and the devolution of reserved tribunals. I am involved in both of these areas from the SCTS perspective.

SCTS has not included any assumptions on costs for DWP relating to devolved benefits and I haven't been involved in any discussions around DWP costs previously. The SCTS assumptions for devolved benefits include only the cost to SCTS (set-up and ongoing running costs).

There were financial assumptions prepared back in 2017 on the cost of devolution of reserved tribunals. This covered the set-up costs that would be incurred by SCTS and the ongoing running costs with the funding coming via SG and transfer of existing HMCTS budgets. There were no assumptions included for any costs to DWP.

It might be useful to discuss with **[redacted – sec 38(1)(b)]** who is responsible for Reserved Tribunals in the Justice Directorate and will be more aware of the different strands of work within the devolution project.

I hope that helps. I'm available most of Mon/Tues if it would be useful to have a chat through.

Many thanks,

[redacted – sec

38(1)(b)]

[redacted – sec 38(1)(b)] [redacted – sec
38(1)(b)] Scottish Courts and Tribunals
Service Saughton House
Broomhouse Drive
Edinburgh EH11 3XD

Tel: 0131 248 [redacted – sec 38(1)(b)]
[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)

http://myscs/Pages/Support/Finance/Finance_Forward/

From: [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot) <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>
Sent: 25 March 2022 15:23
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@scotcourtribunals.gov.uk](mailto:[redacted – sec 38(1)(b)]@scotcourtribunals.gov.uk)>; [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot); [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] [@socialsecurity.gov.scot](mailto:[redacted – sec 38(1)(b)]@socialsecurity.gov.scot); [redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)
Subject: FW: Devolution of Tribunals Cost Recovery Agreement with SG

CAUTION: This email is from an external sender, please take extra care to consider its context, intent and veracity before clicking on links or opening attachments.

Hi [redacted – sec 38(1)(b)],

Was nice to meet you at the 'SCTS & SSD Monthly Finance Update' earlier in the week.

As I mentioned on the call, we received the e-mail below a couple of weeks back and [redacted – sec 38(1)(b)] suggested that we touch base with yourself given that this is in relation to SCTS.

Before we engage with the DWP, I would be extremely grateful if you and the other copy addresses could review the query and advise us on the following points:

- a) Does any of this resonate with the group, is this expected/known or even budgeted for?
- b) Any thoughts comments on the request itself. Any clarity or background knowledge would be appreciated?
- c) If not yourselves, then are you able to advise who best to contact for more information/assistance?

[redacted – sec 29(1)(a)] and we aim to respond to them by the middle of next week, so would welcome a swift response if at all possible.

Should anyone have any queries or require further information then please do not hesitate to contact me and happy to set up a call of a discussion proves more constructive.

Many thanks,

[redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] Strategic Finance | Social Security Directorate

Scottish Government | 1st Floor 4 Atlantic Quay

Please contact me on Microsoft Teams or email as I am not contactable by phone at this time

Postal address: 5 Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU [redacted – sec

38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)

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W: beta.gov.scot/policies/social-security/



[@SocSecScot](https://twitter.com/SocSecScot) & [@ScotGovFairer](https://twitter.com/ScotGovFairer)

From: [redacted – sec 38(1)(b)] DWP Disputes Modernisation Programme, Change Resilience Group

<[redacted – sec 38(1)(b)] [@DWP.GOV.UK](mailto:[redacted – sec 38(1)(b)]@DWP.GOV.UK)>

Sent: 14 February 2022 13:27

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] [@gov.scot](mailto:[redacted – sec 38(1)(b)]@gov.scot)>

Cc: [redacted – sec 38(1)(b)] DWP DISPUTES MODERNISATION PROGRAMME <[redacted – sec 38(1)(b)]

[@DWP.GOV.UK](mailto:[redacted – sec 38(1)(b)]@DWP.GOV.UK)>; [redacted – sec 38(1)(b)]

Disputes Modernisation Programme <[redacted – sec 38(1)(b)] [@DWP.GOV.UK](mailto:[redacted – sec 38(1)(b)]@DWP.GOV.UK)>

Subject: Devolution of Tribunals Cost Recovery Agreement with SG

[redacted – sec 38(1)(b)]

Good afternoon hope you are well. I've been given your name by a number of people to open discussions around an [redacted – sec 29(1)(a)]. Would be happy to discuss on a call at a convenient time for you once you have had chance to look at the background information below. Towards the end of this mail is a table with our forecast costs which will be detailed within the business case.

[redacted – sec 29(1)(a)].

[redacted – out of scope]

	Forecast costs TBC beyond 22/23: No clerical reversion included						
£m	19/20	20/21	21/22	22/23	23/24	24/25	[redacted – out of scope]
[redacted – out of scope]					1.00		1.00
[redacted – out of scope]	0.01						0.01
[redacted – out of scope]		0.1	0.12	0.17	0.26 TBC	0.26 TBC	0.91 TBC
[redacted – out of scope]				N/A			N/A
[redacted – out of scope]	0.01	0.1	0.12	0.17	1.26 TBC	0.26 TBC	1.92 TBC

Kind Regards

[redacted – sec

38(1)(b)]

I am normally office based 100% of the time

Devolution of Tribunals Project (DoT), Disputes Modernisation Programme | Change & Resilience Group | Department for Work and Pensions | BP6002 | Benton Park View | Newcastle Upon Tyne | NE98 1YX | Phone 0191[redacted – sec 38(1)(b)] | Mobile [redacted – sec 38(1)(b)] | www.dwp.gov.uk

Please consider the environment before printing E_M_A_I_L_B_L_O_C_K

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 18 May 2022 11:00
To: [redacted – sec 38(1)(b)] **Cc:**[redacted – sec 38(1)(b)]
Subject: Devolution of Reserved Tribunals - no detriment submission

Morning,

I've just been in a meeting about Devolution of Tribunals with DWP (regular catch up on the devolution of Social Security benefits and ultimately tribunal). There was some intelligence from DWP that MoJ have advised that all government departments have now responded to their call for information, and BEIS has provided a response to the outstanding Employment Tribunal questions. There is therefore an indication that there is some (small) progress on the revised Order in Council, although no firm date was given for when it might be expected.

In light of this it would be helpful if we could progress the no detriment submission – [redacted – sec 38(1)(b)], I believe this is currently with you?

[redacted – sec 38(1)(b)], appreciate you have moved team, copying you in for information!

Kind regards
[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]
**Senior
Policy Officer**

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @justice.gov.uk>
Sent: 20 July 2022 17:51
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I am well, thanks, although glad it's a bit cooler today! Hope you're well too.

We are continuing to work with OGDs to respond to the JWG questions on the OiC. While we are making progress with this, it remains a slow process and I am afraid that I'm not able to give an indication of when a revised OiC is likely to be available.

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 11 July 2022 11:40
To: [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)] @justice.gov.uk>
Cc: [redacted – sec 38(1)(b)]@gov.scot; [redacted – sec 38(1)(b)]@gov.scot
Subject: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I hope you are well.

I just wanted to get in touch about the devolution of reserved tribunals, are you able to give an indication of when the revised Order in Council might be available?

I look forward to hearing from you.

Kind regards
[redacted – sec 38(1)(b)]

[redacted – sec
38(1)(b)]**Senior Policy
Officer**

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**

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[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Sent: 28 September 2022 15:41
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I hope you're well. Just wanted to update you on this SI and recent developments. [redacted out of scope]

Thanks very much,

[redacted – sec

38(1)(b)]



[redacted – sec 38(1)(b)]
Policy Advisor
102 Petty France, Westminster, London, SW1H 9AJ
[redacted – sec 38(1)(b)] **[please note my new number]** Find out more on [People Finder](#)
Follow us on Twitter [@MoJGovUK](#)

I work flexibly. If you receive an email out of office hours, please don't feel you need to respond until your next working day.

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 04 August 2022 12:14
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

Thanks for your email.

SCTS have indicated that they [redacted – out of scope], beyond observing that the correct terminology should be applied to the yellow highlighted areas in paragraph 2 but deferring to HMCTS colleagues in that regard.

[redacted – out of scope]

I would be grateful if you could keep us advised as to progress.

Kind regards

[redacted – sec 38(1)(b)]
[redacted – sec 38(1)(b)]
Senior Policy Officer

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Sent: 02 August 2022 11:01
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)],

Hope all is well! Just wanted to check in on the below and when you think you might be able to provide comments? Just keen to make sure we have enough time to properly consider and address any concerns you might have before we clear the final version of the SI.

Thanks very much,

[redacted – sec
38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 21 July 2022 10:40
To: [redacted – sec 38(1)(b)] @gov.scot
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

Hopefully we don't have too many days like that this year!

On a different subject, just wanted to check in on the [redacted – out of scope] and how things were going with that? I understand via our [redacted – out of scope]
Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 21 July 2022 08:14
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I'm well thanks, definitely grateful for the cooler weather!

Thanks for coming back to me.

Kind regards
[redacted – sec
38(1)(b)]

[redacted – sec 38(1)(b)]

Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Sent: 20 July 2022 17:51
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I am well, thanks, although glad it's a bit cooler today! Hope you're well too.

We are continuing to work with OGDs to respond to the JWG questions on the OiC. While we are making progress with this, it remains a slow process and I am afraid that I'm not able to give an indication of when a revised OiC is likely to be available.

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 11 July 2022 11:40
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @justice.gov.uk>
Cc: [redacted – sec 38(1)(b)] @gov.scot; [redacted – sec 38(1)(b)] @gov.scot
Subject: Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

I hope you are well.

I just wanted to get in touch about the devolution of reserved tribunals, are you able to give an indication of when the revised Order in Council might be available?

I look forward to hearing from you.

Kind regards

[redacted – sec 38(1)(b)]
[redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

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Minister for Community Safety

SUBMISSION - BACKGROUND BRIEFING ON TRIBUNALS

Priority and Purpose

1. Routine
2. To provide background briefing on a range of tribunal related matters ahead of a briefing session with officials on 10 January.

Recommendation

3. Recommends that you note the contents of this submission.

Context and Issues

4. The purpose of this paper is to provide background briefing on several areas related to the tribunals ahead of our briefing discussion on 10 January. Broadly, these areas are:
 - [redacted – out of scope] (Annexes A, B);
 - [redacted – out of scope] (Annex C);
 - [redacted – out of scope] (Annexes D, E, and F); and,
 - [redacted – out of scope].

[redacted – out of scope]

5. The Tribunals (Scotland) Act 2014 (“the 2014 Act”) created a new, simplified statutory framework for tribunals in Scotland, with the aim of bringing existing tribunal jurisdictions together and providing a structure for new jurisdictions to be added as required.
6. The 2014 Act created two tribunals, the First-tier Tribunal for Scotland (“First-tier Tribunal”) which is a tribunal of the first instance and the Upper Tribunal for Scotland (“Upper Tribunal”) which is an appeal tribunal. These are known collectively as the Scottish Tribunals. Schedule 1 of the 2014 Act sets out those bodies which may transfer into the First-tier Tribunal for Scotland.
7. The Lord President is the head of the Scottish Tribunals and has delegated various functions to the President of Scottish Tribunals, Lord Woolman. The Scottish Courts and Tribunals Service (SCTS) are responsible for the administration of the Scottish Tribunals.
8. Since 2014, work has been on-going to transfer existing tribunals and new jurisdictions to the Scottish Tribunals . There are now six chambers with the First

Tier Tribunal, these are: General Regulatory; Health and Education; Tax; Social Security; Housing and Property; and, Local taxation (however functions will not transfer into this chamber until 1 April 2022). A table of the respective chambers and functions within each is included at **Annex A**.

9. [redacted – out of scope].

10. [redacted – out of scope]

Devolution of reserved tribunals

11. Devolution of the management and operation of all reserved tribunals (which includes administrative, judicial and legislative powers) other than the Special Immigration Appeals Commission and the Proscribed Organisations Appeals Commission was recommended by Smith Commission in 2014. However, the laws providing for the underlying reserved substantive rights and duties will remain reserved.

12. Since then, work has been ongoing to reach agreement on the details of devolution however progress has been slow. A summary of this work can be found at **Annex C**.

[redacted – out of scope]

13. The daily fee rates for members of the Scottish Tribunal currently falls within the Scottish Public Sector Pay Policy Framework for senior appointments. Members of the Scottish Tribunals receive a flat rate daily fee. They do not receive a pension, holiday pay, sick pay or any other entitlements unlike counterparts in the reserved tribunal system.

[redacted – out of scope]

[redacted – out of scope]

Options Considered and Advice

14. We will use the topics outlined above as the agenda for our briefing session with you on 10 January.

Assessment of Options

15. N/A

Bute House Agreement Implications

16. N/A

Financial and Legal Considerations

17. N/A

Sensitivities

18. N/A

Quality Assurance

19. This Submission has been approved by [redacted – sec 38(1)(b)] interim Deputy Director, Civil Law and Legal Systems Division.

Conclusions and next Steps

20. You are invited to note the contents of this submission.

[redacted – sec 38(1)(b)] Justice: Civil Law and Legal Systems Division Ext [redacted – sec 38(1)(b)]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for Justice and Veterans		X		

Officials Copy List
DG Education and Justice Director of Justice [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] Jennie Gollan

Annex A - Scottish Tribunals Structure

December 2022

[redacted – out of scope]

[redacted – out of scope]

[redacted – out of scope]

[redacted – out of scope]

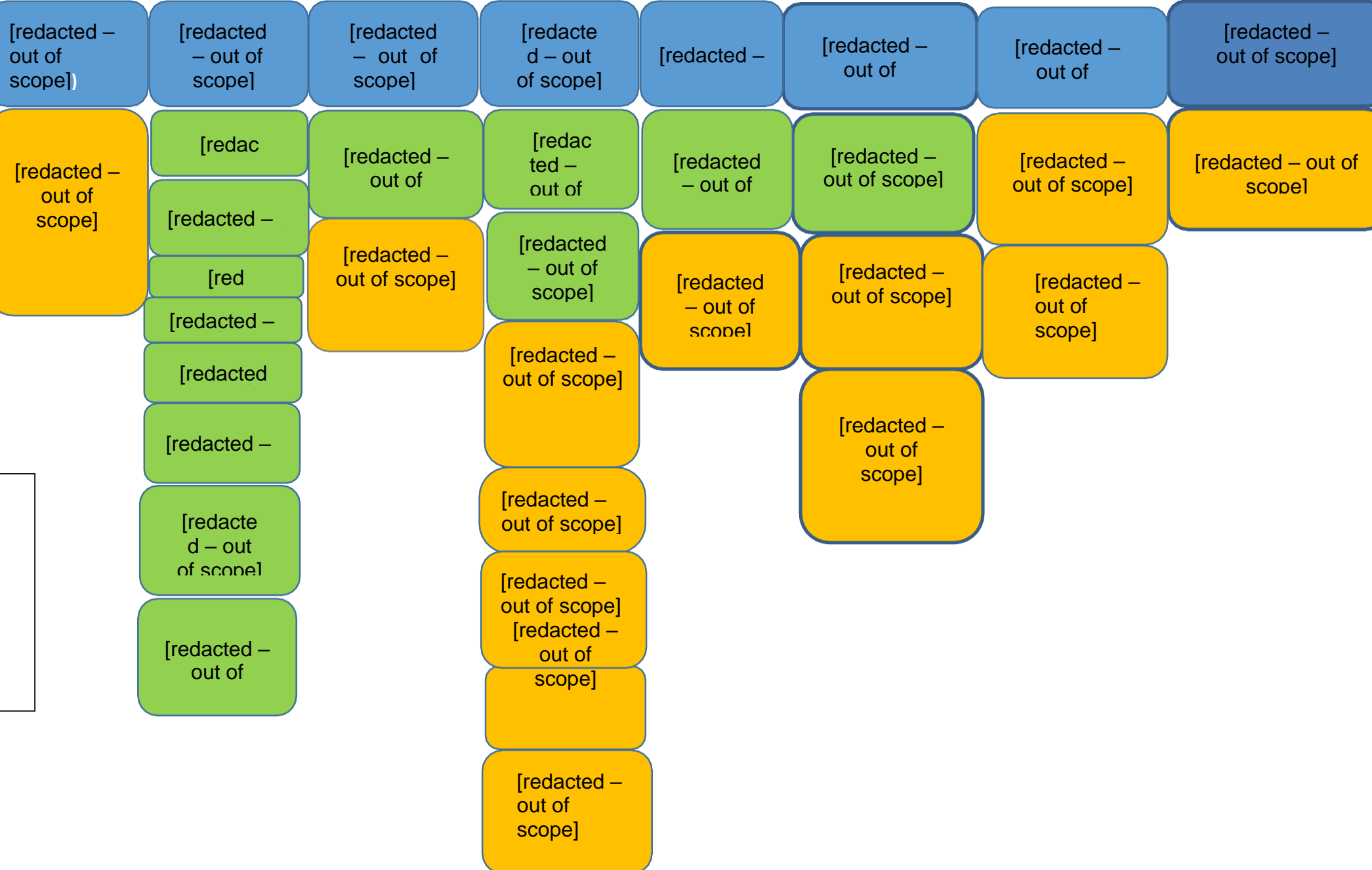
[redacted – out of scope]

[redacted – out of scope]

[redacted – out of scope]st

[redacted – out of scope]

First-tier Tribunal for Scotland



Legend for redaction colors:

- Green box: [redacted – out of scope]
- Yellow box: [redacted – out of scope]

Social Entitlement	2026	[redacted – out of scope]
Child Support	2026	
Employment	2026	

[redacted – out of scope]

DEVOLUTION OF RESERVED TRIBUNALS

Background

1. The Smith Commission Agreement in 2014 proposed that the management and operation of reserved tribunals be devolved to the Scottish Parliament and a programme of work is underway to deliver this. The laws governing the underlying substantive rights and duties will however remain reserved.
2. UKG passed the Scotland Act 2016 (“the 2016 Act”) in order to implement the terms of the Smith Commission Agreement. Section 39 of the Scotland Act 2016 paves the way for a qualified transfer of competence over specified tribunal functions by means of an Order in Council (OiC), which may impose conditions or restrictions on the exercise of the powers transferred and otherwise include provision to secure consistency in practice or procedure across the UK. The transfer of operations is contingent on a transfer of competence to the Scottish Parliament.
3. A draft of the OiC requires to be laid before and approved by both the UK and Scottish Parliaments. Once approved further legislation will then be required in the Scottish Parliament to effect an operational transfer. The process is technical and lengthy, therefore SG and UKG agreed that the transfer will take place in two tranches. Tranche 1 consists of employment, tax, social security and child support. The remaining tribunals, currently around 19, will be devolved under tranche 2. The Special Immigration Appeals Commission and the Proscribed Organisation Appeals Commission will remain reserved and do not form part of the proposed devolution.

Update on progress

4. The Ministry of Justice (MoJ) is leading on the drafting of the OiC. Progress to date has been slow and remains slow. We have not been able to obtain a prospective date from MoJ for when the draft OiC will be finalised. A deadline to share a consultative draft with SG in December 2017 was missed, as were a number of subsequent deadlines. A working draft of the OiC was received at the end of June 2018. SG provided comments in December 2018. A further draft was shared by UKG for technical review in January 2020. This was considered by affected SG policy teams and shared with the Judicial Working Group (“JWG”) and is the subject of ongoing discussion. MoJ advised in July 2021 that a comprehensive update would be provided late summer 2021. We have followed up with MoJ on when we can expect this but to date nothing has been received.
5. In parallel to this, it is considered critical to successful devolution that a significant proportion of the 600 or so reserved judges who currently deal with the reserved caseload agree to transfer into the Scottish system. The judiciary cannot be compelled to transfer, but for reasons of operational continuity and confidence in the system it is important that Scotland retains skilled and experienced decision makers. [redacted – sec 30(b)(ii)]
6. [redacted] have therefore prepared a ‘no detriment paper’ that we will adopt during the transfer of office holders in the reserved system to the Scottish Tribunals, which outlines the principles and was approved by Ministers. [redacted – sec 30(b)(ii)]
7. [redacted – sec 30(b)(ii)]

Timescales and next steps

8. Whilst we had been working towards a devolution date of 2024, this is not possible anymore. Due to the continued delays with receiving the Order in Council from UK Government, we do not currently have a settled timescale for the devolution of Tranche 1 to take effect.
9. [redacted – sec 30(b)(ii)]
10. [redacted – sec 30(b)(ii)]

	e]		e]				
[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]
[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]	[redacted – out of scope]

* [redacted – out of scope].
 ** [redacted – out of scope]

[redacted – out of scope]

Background

[redacted – out of scope]

[redacted – out of scope]

Background

[redacted – out of scope]

[redacted – sec 38(1)(b)]

From: redacted – sec 38(1)(b)] <redacted – sec 38(1)(b)]@justice.gov.uk>
Sent: 09 January 2023 12:55
To: redacted – sec 38(1)(b)]
Cc: redacted – sec 38(1)(b)]
Subject: Re: Devolution of Reserved Tribunals - Order in Council

Hi redacted – sec 38(1)(b)]

Thanks, I hope you're well and had a nice Christmas and new year too.

I'm pleased to say that we have had some progress. The Cabinet Office SI Hub who are responsible for drafting the OIC have been considering the cross-government responses to the questions raised by the Judicial Working Group. They provided a detailed response just before Christmas and have asked for instructions on a number of policy questions, including some proposed amendments to the OIC. We're working through these and will be sharing across government this week to get these answered, hopefully in the next month.

There'll then be some further work with the SI Hub to finalise and clear amendments to the OIC and the final response to the JWG. As this depends on resourcing for a number of different teams and departments, I'm afraid I still can't give a timescale for sharing the amended OIC. But it is a big step closer to being able to do so and gives us some tangible progress to work on, which is good news.

I'll keep you up to date as things progress.

Best wishes,

redacted – sec 38(1)(b)]

Sent from [Outlook for iOS](#)

From: redacted – sec 38(1)(b)] @gov.scot <redacted – sec 38(1)(b)]@gov.scot>
Sent: Monday, January 9, 2023 11:33:36 AM
To: redacted – sec 38(1)(b)] <redacted – sec 38(1)(b)]@justice.gov.uk>
Cc: redacted – sec 38(1)(b)] @gov.scot <redacted – sec 38(1)(b)]@gov.scot>
Subject: Devolution of Reserved Tribunals - Order in Council

Good morning redacted – sec 38(1)(b)] – happy new year! Hope you are well.

Are you able to provide an update on the current position regarding the revised Order in Council? We have a briefing with the new Minister tomorrow and it would be helpful to know whether any progress has been made since the Judicial Working Group meeting in July 2021.

Kind regards
redacted – sec
38(1)(b)]

redacted – sec 38(1)(b)]
Senior Policy Officer

Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@equalityhumanrights.com>
Sent: 01 March 2023 11:04
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Devolution of employment tribunals.

Hi [redacted – sec 38(1)(b)],

Thanks for this, that's a helpful update. Given the long timescale for this work, it's probably not worth meeting at the moment. However if you could please add the Commission to your list of interested stakeholders/consultees, that would be much appreciated.

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] @gov.scot <[redacted – sec 38(1)(b)]@gov.scot>
Sent: 28 February 2023 10:37
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@equalityhumanrights.com>; [redacted – sec 38(1)(b)]@gov.scot
Cc: [redacted – sec 38(1)(b)]@gov.scot; [redacted – sec 38(1)(b)]@gov.scot
Subject: FW: Devolution of employment tribunals.

Hi – this has been passed to me as a member of [redacted – sec 38(1)(b)] team, with involvement in the devolution of reserved tribunals.

The Smith Commission Agreement in 2014 proposed that the management and operation of reserved tribunals be devolved to the Scottish Parliament and a programme of work is underway to deliver this. It has been agreed that the devolution of tribunals will be done in two tranches, with the first tranche to include the employment, tax and social security and child benefit tribunals. This is to be an administrative devolution, and the laws governing the underlying substantive rights and duties will remain reserved. We are currently waiting for a revised Order in Council from the Ministry of Justice before further progress can be made.

Progress has been much slower than hoped albeit MoJ have indicated that they are continuing to work towards delivering the Order in Council as quickly as possible. It is unlikely that the devolution will be delivered in this Parliament.

Happy to discuss further if that would be helpful.

Kind regards
[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]

Senior Policy Officer

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 27 February 2023 11:41
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: FW: Devolution of employment tribunals.

From: [redacted – sec 38(1)(b)] <redacted – sec 38(1)(b)] @gov.scot>
Sent: 27 February 2023 10:57
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: FW: Devolution of employment tribunals.

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @equalityhumanrights.com>
Sent: 27 February 2023 09:30
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: Devolution of employment tribunals.

Hi [redacted – sec 38(1)(b)]

Hope you're well. [redacted – sec 38(1)(b)] in the directorate for equality, inclusion and human rights passed me your details. The Commission is interested in the devolution of employment tribunals, for various reasons. I understand you are involved with this work. I was wondering if it might be possible to have a quick catch up with you (and probably one of my colleagues) over the next couple of weeks with a view to you bringing us up to date with where there this work is at, particularly including timescales for key milestones.

Let me know if and when this might suit.

Many thanks,
[redacted – sec 38(1)(b)]
[redacted – sec 38(1)(b)]
Principal – Policy, Scotland
Equality and Human Rights Commission

T: 0141 [redacted – sec 38(1)(b)]

100 Bothwell Street,
Glasgow G2 7JD

equalityhumanrights.com

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DEVOLUTION OF RESERVED TRIBUNALS

RAG STATUS – AMBER

- Response awaited from MoJ with a revised Order in Council in order to allow discussions with JWG to progress. Update requested.
- Further consideration is being given to the timetable for progressing devolution.

[redacted – out of scope]

[redacted – out of scope]

[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope]

SOCIAL SECURITY CHAMBER

RAG STATUS - AMBER

[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope]

[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope] [redacted – out of scope] [redacted – out of scope]

[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope] [redacted – out of scope] [redacted – out of scope] [redacted – out of scope]

[redacted – out of scope]
[redacted – out of scope]
[redacted – out of scope]

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 11 April 2023 09:01
To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: STUC NCS Bill question 57
Attachments: First Review - FAIR WORK - local copy - TUC NCS Bill Questions and Responses (002).xlsx

Folks,

Response on the Tribunals question, number 24;

'We are awaiting a revised version of the Order in Council (that will deliver the devolution) from the UK Government. Upon receipt we will consider the next steps but a public consultation is intended.'

We've got a local copy, attached, with responses for our specific area of responsibility. I know [redacted – sec 38(1)(b)] was going to make additions on SB/Pay, so there will be a more recent version, but I'll start populating the main objective reference today.

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 05 April 2023 10:00
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 04 April 2023 15:49
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

Hi

I have updated some of the specific SB sections within our remit,

Happy to work through some of our areas first thing and see where we are at

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 10:47

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: STUC NCS Bill question 57

Both,

I've made a first go at this. Some Qs still need input from [redacted – sec 38(1)(b)] ([redacted – sec 29(1)(a)], but we're getting there.

I've saved locally so it's easier to muck about with and edit. Our questions are;

- 1
- 2
- 3
- 4
- 5
- 6
- 9
- 10
- 20
- 21 (do not distribute pick up in 20)
- 22
- 24
- 34
- 36
- 60

Bear in mind the columns on the left don't correspond to the question number, they are one number above it because there's a row at the top– the Q number is in the text box.

Grateful for views on whether this is looking right [redacted – sec 29(1)(a)] Once [redacted – sec 38(1)(b)] has inputted his questions, [redacted – sec 29(1)(a)].

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]

Sent: 03 April 2023 09:57

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: STUC NCS Bill question 57

[redacted – sec 38(1)(b)]

Thanks for this. With apologies as the traffic on this has been wild – is the suggestion from Thomas's earlier emails that we draft an initial response and send onto SGLD to clear?

Conscious we now have 22 and 60 on our desk as well as the initial Qs we identified.

Thanks,

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 31 March 2023 14:05

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)]

<[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: STUC NCS Bill question 57

Yes, that would be fine [redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] – would you be so kind as to capture this question in our list

of asks to legal? Thanks

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 31 March 2023 11:04

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)]

<[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: STUC NCS Bill question 57

Good morning [redacted – sec 38(1)(b)]

Thanks very much for your response. [redacted – sec 29(1)(a)]

All best wishes,

[redacted – sec

38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 31 March 2023 10:32

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)]

<[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: STUC NCS Bill question 57

[redacted – sec 29(1)(a)]

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 29 March 2023 17:51

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)]

<[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

Thanks [redacted – sec 38(1)(b)] and [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

As I mentioned in the other email chain, [redacted – sec 38(1)(b)] is my Unit Head and returns tomorrow – he may have a different view or direct experience on this so I'm happy to be corrected and support if possible.

Thanks,

[redacted –
sec 38(1)(b)]

[redacted – sec 38(1)(b)] (he/him)
Adult Social Care – Fair Work and Pay
Scottish Government
[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 29 March 2023 17:34
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

Hi [redacted – sec 38(1)(b)]

Thank you very much for your response.

I'll update the spreadsheet with any leads already decided.

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

Many thanks again,

[redacted – sec

38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 29 March 2023 17:07
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

Hi [redacted – sec 38(1)(b)]

Excellent, thank you for this offer. I have added [comments](#) below to each question.

Many thanks,

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 28 March 2023 17:32
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: STUC NCS Bill question 57

Hi all,

Thank you very much [redacted – sec 38(1)(b)] I will have a look at question 57 in case there is anything we can add. Please also let me know if I can support with any of the other questions you're working on

There are a few others where some of us have been identified as leads, or where we thought there may be a connection with your workstreams. Please could you have a look at the suggested leads/contributors I've listed below and let me know if this looks right to you? I'll then draw up lines and send these round for comment before the deadline where relevant.

[redacted – sec 38(1)(b)] I had a look through the questions with [redacted – sec 38(1)(b)] and though your names are against some of the Qs, we couldn't see any obvious links to advocacy or inclusive comms so we are happy to pick them up if you're content with that.

Copying in [redacted – sec 38(1)(b)] and [redacted – sec 38(1)(b)] below.

Questions and suggested leads/contributors

Q. 7 – [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)]

Would [redacted – sec 38(1)(b)] [redacted – sec 29(1)(a)]

Yes, will do.

Q. 8 – [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)]

Would [redacted – sec 38(1)(b)] [redacted – sec 29(1)(a)] Yes, will do.

[redacted – sec 29(1)(a)] [redacted – sec 38(1)(b)] [redacted – sec 29(1)(a)] [redacted – sec 38(1)(b)] [redacted – sec 29(1)(a)] [redacted – sec 38(1)(b)] unit so [redacted – sec 38(1)(b)] do you think you could help here?

39 – [redacted – sec 29(1)(a)] - [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)].

Would [redacted – sec 38(1)(b)] be in a position to provide any further lines [redacted – sec 29(1)(a)] Yes, will do

57 – [redacted – sec 38(1)(b)] already leading

58 – [redacted – sec 38(1)(b)]

59 – [redacted – sec 38(1)(b)]

60 – [redacted – sec 29(1)(a)] As such, I would be happy to support where I can but it is not our area of expertise. Would [redacted – sec 38(1)(b)] be willing to lead on this one? Not our area of expertise [redacted – sec 29(1)(a)] and to be honest, I'm not sure how to answer this question, so not sure I would be best placed! I can provisionally lead on this if there is no one else and check with [redacted – sec 38(1)(b)] when she is back.

61 [redacted – sec 29(1)(a)] – [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)] Would [redacted – sec 38(1)(b)] [redacted – sec 29(1)(a)]

I am happy to consider this and provide lines

Many thanks

[redacted – sec

38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 28 March 2023 10:37

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)]

<[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: STUC NCS Bill question 57

Hi all,

[redacted – sec 29(1)(a)]

I suspect most of it is for myself and [redacted – sec 38(1)(b)] to address as we are planning on completing an equality impact assessment on the potential staff transfer piece, but we do not have a date in mind, and haven't scoped it out fully.

If you have any input to the question, I am happy to collate all of this and I will answer the question, I've already been able to address parts a,d, e and f. But also happy for any ideas on those parts too.

Many thanks,
[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] | NCS - Future Workforce | Adult Social Care Workforce And Fair Work | E:- [redacted – sec 38(1)(b)]

Friday is my non-working day.

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 27 April 2023 17:20
To: Minister for Victims & Community Safety
Cc: Director of Justice; [redacted – sec 38(1)(b)]
Subject: Briefing on Tribunals
Attachments: Ministerial Tribunals briefing Apr23.docx

Minister/PO,

Please find attached background briefing on the Scottish Tribunals and related matters. Officials are available to meet with the Minister to discuss the briefing in further detail if this would be helpful. Briefing for the Minister’s appearance at the Equalities, Human Rights and Civil Justice Committee on the 9 May for tribunal regulations will be sent by 2 May.

Kind regards,

[redacted – sec

38(1)(b)]

[redacted – sec 38(1)(b)] | [Tribunal Policy Team Leader](#) | 0131 244 [redacted – sec 38(1)(b)]



The Tribunals System and ‘sponsorship’ of the SPSO

Background

Tribunals are a central part of the Scottish justice system and play a vital role in protecting people's rights. People can go to a tribunal if they want to challenge a decision that affects them. Tribunals tend to be less formal and more accessible than the courts.

Some tribunals deal with matters that are reserved to the UK Parliament, like employment and immigration. Other tribunals deal with matters that are devolved to the Scottish Parliament, such as mental health and housing.

Specialist panels deal with these cases which include, amongst others, the compulsory care and treatment of people with mental health disorders; disputes between tenants and landlords; disputes involving land and property; and cases concerning children and young people with additional support needs.

1. Devolved tribunals reform – the Tribunals (Scotland) Act 2014

1. The devolved tribunals have developed independently of one another, so their practices and procedures can vary significantly in relation to recruitment, performance and training. We are restructuring Scotland's tribunals to make sure they are more user-friendly and to promote more consistency across tribunals, particularly in their practices and procedures.

2. The 2014 Act paved the way for tribunals to be brought under one umbrella – the Scottish Tribunals. The Scottish Tribunals operate independently of Scottish Ministers and Ministers must uphold members' independence. The unified system is headed by the Lord President. He is supported by the President of Scottish Tribunals to whom he has delegated certain functions. The President is currently Lord Woolman; however, he is retiring at the end of April when Lady Wise will take up the role.

3. The Scottish Tribunals has two tiers, a First-tier Tribunal, which makes decisions on cases which previously would have been heard by the individual tribunals, and an Upper Tribunal that mainly hears appeals against decisions of the First-tier. The First-tier Tribunal is divided into Chambers, each of which hears cases relating to particular subjects, like housing and property or tax. Each of the existing tribunals has or will over time transfer into the appropriate Chamber. This means that the expertise the tribunals built up before the reforms started will be retained. A suite of regulations (both affirmative and negative) is required to effect each transfer.

Chamber & President	Tribunal	Membership	2021 – 22 applications	Transfer date
Housing & Property Chamber – [redacted – sec 38(1)(b)]	<ul style="list-style-type: none">• Private Rented Housing & Homeowner Panel• Private Rented Sector & Private Residential Tenancies• Letting Agents• Rent & Term Applications• Repairing Standards	102	3350	<ul style="list-style-type: none">• 2016• 2017• 2017• 2017• 2017

	<ul style="list-style-type: none"> • Right of Entry 			<ul style="list-style-type: none"> • 2018
Tax Chamber – [redacted – sec 38(1)(b)]	<ul style="list-style-type: none"> • The Scottish Tax Tribunals 	4	10	<ul style="list-style-type: none"> • 2017
Health & Education Chamber – [redacted – sec 38(1)(b)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]
[redacted – sec 29(1)(a)] [redacted – sec 38(1)(b)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]
[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]
[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]
[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]	[redacted – sec 29(1)(a)]

4. [redacted – sec 29(1)(a)].

5. [redacted – sec 29(1)(a)]

2. Membership of the Scottish Tribunals

1. It is for the Scottish Ministers to appoint a person as a member of the Scottish Tribunals. The Judicial Appointments Board for Scotland (JABS) are responsible for running recruitment exercises and will make a recommendation to Scottish Ministers on the appointment of candidates. The policy team will prepare and send a submission to the

Minister seeking their consideration and approval or otherwise regarding the proposed appointment.

2. Members of the Scottish Tribunals are subject to automatic reappointment every five years save in a few very specific circumstances. The Scottish Ministers are responsible for the reappointment of members. The policy team will receive a recommendation from the President of Scottish Tribunals for or against reappointment and will prepare and send a submission to the Minister seeking their consideration regarding the reappointment.

3. The Judicial Office for Scotland acts as a liaison between the President, the Scottish Courts and Tribunal Service (SCTS) and the Scottish Government.

4. SCTS provides administrative support to the various Chambers within the Scottish Tribunals structure.

5. The most common submissions to the Minister from the tribunals policy team concern the appointment and reappointment of members and are as follows:

- Reappointment – invites the Minister to approve the reappointment of members for a period of five years, normally routine in nature and includes a copy of terms and conditions and letter of reappointment for the member
- Appointments – invites the Minister to agree to the JABS recommendation for the appointment of members. Normally routine in nature and includes copies of terms and conditions and letters of appointment.

3. [redacted – sec 29(1)(a)]

1. [redacted – sec 29(1)(a)].

2. [redacted – sec 29(1)(a)].

3. [redacted – sec 29(1)(a)]

4. [redacted – sec 29(1)(a)]

5. [redacted – sec 29(1)(a)]

4. Devolution of the management and operation of reserved tribunals

1. The 2014 Smith Commission Agreement proposed that the management and operation of 22 reserved tribunals be devolved to the Scottish Parliament.

2. S.39 of the Scotland Act 2016 paves the way for a qualified transfer of competence over specified tribunal functions by means of one or more Order in Council (OiC), which may impose conditions or restrictions on the exercise of the powers transferred and otherwise include provision to secure consistency in practice or procedure across Great Britain.

3. A draft of each OiC requires to be laid before and approved by both the UK and Scottish Parliaments. Once approved further legislation is required in the Scottish Parliament to effect an operational transfer (e.g. to transfer the caseload). The process is therefore technical and lengthy and as such SG and UKG have agreed that it will take place in two tranches, with Direct and Indirect Tax, the Employment Tribunal system, Social Security and Child Support, the first to transfer. We plan to consult on the OiC for tranche 1 this year, with a prospective date for effecting the operational transfer in 2024.

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

5. Reserved Tribunals: Key stakeholders and issues to note

- The reserved caseload dwarfs the devolved caseload; devolution will result in a significant extension of responsibilities.
- A Programme Board has been established to look at the feasibility of what is doable when and to oversee the work. It is led by [redacted – sec 38(1)(b)] and includes senior officials from SG, UKG and Her Majesty's Courts and Tribunals Service (HMCTS). HMCTS currently administers these tribunals. On devolution, SCTS will manage the administration.
- A Judicial Working Group led by Lord Woolman and his UK counterpart, Sir Keith Lindblom is working with SG and UKG on the arrangements for transfer. It's composed of senior reserved tribunal judges. [redacted – sec 29(1)(a)]. In progressing this reform we have also worked closely with relevant portfolio Ministers and their policy teams e.g. the Cabinet Secretary for Finance, Economy and Fair Work for Employment Tribunal policy and the Minister for Children and Young People for the Child Support Tribunal.

[redacted – out of scope]

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 03 May 2023 14:43
To: [redacted – sec 38(1)(b)]
Cc: [redacted – sec 38(1)(b)]
Subject: RE: Grant conditionality & employment tribunals

Hi [redacted – sec 38(1)(b)],

That line is our publicly stated position. It may not have been cleared by SGLD. I have copied our legal adviser [redacted – sec 38(1)(b)] in for awareness.

Kind regards,

[redacted – sec
38(1)(b)]

[redacted – sec 38(1)(b)] Tribunal Policy Team Leader | 0131 244 [redacted – sec 38(1)(b)]



From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 03 May 2023 09:12
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Grant conditionality & employment tribunals

Morning folks,

I hope you're well.

Our local SGLD colleagues are content for this response to go out to STUC in our broader paper – but that's on the condition that it's a standard line used publicly before/cleared by your own legal colleagues.

Could you please confirm that's the case?

Thanks,

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 11 April 2023 08:32
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; Davidson L (Lisa) <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Grant conditionality & employment tribunals

Thanks [redacted – sec 38(1)(b)] much

appreciated. [redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 11 April 2023 08:24
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Grant conditionality & employment tribunals

Morning,

‘We are awaiting a revised version of the Order in Council (that will deliver the devolution) from the UK Government. Upon receipt we will consider the next steps but a public consultation is intended.’

Regards

[redacted – sec
38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 11 April 2023 07:51
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Grant conditionality & employment tribunals

Morning [redacted – sec 38(1)(b)]

I hope you’re well and enjoyed the long weekend.

With apologies for the chase, can I please ask you to send over those lines on devolution of tribunals – we agreed something like *awaiting an decision from council, then we’ll consult on how exactly it’ll be done* (though obviously more finessed!)

Thanks,

[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Sent: 03 April 2023 14:13
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>
Subject: RE: Grant conditionality & employment tribunals

Hi [redacted – sec 38(1)(b)]

Probably worth a quick discussion.

[redacted – sec 29(1)(a)]

Regards

[redacted – sec

38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 13:39

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: Grant conditionality & employment tribunals

Hopefully I can blame this on the fact that it's Monday. First I failed to copy [redacted – sec 38(1)(b)], then I failed to copy the email correctly.

Final try, and apologies for the multiple emails on this.

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]

Sent: 03 April 2023 13:38

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] @gov.sco' <[redacted – sec 38(1)(b)] @gov.sco>

Subject: RE: Grant conditionality & employment tribunals

Thanks [redacted – sec 38(1)(b)]

Copying [redacted – sec 38(1)(b)] into this chain for ease of reference.

[redacted – sec 38(1)(b)] I hope you're well. We're fielding a suite of questions from STUC about the NCS Bill and Fair Work – one question in particular relates to devolution of employment tribunals.

24. While grateful for the assistance of government in the covid sick pay case, we are mindful that the scale of the access to justice challenge is quite considerable. Has any consideration been given to the Scotland Act 2016 powers in relation to the devolution of Employment Tribunals and the role those powers might play in better ECHR and ICESCR compliance, access to justice and the promotion of Fair Work in Care?

I wonder if you have any current lines on this issue or whether you can confirm the lines in the Dec 2021 FMQ are still suitable. Given the content of the question – have we thought about devolution of tribunals *and* its ability to support delivery of Fair Work – I think it will be a joint effort here.

Happy to discuss if easier.

Thanks,

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)] **Adult Social Care – Fair Work and Pay Scottish Government**

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 12:43

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: Grant conditionality & employment tribunals

Hi [redacted – sec 38(1)(b)]

We don't actually lead on the devolution of employment tribunals so haven't done much in this space for quite some time.

Please see attached core brief which gives some high level info and FW interests but as you can see it is perhaps a bit out of date. [LABOUR MARKET STRATEGY CORE BRIEF - Employment Tribunals - updated 17 December 2021 details - Objective ECM \(scotland.gov.uk\)](#)

From the old Core Brief:

Other relevant contacts and information

- Justice colleagues lead on the devolution of reserved tribunals. [redacted – sec 38(1)(b)] is Head of Reserved Tribunals and Civil Courts Team.

Regards

[redacted – sec 38(1)(b)] Labour Market Strategy and Strategic Projects Fair Work and Labour Market Strategy Division [redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 12:29

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: Reid M (Martin) <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] >; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: Grant conditionality & employment tribunals

Thanks [redacted – sec 38(1)(b)]

[redacted – sec 29(1)(a)]

Thanks for copying in [redacted – sec 38(1)(b)] – look forward to hearing about the tribunal point. [redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 12:03

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: RE: Grant conditionality & employment tribunals

Hi [redacted – sec 38(1)(b)]

Thanks for sharing this.

[redacted – sec 29(1)(a)].

For the second point, employment tribunals are covered by colleagues in Labour Market Strategy. I've copied in [redacted – sec 38(1)(b)] who I hope will be able to assist, noting that [redacted – sec 38(1)(b)] used to cover this, but has recently moved post.

Also happy to discuss if helpful.

Thanks,

[redacted – sec 38(1)(b)] --

[redacted – sec 38(1)(b)]

Please note I am currently working from home and available via mobile, MS Teams and email.

Fair Work Policy Officer | Fair Work and Labour Market Strategy | Directorate for Economic Strategy | Scottish Government | 6th Floor, 5 Atlantic Quay, 150 Broomielaw Glasgow, G2 8LU | Mob: [redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Sent: 03 April 2023 11:18

To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>; [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)] @gov.scot>

Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)] @gov.scot>

Subject: Grant conditionality & employment tribunals

Importance: High

Morning folks, I hope you're well.

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

[redacted – sec 29(1)(a)]

9. I [redacted – sec 29(1)(a)]	Fair Work	[redacted – sec 38(1)(b)]
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The next is about employment tribunals – [redacted – sec 38(1)(b)] notes you may have done some work on this, so I'm happy to stick with a core brief style line about what we're doing on tribunal devolution. I note this mentions compliance with international standards/law, but I hope a straightforward line will suffice.

24. While grateful for the assistance of government in the covid sick pay case, we are mindful that the scale of the access to justice challenge is quite considerable. [redacted – sec 29(1)(a)]	Fair Work	[redacted – sec 38(1)(b)]
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Happy to chat but I'd be grateful for input by COP tomorrow if possible

Thanks,

[redacted – sec 38(1)(b)]
[redacted – sec 38(1)(b)] **Adult Social Care – Fair Work and Pay Scottish Government**
[redacted – sec 38(1)(b)]

Judicial Working Group
Meeting 26 July 2021 at 10am
Via WebEx

Attendees:

Judicial Working Group

Lord Stephen Woolman (joint Chair)

Sir Brian Langstaff (joint Chair)

Judge Stewart Wright (UT AAC)

Judge Jeremy Rintoul (UTIAC)

Judge Shona Simon (ET(S))

RTJ Helen Dunn (FtT SEC)

Judge Juliet Grant-Hutchison (FtTIAC)

Scottish Government

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]

[redacted – sec 38(1)(b)]

Ministry of Justice

[redacted – sec 38(1)(b)]

Judicial Office for Scotland

[redacted – sec

38(1)(b)] [redacted –

sec 38(1)(b)]

[redacted – sec

38(1)(b)]

Housekeeping

Lord Woolman ('SEW') extended his welcome to all members. Apologies were given on behalf of the LPPO's office and for Judge Sebha Storey. [redacted – sec 38(1)(b)] explained that he would speak on behalf of the MOJ in the absence of [redacted – sec 38(1)(b)].

Discussion of Scottish Government's paper re 'No detriment paper'

SEW opened up the discussion by querying whether the last JWG meeting had moved matters forward. [redacted – sec 38(1)(b)] advised that the engagement between the Scottish Government and the JWG has been useful and indicated that this was a difficult phase of the project, as SG officials were not able to give definite answers. While the last version of the paper has been signed off by the ministers there are many areas that still require consideration and SG is eager to listen to comments on what needs to be changed.

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

Order in Council update

As no update has been provided to the JWG prior to this meeting, questions were not raised on this matter. [redacted – sec 38(1)(b)] requested that an update be made in the future

meetings. To this, [redacted – sec 38(1)(b)] apologised for having no update as he was not provided with an update from essential stakeholders within MoJ and therefore has been unable to provide an update to JWG. [redacted – sec 38(1)(b)] advised that an update is imminent, although a definitive date could not be given although this will likely be at the same time as SG's response.

[redacted – sec 30(b)(ii)]

[redacted – sec 30(b)(ii)]

Any other business

No other business raised.

Date of next meeting

To be circulated

DEVOLUTION OF THE EMPLOYMENT TRIBUNAL (ET)

ISSUE: The Smith Commission Agreement (2014) proposed the administration of 22 reserved tribunals, including the Employment Tribunal, be devolved to the Scottish Parliament. The laws providing the underlying substantive rights and duties will remain reserved.

Top Lines

- **We are committed to not having fees in the Employment Tribunal once its functions are devolved to the First Tier Tribunal for Scotland.**
- We want all employers to adopt fair working practices but where this doesn't happen employees should have fair access to justice.
- We have set out that the devolved tribunal powers must allow Scotland to pursue innovative and distinctive approaches that meet the needs of employees, businesses and society in Scotland. However, substantive employment law is not within scope of the proposal which will significantly limit our ability to reform the ET system.
- We have made it clear to the UKG that powers devolved for the operation and management of tribunals should be coherent and enable Scotland to reform the system.
- After a lengthy delay we received a revised draft Order in Council in Feb 2021 from the UK Gov, which we will consider ahead of any consultations.
- The UK Gov originally proposed transfer of the ET by April 2020 but due to delays this will not be earlier than 2024.

Press Interest

February 2020 - [Plans to devolve tribunals delayed for at least two years - Scottish Legal News](#)

April 2021 - [Thousands in UK may have missed out on work rights redress, study finds | Employment tribunals | The Guardian](#)

June 2021 - [Scottish Government urged to act as Smith Commission's devolution of tribunals faces further delay | Herald](#)

Fees in the devolved Employment Tribunal

- SG remains committed to the principle of no fees for the ET. The functions of the current ET will transfer to a new jurisdiction in the FTTS and decisions over the rules of procedure will be the responsibility of the President of Scottish Tribunals, as will decisions over fees.
- Following UKG reforms, ET fees were introduced by way of an order in 2013, which the Scottish Government strongly opposed. This order will not apply to the new Scottish ET once devolved.
- We welcomed the Supreme Court ruling in July 2017, that the UKG's introduction of ET fees was unlawful under both domestic and European law, on the basis they prevented access to justice.
- We strongly opposed the introduction of fees.
- There are currently no fees charged for ET as a result of the Supreme Court ruling that the UK fee structure was unlawful and discriminatory to women and other protected groups.
- We expect the UKG to reintroduce a fee structure in the future. It must not prevent workers from seeking justice.
- The fee refund scheme operated by the UKG in the aftermath of the Supreme Court decision has been a failure. Only a few thousand claims have been processed despite the tens of thousands for claims heard in the ET over the fee period.

Discussions between SG and UKG over the transfer of the ET to Scotland.

- Section 39 of The Scotland Act 2016 puts in place a mechanism to transfer the relevant powers.

- A 2-stage legislative process; firstly, an Order in Council in the UK Parliament setting out the functions to be devolved, and secondly, legislation in the Scottish Parliament to effect the transfer.
- The terms of the OiC are not yet settled; the UKG continues to draft in advance of planned consultation.
- We await clarity about the composite 'offer' – for ET and EAT for Scotland.

[redacted – out of scope]

[redacted – out of scope]

Other relevant contacts and information

- Justice colleagues lead on the devolution of reserved tribunals. [redacted – sec 38(1)(b)] is Head of Reserved Tribunals and Civil Courts Team.
- The eRDM file used for Fair Work records is - 'Fair Work: Delivery: Employment Tribunals: 2015-2020' - <https://erdm.scotland.gov.uk:8443/documents/qA520957>

DFWES : Fair Work and Skills Division

17 December 2021

¹ <http://www.legislation.gov.uk/ukpga/2015/26/part/11/crossheading/employment-tribunals/enacted>

² [Legal Expenses Insurance for Employment Tribunal Claims | martin searle solicitors \(ms-solicitors.co.uk\)](#)

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 05 August 2022 08:39
To: [redacted – sec 38(1)(b)] [redacted – sec 38(1)(b)]
Subject: RE: Draft Note on Devolution of Reserved Tribunals

[redacted – sec 38(1)(b)]
Just to keep on radar!

Be good to have this on Minister's desks for their return.

[redacted – sec 38(1)(b)]

From: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>
Sent: 20 July 2022 08:49
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>
Subject: FW: Draft Note on Devolution of Reserved Tribunals

Morning [redacted – sec 38(1)(b)]

Just wondered if you had had the chance to have a look at the draft paper on this –

The draft submission on changes to the no detriment paper has also been updated following discussions with [redacted – sec 38(1)(b)] (link attached), we had previously discussed whether to hold off on this until the DoRT paper had been finalised.

[DRAFT Submission - Devolution of Reserved Tribunals - changes to no detriment paper - June 2022 working draft \(A37231758\)](#)

Cheers
[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]
Sent: 07 July 2022 18:16
To: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>
Cc: [redacted – sec 38(1)(b)] <[redacted – sec 38(1)(b)]@gov.scot>
Subject: FW: Draft Note on Devolution of Reserved Tribunals

Hi [redacted – sec 38(1)(b)]

Have you had the opportunity to have a look at the draft paper on devolution of reserved tribunals? [redacted – sec 38(1)(b)] had no comments to add, I'm not sure if the wording around a possible referendum needs to be redrafted.

Thanks
[redacted –
sec 38(1)(b)]

From: [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>

Sent: 04 July 2022 11:39

To: [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>; [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>

Subject: RE: Draft Note on Devolution of Reserved Tribunals

Thanks [redacted – sec 38(1)(b)]

I'm fine with this. Subject to any comments from [redacted – sec 38(1)(b)] I think we should seek views from [redacted – sec 38(1)(b)] & Neil again.

From: [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>

Sent: 30 June 2022 10:06

To: [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>; [redacted – sec 38(1)(b)]<[redacted – sec 38(1)(b)]@gov.scot>

Subject: Draft Note on Devolution of Reserved Tribunals

[DRAFT Note on Devolution of reserved Tribunals - Jan 2022 \(A36109334\)](#)

Morning,

Following our conversation yesterday, I've made some changes to the draft note on DoRT – attached. I've included a brief paragraph on a possible referendum but would be grateful for any input on the wording of that!

Cheers

[redacted –
sec 38(1)(b)]

[redacted – sec
38(1)(b)]**Senior Policy
Officer**

**Courts and Tribunals | Directorate for Justice | Civil Law and Legal System Division
The Scottish Government | GW.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG**