Consultation on the Scottish Government’s Proposals for a New Tribunal System for Scotland
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MINISTERIAL FOREWORD

Reform of the tribunals system is an important part of the wider Justice Change Portfolio, born of a shared commitment to ensuring that public services are of high quality, continually improving, efficient and responsive to local people's needs. That commitment relies on an efficient and effective justice system.

The current justice system has served us well but there are areas where we have the potential to deliver more. Unprecedented public spending cuts mean it is also essential that we find new ways to deliver an even better service whilst continuing to provide value for money.

A modern legal framework commands public confidence and protects people from unfair treatment by the state, by businesses or by other people. Scotland has its own justice system built on traditional values of integrity and fairness, but society has changed over the last two decades. Scotland needs modern justice institutions that have the capacity and flexibility to respond to change, while retaining the values on which its reputation has been built.

Tribunals are especially important protections against unfair treatment by the state and increase individual resilience and public confidence by providing an efficient and accessible form of legal dispute resolution. The character of tribunals has changed over recent decades: they are no longer considered to be administrative bodies but are now rightly perceived to be an integral part of the judicial system. These proposals underpin and strengthen that development.

We are now embarking on the most radical reforms of our courts and tribunals systems for at least a century. In 2011, we launched the Making Justice Work Programme to pull together a range of current and potential reforms to the structure and processes of the justice system, access to justice and alternatives to court. We want to ensure that the right people have the right information at the right time. Our justice system needs to be better connected and make more effective use of today’s modern technology. A more integrated system of tribunals, supported by an efficient administration will support these aims. The current system is complex, with important questions raised by third-party expert reviews over matters including tribunal independence, system coherence and the quality of service provided to users.
We wish to introduce further reforms to Scottish tribunals by bringing separate tribunals into a unified structure and provide for their independence by bringing judicial leadership under the Lord President. We also propose introducing new rule making procedures and new arrangements for the selection, appointment and remuneration of tribunal judiciary. These changes require primary legislation and are consistent with the principles and priorities underpinning both the public sector reform agenda and the Making Justice Work programme.

We want to retain and build on a tribunal system that puts its users at the centre. We want the public to have confidence in and experience a system that treats them fairly, quickly and with respect. We want to widen access to justice and give people greater options to resolve their disputes. Reform of civil justice will ensure straightforward cases are dealt with at an appropriate level. The tribunals system we are creating is part of that reform and whilst making improvements to its structure and organisation, we want to retain all the service benefits of the current, specialised system of tribunals, each with a particular jurisdictionally specific ethos.

In preparing these proposals we have ensured that appropriate measures are in place to protect each tribunal’s distinctive culture and specialist nature. The particular needs of tribunal users remains central to our commitment.

We value your opinion on the proposal set out in this document and look forward to hearing your views.

Roseanna Cunningham MSP
Minister for Community Safety and Legal Affairs
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SECTION 1: INTRODUCTION

1.1 The purpose of this consultation is to set out a proposal to create an integrated tribunals system in Scotland. Most tribunals have been created by individual pieces of primary legislation, without any overarching framework. A more coherent framework for tribunals would create real opportunities for improvement in the quality of service that can be achieved by integration rather than by tribunals acting separately. This proposal will create two new, generic tribunals, the First-tier Tribunal and the Upper-tier Tribunal, with first-tier chambers, into which existing tribunal jurisdictions can over time be transferred.

1.2 The current system of tribunals has evolved over recent decades and it has served Scotland well. Created separately, however, the different tribunals do not always make best overall use of the available administrative and judicial resource. Reducing overlap, eliminating duplication, ensuring better deployment and wider sharing of the available resources would ensure that a greater proportion is available for the front-line tribunal services that are of most interest to users.

1.3 A coherent tribunals system supports a clearer, simpler and more effective way of working, provides the best use of public money, balances quality and cost considerations and works with maximum efficiency. In keeping with public sector reform and the current economic climate, the need to improve service delivery and redesign services to secure better value for money has never been greater.

1.4 A coherent system does not mean a ‘one size fits all’ system. The different cultures of separate tribunals are not normally incompatible, but where differences are desirable or required, they can be provided within a coherent system by appropriately framing the different rules of procedure, maintaining specialist tribunal appointments and ensuring a continuing role for the judicial leadership of each jurisdiction.

1.5 A coherent system provides a solid foundation for future developments. Our proposals would allow the system to expand and absorb other jurisdictions, including future creations of the Parliament or tribunals currently sitting in Scotland but administered by the UK Government. A coherent system also enables a full future consideration of the optimal relationship between tribunals and the civil courts.

1.6 These proposals are informed by the principles set out in advice prepared by the various independent expert reports addressing matters concerning tribunals and administrative justice in Scotland, including the Franks Report (1957)\(^1\), the Leggatt Report (2001)\(^2\) the Philip Reports (2008 and 2009)\(^3\) and more recently in advice from the Scottish Committee of the Administrative Justice and Tribunals Council (SCAJTC)\(^4\).

1.7 This proposal seeks to balance five key objectives:

- effectiveness in securing just and speedy outcomes;
- efficiency in the administration of justice;
- distinctiveness of different tribunals, including continuing specialisation;
- centrality of tribunal users; and
- potential for future developments of the wider system of Scottish justice.
1.8 These objectives, considered in isolation from each other, can pull the characteristics of a proposal for reform in different directions. For example, the judicial status of tribunal members that is associated with proper independence, and is essential to ensure outcomes characterised as the just resolution of disputes may, on occasions, cut across the aim of securing overall system efficiency. This may in turn compromise assurances concerning the position of the tribunal user within a particular, distinctive jurisdiction.

1.9 Recognition should be given to the progress that individual jurisdictions have already made in providing tribunal users with effective and efficient access to justice. These proposals aim to build on the progress already made and seek to simplify the system and provide a coherent structure in which to introduce additional tribunals as required. These proposals also allow tribunals to remain specialised and independent whilst standardising some processes, such as those for making rules of procedure and appointments or delivering training.

1.10 These proposals, in association with administrative developments delivered by the creation of a unified Scottish Tribunals Service, complement developments progressed by the UK Government in relation to reserved tribunals sitting in Scotland. Creating an integrated tribunal system is part of the Scottish Government’s Making Justice Work Programme which seeks to ensure that Scotland has a justice system aligned to the needs of 21st century users. Making Justice Work’s vision is to deliver a Scottish justice system that will be fair and accessible, cost effective and efficient and make proportionate use of resources.

1.11 Annex A outlines the legislative path proposed to deliver, through time, a fully integrated system incorporating both devolved and reserved tribunals administration and judiciary in Scotland.
SECTION 2: SUMMARY OF PROPOSALS

2.1 In summary the proposal is:

- To make provision for a statutory framework enabling the separate devolved Scottish tribunals to be brought into a single unified system, internally organised according to case type and with clear onward rights of appeal established in accordance with the principles of civil justice.

- To ensure impartial decision-making in the unified Scottish tribunal system by guaranteeing in statute the independence of tribunal judiciary and also by establishing new arrangements for appointing tribunal members, determining tribunal processes and providing tribunals with the necessary administrative resources.

- To establish a common judicial leadership across the Scottish tribunal system, under the senior leadership of the Lord President of the Court of Session, with powers of delegation for leadership functions, including to a new President of Scottish Tribunals with responsibility for the efficient disposal of business.

- To make statutory provision for a devolved Scottish tribunal system which will provide scope for integration with the system of UK reserved tribunals operating in Scotland and so enable the common execution of judicial and administrative functions in respect of both devolved and reserved law, in a joint system.

- To review judicial remuneration arrangements across the Scottish tribunal system with the purposes of standardising arrangements and in appropriate cases linking the arrangements for the Scottish tribunal judiciary to the arrangements for offices listed in the judicial salaries and pensions scheme.

2.2 The creation of an integrated tribunal system in Scotland, as described above, opens up the possibility to review the relationship between the tribunals administration and the independent Scottish Court Service, which is responsible for providing administrative support to Scotland's courts and the judiciary of those courts. In other jurisdictions, court and tribunal administrations have achieved efficiencies through merging into a single administration. The Scottish Court Service and Scottish Tribunals Service are already exploring opportunities for potential efficiencies through, for example, shared accommodation. Any more significant changes to the status of the courts and tribunals administrations would be subject to dialogue with the judicially-led Scottish Court Service and with the courts and tribunals judiciary.
SECTION 3: BACKGROUND

The tribunal landscape in Scotland

3.1 The proposal outlined in Section 4 of this document seeks to create an integrated tribunal structure under the judicial leadership of the Lord President of the Court of Session. Our intention is to create a system that meets best practice principles of justice; delivers efficiencies from public sector simplification and integration; and creates a stable platform for the integration of future tribunal responsibilities.

3.2 The tribunals under consideration in this consultation are all public services in Scotland. Most of them have been established to resolve disputes in a way that provides legal and non-legal expertise in subjects such as housing, health, land and education. Some of them were established in order to relieve the civil courts of a particular caseload burden. All bear the tribunal characteristic of specialisation and particular expertise in the subject matter of the jurisdiction. All have been established with the intention of being less formal, more accessible and less expensive to the general public than resolution of disputes through the general courts.

3.3 In most cases, tribunals concern disputes between the citizen and the state in one form or another, and they are therefore mostly concerned with matters of administrative law. However, there are many exceptions, the tribunals with which these proposals are immediately concerned include the Private Rented Housing Panel and the Lands Tribunal for Scotland, both of which hear private disputes and the Mental Health Tribunal for Scotland, which can restrict or remove the basic human right of an individual’s liberty.

3.4 There are over 40 tribunals operating in Scotland dealing with devolved and reserved matters. There are three different groups of tribunals:

- Tribunals that deal with devolved issues and have specific Scottish jurisdiction and structures (such as the Mental Health Tribunal for Scotland);
- Tribunals that deal with reserved issues, but have specific Scottish jurisdiction and structures (such as the tribunal that deals with War Pensions); and
- Tribunals that deal with reserved issues and have GB-wide jurisdiction and structures (such as the Social Entitlement Chamber of the First-tier tribunal which deals with appeals relating to Social Security and Child Support).

3.5 Between them, the devolved tribunals currently supported by the Scottish Tribunals Service (STS) and the reserved tribunals in Scotland supported by HM Courts and Tribunals Service deal with over 80,000 cases per year.

3.6 The majority of the tribunal caseload in Scotland concerns matters which are reserved to the Parliament at Westminster. This paper necessarily takes account of reserved UK tribunals sitting in Scotland, because they form a part of the Scottish tribunal landscape - but the proposals set out here would not directly affect the operation of these reserved tribunals.
3.7 This proposal is for evolutionary change, a statutory framework for reform, with the initial steps to be taken and an outline of future intentions. The reforms proposed here are now overdue; taken together they will move Scottish tribunals closer to their rightful place in a modern system of justice.

3.8 The Leggatt Report, *Tribunals for Users – One System, One Service*, in 2001 recognised the need to bring tribunals in Scotland under the wing of the Scottish justice system. Leggatt found that too often tribunals were daunting to users, under-resourced and inefficient, and not sufficiently independent of the departments that sponsor them. He recommended that tribunals needed to be brought together into a system that was independent, coherent, professional, cost-effective and user-friendly. However, Leggatt’s proposals did not deal with devolved tribunals and took no account of the separate legal system in Scotland. The recommendations from Leggatt were implemented in the UK by the Tribunals, Courts and Enforcement Act 2007, which brought UK tribunals together into a single structure with a judicial Senior President.

**Scotland’s response to the Tribunals, Courts and Enforcement Act 2007**

3.9 In 2007, the Justice Committee of the Scottish Parliament considered proposals being brought forward by the UK Government and prepared a report for the Scottish Parliament in which it drew attention to a “concern that Scottish-only tribunals (not part of the new UK Tribunals Service) should not be left behind”.

3.10 The Committee’s concern was that developments in improving tribunals across the UK following Leggatt’s report had not been matched in Scotland. In particular, there was concern that users of Scottish tribunals dealing with devolved matters may not, in future, receive the same level of service as those using other tribunals.

3.11 In order to explore these concerns in advance of the implementation of Leggatt’s recommended reforms, the then Scottish Executive supported the establishment of an Administrative Justice Steering Group (AJSG) under the chairmanship of Lord Philip.

3.12 In 2008 the AJSG’s first report, ‘*Options for the Future Administration and Supervision of Tribunals in Scotland*’, confirmed the criticisms of the tribunals system as a whole describing the system in Scotland as “complex and fragmented” and raising questions about the actual or perceived independence of tribunal decision making. Lord Philip noted five options for the future supervision of tribunals.

3.13 The Scottish Government asked statutory advisors on the Scottish Committee of the Administrative Justice and Tribunals Council (SCAJTC), to examine further the relative merits of Lord Philip’s options. The SCAJTC provided advice which supported the view that a Scottish Tribunals Service, supporting all the tribunals operating in Scotland, provided the best option for users in Scotland and was consistent with the views of Leggatt.

3.14 Lord Philip’s conclusions were set out in a further report ‘Administrative Justice in Scotland: The Way Forward’, which set out various possibilities for tribunals in a wider system of administrative justice, including: a guarantee in statute of the independence of
tribunals; making appointments to tribunals through the Judicial Appointments Board for Scotland (which carries out this task in relation to the judiciary); establishing a Scottish Tribunals Service to provide administrative support to devolved (and potentially reserved) tribunals operating in Scotland; and, rationalisation of the procedural rules for devolved tribunals.

**Wider reform of administrative justice – Lord Gill’s Civil Courts Review**

3.15 Following the publication in 2007 of *Civil Justice: A Case for Reform* by the Civil Justice Advisory Group under the chairmanship of Lord Coulsfield, the then Minister for Justice invited the Lord Justice Clerk, Lord Gill, to conduct a Review of the Scottish Civil Courts.

3.16 Lord Gill’s review set out the essential principles underpinning a high quality system of civil justice for Scotland. These principles included:

- fairness in procedures and working practices;
- aptness of the system to secure justice in the outcome of disputes;
- accessibility of the system to all and sensitivity to the needs of those who use it;
- encouragement of the early resolution of disputes;
- dealing with cases as quickly and with as much economy as is consistent with justice;
- effective and efficient use of its own resources;
- allocating cases in proportion to the importance and value of issues at stake; and
- regard for the effective and efficient employment of the resources of others.

3.17 Lord Gill’s recommendations were directed principally at the civil courts, but in responding the Scottish Government noted the application of these principles to tribunals too.

3.18 The Scottish Government is considering what legislation will be necessary to implement structural reforms to the civil courts, based on the recommendations of the Gill review. Two aspects in particular link closely to the proposals for a new tribunal system for Scotland: the recommendations for a new judicial office, the District Judge, and the creation of a new Sheriff Appeal Court.

3.19 Our response to the Gill review indicated support for a degree of specialisation at District Judge level, and that some District Judges might operate on a part-time basis. It is already the case that many part-time sheriffs also serve as tribunal judges. There is potential to extend the common appointment processes and ‘cross-ticketing’ arrangements we propose for tribunal judges to cover both tribunal and District Judges, and we will consider this further before consulting on legislation to reform the civil courts. We will also consider further whether and how the Upper-tier Tribunal should relate to the proposed Sheriff Appeal Court.
Creation of the Scottish Tribunals Service

3.20 At a debate in the Scottish Parliament in September 2010, the Scottish Government announced its intention to create the Scottish Tribunals Service (STS)\textsuperscript{10} to provide a common administration to six existing tribunals.

3.21 Since December 2010, STS has taken on functions for these six tribunals such as judicial appointments, judicial remuneration, budget control and the setting and monitoring of key performance indicators in addition to providing administrative support.

3.22 STS provides administrative support to six tribunals:

• the Additional Support Needs Tribunals for Scotland (ASNTS);
• the Mental Health Tribunal for Scotland (MHTS);
• the Pensions Appeal Tribunals Scotland (PATS);
• the Scottish Charity Appeals Panel (SCAP);
• the Lands Tribunal for Scotland (LTS); and
• the Private Rented Housing Panel (PRHP).

3.23 There is an important role for the STS in supporting the tribunal’s fundamental principles which apply to all tribunals of openness, accessibility and efficiency.

Diagram 1 outlines the current landscape of tribunals across Scotland demonstrating the complexity of the current system. It shows the First-tier and Upper Tribunal of UK reserved tribunals, the STS which supports devolved tribunals and the devolved tribunals which are not currently supported by the STS. At present routes of appeal are variable, as shown in the diagram. Devolved tribunals can appeal variously to the sheriff court, the Sheriff Principal or the Court of Session, while the reserved tribunals operating in Scotland can appeal to the Upper Tribunal.
DIAGRAM 1:

THE CURRENT SCOTTISH TRIBUNALS LANDSCAPE [for illustrative purposes only]
Transfer of responsibilities for reserved tribunals in Scotland

3.24 Following the UK General Election in 2010 the Ministry of Justice suggested the possibility of transferring responsibility and related powers for reserved tribunal administration and judiciary to Scotland. The Lord Chancellor announced to the UK Parliament in September 2010 that tribunals in England and Wales would in future be part of a unified judicial and administrative structure alongside the English and Welsh courts. The merger of HM Courts and Tribunals administrations took place in April 2011.

3.25 Active consideration is currently being given to the unification of the courts and tribunals judiciary of England and Wales under the leadership of the Lord Chief Justice. The merger of the UK Tribunals Service and the HM Courts Service into HM Courts and Tribunals Service has raised governance and constitutional issues in Scotland given that the tribunal’s arm of the service has a remit in Scotland and the courts arm does not. The Lord Chancellor announced his willingness to discuss the impact of these proposals in Scotland with the Lord President and Scottish Ministers. Since then discussions to address the issues have been ongoing between Scottish Government and Ministry of Justice. Transfer of administrative functions and judicial leadership is an option that has the potential to resolve some of the issues raised by the merger in England and Wales. It is expected the Ministry of Justice will be consulting on these proposals in 2012.

3.26 Transfer of responsibilities for reserved tribunals in Scotland would provide tribunal users with the strongest and most reliable assurances of independence, and would generate significant opportunities for service improvement.

Diagram 2 outlines a possible model for integration of devolved and reserved tribunals in Scotland. It shows a fully integrated system which would require a package of legislative change (see Annex A) to deliver. An integrated package would require legislation in both the Scottish Parliament and the Westminster Parliament. The proposals in this consultation only cover the components of the package over which the Scottish Government has powers to propose change.
Efficiencies of an integrated Scottish tribunal system

3.27 The current financial constraints and drive for public sector reform in Scotland highlight the need for an integrated tribunal system in Scotland. Integration delivers improved access and consistency of service to users and also reduces running costs to provide a more efficient administration.

Efficiencies from a merged administration

3.28 The creation of the STS on 1 December 2010 and the subsequent inclusion of PRHP and ASNTS in April 2011 have resulted in it being well placed to contribute efficiencies in the order of £1M during 2011/12. This has been achieved through a combination of consolidating efficiencies already identified and being delivered by the judicial leadership and administrators in component jurisdictions and by securing further efficiencies through rationalising organisational structures and support services. Early analysis suggests that further sustained efficiencies can be achieved through collaborative working between judicial leaders and senior administrators to deliver a programme of organisational integration, streamlining processes and removing waste from the system.
Potential for further efficiencies

3.29 The potential to deliver greater efficiencies grows as an integrated tribunal system expands. There is scope for even greater efficiencies by expanding the Scottish tribunals system further to include the currently reserved tribunals whose jurisdictions operate across Scotland. With devolution of these tribunals, cumulative sustainable efficiencies (in the region of £5m) could be realised, representing a 12% reduction in overall running costs. With an initial funding investment of around £1.5 million, there is a strong financial argument for creating a fully integrated Scottish tribunal system. The potential for benefits is dependent on the full integration of reserved and devolved tribunals and reaching agreement with the UK Government on a budget transfer and implementation timetable. Creating a larger critical mass provides greater scope to integrate organisational structure and streamline procedures. It also provides improved user access through a wider network of good quality hearing centres.

3.30 Integration not only improves the administration of tribunals it also creates the potential to increase judicial efficiency. There are increased opportunities for deployment and the potential for improved judicial training by delivering more localised training and awareness across jurisdictions. Integration will also streamline and improve the appointment system and review judicial remuneration.

3.31 The potential for improvements and efficiencies between the courts and tribunals administrations should be explored fully. Ultimately, this might include consideration of merging the two administrations, subject to dialogue with the Scottish Court Service, courts and tribunal judiciary, consumer groups and those who rely on our justice system.
### SECTION 4: THE SCOTTISH GOVERNMENT’S PROPOSAL FOR A NEW TRIBUNAL SYSTEM FOR SCOTLAND

4.1 The Scottish Government proposes primary legislation to create two new, generic tribunals, the First-tier Tribunal and the Upper-tier Tribunal, with First-tier chambers into which existing tribunal jurisdictions can be transferred. Existing tribunals will continue to hear their relevant cases, in their own distinctive manner, but they will function as chambers of a new structure.

#### The proposed new structure

The tribunals system should operate in a way which means that, whenever a dispute arises, a decision is made by appropriately qualified experts speedily, fairly, independently and impartially. The decision should settle the question in dispute once and for all.

The First-tier Tribunal should be able to resolve satisfactorily most of the cases heard before it. To do so means that the First-tier Tribunal requires access to the professional, specialist and legal expertise necessary to decide the full range of cases normally arising within its jurisdictions.

There will always be some cases where appeals against a tribunal’s decision are required to be heard. If the Scottish Parliament has decided that certain types of cases are best resolved by a specialist tribunal rather than in court, the expectation should be that the case is capable of being resolved by the tribunal system. For these reasons, the tribunal system will need an appropriately qualified appellate tier as well as a reconsideration procedure for cases in which a full appeal is not required. Grounds for such appeals and reconsiderations will need to be established, and may need to differ in the different tribunal jurisdictions.

Enabling appeals to be heard within the tribunal system would not remove all rights of appeal to the courts, nor would it remove existing rights to petition for judicial review. It would ensure that decisions were taken at the most appropriate level in the legal system.

However, it is not proposed to alter the existing arrangements in which decisions made by the MHTS must be appealed directly to the Court of Session, in relation to orders or directions made in the context of proceedings concerning patients subject to restriction orders, transfer for treatment directions or hospital directions, as listed in section 322(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003, these will continue to be appealed directly to the Court of Session.

4.2 The new, simplified framework will provide coherence across the tribunals system and enable future reforms. Jurisdictions will be organised into different chambers of the new First-tier Tribunal.

4.3 The current case loads will transfer from existing tribunals into the new structure.
4.4 The new tribunal system will comprise a First-tier for taking first decisions and an Upper-tier for hearing further appeals.

4.5 **Diagram 3** is an illustration of how the proposed framework for devolved tribunals might look.

**DIAGRAM 3: ILLUSTRATION OF STRUCTURE FOR DEVELVED TRIBUNALS IN SCOTLAND**

[for illustrative purposes only]

First-tier Tribunal

4.6 We are proposing to group tribunals in the First-tier into chambers. This structure will be capable of evolving over time in accordance with changing caseload volumes and the
development of new jurisdictions. When considering the number and composition of First-tier chambers we will take account of the needs of users and the need to safeguard the identity and specialism of individual jurisdictions which would make up a chamber.

4.7 The structure will also be made capable of absorbing new jurisdictions. Corresponding powers to change the internal chamber structure of the First-tier will be introduced. These powers will be exercisable only with the agreement of both the Scottish Ministers and the Lord President. This arrangement will provide for the proportionate and efficient discharge of judicial and administrative functions whilst also retaining protections for the desirable specialist expertise and distinctive characteristics associated with similar types of case falling within the new tribunal’s jurisdictions.

4.8 There shall be a Chamber President and at least one Deputy Chamber President appointed to each of the internal chambers in the First-tier Tribunal. These office holders will add a further layer of protection to the distinctive and specialised operations of different tribunal jurisdictions.

4.9 A procedure allowing reconsideration of decisions made by the tribunal will be introduced. This will provide a mechanism to correct errors and address outstanding questions arising from First-tier decisions which do not require the full procedure of an appeal to the Upper-tier.

**Upper-tier Tribunal**

4.10 The Upper-tier of the new tribunal system will hear appeals against First-tier decisions.

4.11 The Upper-tier Tribunal members will comprise by virtue of office all serving Senators, Sheriffs Principal and Sheriffs, as well as the First-tier Chamber Presidents and any other individuals appointed to sit in the Upper-tier. The inclusion of Chamber Presidents in the membership of the Upper-tier Tribunal provides the Upper-tier with a degree of jurisdictional expertise.

4.12 Deployment of the relevant judicial resources will be a matter for the judicial leadership of courts and tribunals to decide respectively, but it is not expected that membership of the Upper-tier Tribunal will mean that most Senators, Sheriffs Principal and Sheriffs will routinely or even ever sit in the tribunal.

4.13 Decisions made by the MHTS in relation to orders or directions made in the context of proceedings concerning patients subject to restriction orders, transfer for treatment directions or hospital directions, as listed in section 322(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003, will continue to be appealed directly to the Court of Session.

**Question 1:** Should the distinctive tribunals system be capable of reconsidering decisions and hearing appeals and, if so, what grounds of appeal from the First-tier Tribunal to the Upper-tier should be allowed?
Judicial leadership

The judicial leadership of Scotland’s tribunal system will be responsible for ensuring, among other things, that specialisations and desirable distinctiveness are retained in the unified system.

Different tribunals have been established as a specialised, expert forum for taking judicial decisions, with membership providing access to particular legal and professional expertise. Often, tribunals have been established to take particular types of case out of the generalised arrangements of the courts system.

The different leadership roles of judicial office holders in the new tribunal system (Lord President, President of Scottish Tribunals and Chamber Presidents) will provide an important mechanism to safeguard the particular and distinctive operations of individual tribunals against any unintended drift towards more generalised arrangements in the new unified system.

4.14 The Lord President of the Court of Session will be designated as head of the tribunal judiciary. Judicial leadership functions will be assigned to the Lord President, including the training, welfare, guidance, appraisal and discipline of tribunal judiciary, and the handling of complaints made against tribunal members.

4.15 There will be a duty placed on Scottish Ministers to consult the Lord President on proposals to change the internal structure of the new tribunal system, on qualification requirements for appointment to the new tribunal, on the setting of tribunal fees, and on appointing individuals as Chamber Presidents and Deputy Chamber Presidents.

4.16 The Lord President will issue the practice directions for the new tribunal system.

4.17 A new office, the President of Scottish Tribunals, will be created.

4.18 The President of Scottish Tribunals will be responsible for the efficient disposal of business in the new tribunal system. The relationship between the Lord President and the President of Scottish Tribunals in relation to judicial leadership of the tribunals system will mirror that of the Lord President and the Sheriffs Principal in relation to judicial leadership of a Sheriffdom.

4.19 The Lord President will be able to delegate any function relating to judicial leadership of the tribunals system to the President of Scottish Tribunals.

4.20 The Lord President will also be able to direct the exercise of functions of the President of Scottish Tribunals.

4.21 The President of Scottish Tribunals will exercise functions including deployment of the judicial resources available to the new tribunals system, with appropriate powers of delegation to members and to staff of the STS.
4.22 The President of Scottish Tribunals will be able to delegate any function relating to the judicial leadership of tribunals to the Chamber Presidents and any function relating to the efficient disposal of business to any member of the tribunal or to the staff of the STS.

4.23 Chamber Presidents will provide judicial leadership within the different chambers of the new tribunal system.

**Question 2:** Which functions of judicial leadership in the tribunals system should be exercised by the Lord President, the President of Scottish Tribunals and the Chamber Presidents, respectively?

**Tribunal membership**

4.24 The members of the existing tribunals will become members of the First-tier Tribunal, with renewed periods of appointment. All existing tribunal members will be assigned to a chamber within the First-tier of the new tribunal corresponding to their current appointment.

4.25 Membership of the Upper-tier may also be required for some tribunal members, including the senior judicial office holder in each separate chamber. The senior judicial office holder in each current tribunal will be made a First-tier Chamber President in the new tribunals system.

4.26 On transfer into the new tribunal system, members of the existing tribunals will be assigned to hearing the same case types. This will be subject to new provisions for judicially authorised sittings in another chamber.

4.27 Senators of the College of Justice, Sheriffs Principal and Sheriffs will be made members of the First and Upper-tiers of the new tribunal system, and will not be made subject to restrictions on hearing different case types. It is not expected that all Sheriffs or Senators will sit in the tribunals but it is important that the tribunals have access, when required, to the available judicial resource. The allocation of individual cases to these and other members of the new tribunals will be a matter for the judicial leadership of the new system.

4.28 Members of the new tribunal system will be collectively known as the tribunals judiciary. The duty to uphold the independence of the judiciary placed on the Scottish Ministers under Section 1 of the Judiciary and Courts (Scotland) Act 2008$^{12}$ will be extended to include the tribunals judiciary.

4.29 Chamber Presidents, Deputy Chamber Presidents and legally qualified tribunal members of the new tribunal system will be included in the definition of judicial office holder under Section 43 of the Judiciary and Courts (Scotland) Act 2008$^{13}$.
Appointments

Judicial appointments should be made on the basis of independent advice, in order to strengthen the independence of judicial decision making in tribunals. In this respect, tribunals will be no different from courts.

The particular expertise of tribunal members in a specific area of law is an essential component of an effectively functioning tribunals system. It assures tribunal users of the expert quality of judicial decision making and it allows a more active, inquisitorial style of dispute resolution. It reduces the need for participants to be legally represented, in keeping with the normal expectation of unrepresented parties appearing before tribunals.

For these reasons, appointments to the tribunal should recognise expertise and a primary assignment to a specialised area within the unified system should be made. However, the current system of separate tribunals does not prohibit legally-qualified and other professionally qualified members sitting in different tribunals. It only requires separate appointment processes. These are an unnecessary and unwarranted duplication which cannot be sustained under proposals for new appointment procedures.

Our proposal would enable efficient deployment of the available judicial resource across the new system by allowing the judicial leadership to authorise tribunal members appointed to one chamber to sit in another, without a requirement for separate appointment. It will be for the judicial leadership of the new tribunal system to develop protocols on how such authorisations would work in practice.

4.30 New arrangements will be introduced for appointing the members of the tribunals system in future.

4.31 The Lord President will appoint the President of Scottish Tribunals from among those holding the office of a full-time Judge of the Court of Session.

4.32 The appointment of Senators, Sheriffs Principal and Sheriffs as members of the new tribunals will be made by virtue of appointment to those offices.

4.33 Other appointments, after the initial transfer of existing tribunal members, will be made in future by Scottish Ministers, in accordance with appropriate procedures for making judicial appointments. This will include the provision of independent advice and recommendations for appointment and duties to consult.

4.34 The Judicial Appointments Board for Scotland will supervise new arrangements for advising Scottish Ministers on the appointment of:

- Chamber Presidents;
- Deputy Chamber Presidents;
- Legally-qualified tribunal members;
- Professionally-qualified expert tribunal members; and
- Other tribunal members.
4.35 Senators of the College of Justice, Sheriffs Principal, Sheriffs, Chamber Presidents and those appointed to the Upper-tier Tribunal under the new procedures for appointment, will all be able to hear cases in the Upper-tier Tribunal.

Judicial deployment

4.36 Appointments made to the First-tier Tribunal will specify a chamber of primary assignment.

4.37 The President of Scottish Tribunals, with the agreement of the Chamber Presidents concerned, will be able to authorise the cross-ticketing of tribunal members, in order to facilitate their hearing cases other than in the chamber of primary assignment.

4.38 A member of the tribunal will not need to resign their primary assignment in order to apply for a different primary assignment. However, if successful in that application, they will require to choose which chamber will be their primary assignment. A member of the new tribunal system will be able however, to simultaneously hold primary assignments in both the First-tier and the Upper-tier Tribunals.

4.39 The Lord President will be able to authorise a member of another tribunal in the UK to sit in the new Scottish tribunal system.

Question 3: Should any restrictions be placed on the ability of an appointed member to sit and hear cases in a chamber other than the chamber of their primary assignment? If so, what restrictions?
Adequate and assured judicial remuneration is a fundamental component of ensuring judicial independence. The provision of independent advice to Scottish Ministers on the remuneration of tribunal’s judiciary is therefore an essential part of the package of measures designed to uphold tribunal’s independence, especially including those tribunals in which the Scottish Ministers will appear as a party to many of the relevant cases.

However, the Judicial Pension Scheme is a reserved matter, as is the remuneration of certain judicial office holders in Scotland, including the members of the Lands Tribunal for Scotland. Judicial salary changes are determined by a decision of the Prime Minister, and implemented by the Secretary of State in relation to these Scottish judicial officer holders, on receipt of independent advice from the Senior Salaries Review Board (SSRB). Offices eligible for inclusion in the Judicial Pension Scheme are set out in Schedule 1 of the Judicial Pensions and Retirement Act 1993. The remuneration of tribunal members outwith these schemes and of the other judicial office holders in the proposed tribunal judiciary are, however, devolved matters and are determined by Ministers. Inclusion of the Scottish tribunals judiciary in the reserved judicial salary and, where appropriate, pension schemes would not be a simple matter and would not be appropriate without further full consideration.

We have set out a proposal for the appropriate and full consideration of these issues. The principles are clear but the detailed arrangements for application of those principles requires further discussions with the tribunal judiciary and the UK Government.

4.40 On transfer from their current tribunals to the new tribunal system, individual members will retain existing remuneration and other entitlements, until such time as those arrangements are reviewed.

4.41 In future, remuneration for tribunal judiciary will be determined by Scottish Ministers on the basis of independent advice.

4.42 Fees for the part-time members of the tribunal judiciary will be linked directly to the independently advised salaries of full-time equivalents. In appropriate circumstances and with regard for appropriate adjustments, the fees and salaries for members of the Scottish tribunals system will be linked to corresponding judicial offices included in the judicial salaries scheme.

4.43 Options for making pension arrangements for full-time salaried tribunal judges will be explored with the UK Government as necessary.

4.44 Appropriate terms and conditions of service will be issued on appointment to the tribunal judiciary. There will be scope for variation in service conditions in the different jurisdictions, but such variation will be justified and not developed without reference to conditions of service for other holders of judicial office.
4.45 Changes to existing terms and conditions will only be agreed following an independent evaluation of the judicial offices being created. The explicit aim of an evaluation exercise for these judicial offices will be to remain cost-neutral.

4.46 Following the conclusion of an evaluation exercise, Scottish Ministers will enter discussions with the SSRB to consider the inclusion of Scottish tribunal judiciary in the remit of a future judicial salary scheme.

**Question 4: Is this the most appropriate option for judicial remuneration and if not, what other options are there to remunerate fairly the judicial members of the Scottish tribunal system?**

**Rules of procedure**

The rules of procedure in any judicial decision-making process can straddle the boundaries of the substantive law and, in all cases, are an important aspect of fairness. Fair, and fairly determined, tribunal procedures represent a further assurance to the user of appropriate tribunal independence, especially in cases where the Scottish Ministers may appear as a party.

Currently, Scottish Ministers propose new tribunal rules and amendments to existing rules to the Scottish Parliament after consulting independent statutory advisors. The Scottish Parliament may disagree the proposed rules. However, the Scottish Government does not possess adequate expertise for determining fair rules of procedure in tribunals. In practise, the tribunal rules are normally developed by ad-hoc advisory groups, normally including the judiciary and practitioners in different jurisdictions. These arrangements should be formalised in order to improve transparency of the process and to assure tribunal users of fairness.

Neither the Scottish Ministers’ role nor the Scottish Parliament’s role in agreeing rules should be removed entirely. Both should retain the right to approve proposed rule changes because Scottish Ministers will remain responsible for administering the service and the Scottish Parliament has singled out particular jurisdictions as requiring distinctive treatment. Both therefore retain a legitimate interest in the development of tribunal procedures, and these interests should be recognised in the new arrangements.

4.47 The rules of procedure of the existing tribunals will be retained until such time as they are required to be reviewed and such amendments as are appropriate can be made.

4.48 Amendments to the rules of procedure for the new tribunal system will be made in support of an explicit statutory purpose, as will any new rules. This explicit purpose will enable cases to be decided justly and in so doing ensure that cases are dealt with in a manner that is proportionate to their complexity and the importance of the issues raised, expeditious and fair. The rules will put parties on an equal footing and will enable the efficient use of available resources. The rules should support the aim of self-representation
and facilitate active judicial intervention in cases before the tribunal. The rules should also be simple to understand.

4.49 A new procedure for making tribunal rules will be introduced. The procedure will include proposals for new rules to be made to Scottish Ministers on the basis of independent advice. A new body will be established with the sole power of initiative in proposing rule changes. The Lord President and the Scottish Ministers will both be empowered to require a proposal for rule changes to be made.

4.50 The Scottish Ministers and the Scottish Parliament will retain the power to approve or disagree independently proposed rule changes.

4.51 Tribunals and administrative justice are proposed to be included in the remit of a new Scottish Civil Justice Council (SCJC), subject to consideration of the views expressed in a separate public consultation. It is also proposed in the same public consultation that SCJC will in future execute the rule making advisory functions of the Court of Session Rules Council and the Sheriff Court Rules Council. SCJC would be an appropriate body to propose rule changes for the tribunals system.

**Question 5: How should procedural rules for the new tribunal system be made?**

**Advisers to Tribunals**

4.52 A provision will be made so that expert advisors may be appointed by Scottish Ministers to provide specialist knowledge to tribunals in dealing with issues for which they do not have expertise.

4.53 The advisers will not be members of the new tribunal system, nor will they be included within the definitions of tribunal judiciary or Scottish judiciary. The remuneration for advisers shall be determined by Scottish Ministers.

**Scottish Tribunals Service**

4.54 The administrative and judicial support functions for the new tribunal system will be provided by the Scottish Tribunals Service.

**Equality**

4.55 The proposed changes to the tribunal landscape in Scotland are intended to yield greater quality of service for all tribunal users. Within this intention it is important to consider the potential impact of the proposed reforms on people with protected characteristics. For example, the proposed transfer of the Mental Health Tribunal for Scotland and the Additional Support Needs Tribunals for Scotland into the new tribunal system may be of particular interest to people with mental health issues and those representing the interests of children who may require a co-ordinated support plan.
4.56 In the first instance, it is intended that the existing caseloads, procedures and tribunal members will be incorporated in the new tribunal. The creation of a single unified tribunal structure presents an opportunity, over time, for procedures and practices to be refined to the highest common level.

4.57 The Scottish Government is undertaking a focused Equality Impact Assessment of the proposed changes which, when complete, will be published on the Scottish Government website.

Question 6: What issues/opportunities do the proposed changes raise for people with protected characteristics (e.g. age, disability, gender reassignment, race, religion or belief, sex and sexual orientation) and what action could be taken to mitigate the impact of any negative issues or to capitalise upon opportunities?

Stages of proposed implementation

Tribunals that will transfer on creation of the new structure

4.58 Tribunals that are subject to these proposals and transfer their jurisdiction to the new First-tier Tribunal, are to be exercisable by Scottish Statutory Instrument (SSI), subject to negative resolution of the Scottish Parliament. These tribunals have a national jurisdiction across Scotland which hear cases concerning devolved matters and are administered by the STS. The tribunals subject to these proposals are:

- Mental Health Tribunal for Scotland;
- Private Rented Housing Panel;
- Additional Support Needs Tribunals for Scotland;
- Scottish Charities Appeal Panel; and
- Lands Tribunal for Scotland.

What does this mean for these tribunals and their users?

4.59 Under the proposed arrangements, the tribunals already sharing administration resources within the STS will be the first to transfer into the new system.

4.60 The service provided to users of these tribunals will be unaffected by our proposals. For example:

- Users will still appear before the current complement of tribunals’ members, who will all become members of the new tribunal system and, unless they are also members of another transferring jurisdiction, will all be assigned to sit in the relevant chamber.

- The relevant tribunals will continue to make decisions in accordance with the law governing their jurisdiction.
• Current rules of procedure, which protect the distinctive ethos of transferring tribunals, will be adopted by the new tribunal.

• The Chamber Presidents will provide judicial leadership within the chamber and will be required to agree to any person sitting in the chamber who has been primarily assigned to another chamber on appointment.

• Greater confidence in the tribunals’ impartiality will be assured by future appointments to the tribunal and any changes to its procedural rules only being made following Ministerial receipt of independent advice. The guarantee of judicial independence will be extended to the tribunals’ members.

• The efficient disposal of tribunal business will remain a judicial determination, but - critically - in making that determination, the tribunals’ judiciary will be supported by the shared judicial and administrative resources of other tribunals.

• Additionally, the mental health tribunal will continue to uphold the Millan principles as set out in the Mental Health (Care and Treatment) (Scotland) Act 2003.

4.61 The Scottish Government has already announced its intention to abolish the Scottish Charity Appeals Panel (SCAP) and has consulted on where its functions would best sit. The majority of consultation respondents supported the decision taken by the Government to abolish the stand-alone charity appeals tribunal, with the proviso that any replacement appeals route should continue to incur low cost to charities, be easily accessible, and independent. Respondents’ preference was that SCAP should be considered as part of the tribunal review in Scotland. These proposals will further implement those decisions but, for the same reasons leading to the decision to abolish SCAP, there is no requirement to establish a separate charity appeals chamber within the new system.

4.62 Although the Pensions Appeal Tribunals for Scotland are administered by the Scottish Tribunal Service, these tribunals hear cases concerning reserved matters and therefore it is not intended that these tribunals will be transferred into the new First-tier Tribunal by this proposal.
Tribunals that will be considered on a case-by-case basis for transfer in the future

4.63 The tribunals subject to proposals for a power to transfer its jurisdiction to a new tribunal, to be exercisable by SSI, subject to affirmative resolution of the Scottish Parliament, will be tribunals and minor courts with national jurisdiction across Scotland which hear cases concerning devolved matters but are not administered by the STS. For example:

- Parole Board for Scotland;
- Plant Varieties and Seeds Tribunals;
- Children’s Hearings;
- Local government tribunals (valuation appeals, education appeals); and
- NHS tribunals (pharmaceutical lists, NHS charges).

What does this mean to these tribunals and their users?

4.64 There are no current plans to implement this power at this time but this proposal creates a structure into which other tribunals could be brought in, if appropriate and following discussions with all parties concerned.
SECTION 5: ASSESSMENT OF KEY OBJECTIVES

5.1 This proposal seeks to balance five key objectives as set out on page 5 in paragraph 1.7:

- effectiveness in securing just and speedy outcomes;
- efficiency in the administration of justice;
- distinctiveness of different tribunals, including continuing specialisation;
- centrality of tribunal users; and
- potential for future developments of the wider system of Scottish justice.

Effectiveness

5.2 Effectiveness in securing just outcomes through the tribunal system is primarily improved in the proposal by enhancing the status of tribunal judiciary and extending the statutory guarantee of judicial independence.

5.3 In association with these overarching changes, the proposal includes a new requirement for Scottish Ministers - who may often be parties to the cases heard before tribunals - to consider independent advice on the appointment of the tribunal members, as well as on their remuneration arrangements. A new mechanism for making or amending the rules of procedure in tribunals, based on independently delivered recommendations, is also foreseen, with a purpose statement which will include securing just outcomes in all rules.

5.4 The continuing specialisation of individual tribunals is an important facet of securing just outcomes in a system which is designed to minimise requirements for legal representation and tailor proceedings to meet the specific needs of particular user groups. In the proposal, continuing tribunal specialisation is protected by the envisaged chamber structure and by the assignment of members to specific chambers, as well as by the continuation of provisions for professional and other expert tribunal members.

5.5 The proposed role of legally qualified tribunal members, as well as a continuing role for Chamber Presidents in place of Tribunal Presidents, is a further assurance of the future tribunals system securing of effective, just outcomes.

5.6 The facility for effective resolution of disputes with a just outcome is also enhanced by existing judicial office holders’ proposed membership of the tribunal.

Efficiency

5.7 Efficiency is improved by establishing an integrated system which includes common judicial leadership and common purpose in the development of procedural rules.

5.8 Efficiency is also secured by considerations of requirements for onward appeal and supervisory authority. These proposals sit alongside developments in the civil courts and in the UK-wide system of reserved tribunals. The tribunals system, being properly independent and firmly placed in the judicature, should be made capable of resolving disputes with the expectation of finality in most cases. The Lord President’s judicial leadership functions, as
envisaged in the full proposal, including judicial training, appraisal, guidance, welfare and discipline will closely match the corresponding functions of the head of the Scottish Judiciary and will underpin the tribunal system’s ability to resolve disputes finally.

5.9 The deployment of judicial resources is made more efficient by assignment and cross-ticketing provisions which will allow appropriately qualified and experienced members to sit in chambers to which they are not primarily assigned, instead of requiring a new, separate appointment. The effective achievement of just outcomes and the continuing specialisation of tribunals is protected by the proposal to require authorisation for any assignment or ticketing by senior judiciary in the tribunal system.

5.10 The proposed structure for jurisdictions and corresponding judicial hierarchy facilitates efficient administration, which may be achieved by corresponding administrative actions. The development of a STS enables consistent application of service standards across the tribunal system, and also allows best and innovative practice and professional expertise to be shared more widely.

**Tribunal Distinctiveness**

5.11 The primary protection of tribunal distinctiveness in the proposal is the inclusion of a chambered internal structure for the new body, with primary judicial assignments being to the different chambers and provision for separate judicial leadership of each. Importantly, the facility for different rules of procedure to be developed for each chamber is retained, as well as for different case types within each chamber. The rules of procedure and the relevant primary legislation are the legal mechanisms by which an individual tribunal’s distinctive ethos is most effectively developed and maintained: under our proposals both of these mechanisms will transfer to the new system in their current form.

5.12 A further provision in the separate tribunals which ensures their distinctive ethos is the appointment of professional experts and other general members as tribunal members, in addition to the legally qualified tribunal members. These proposals provide for continued membership by non-legal members, although some different arrangements will apply in, for example, training provisions.

**Centrality of system users**

5.13 The proposal seeks to protect the centrality of system users, which is a distinctive feature of tribunals, by introducing an overarching purpose statement for rules. This overarching purpose will reflect the need for cases to be determined justly, efficiently and fairly, in accordance with rule of law but will also require rules to be made simply and to facilitate both self-representation and an active, inquisitorial judicial complement, in accordance with the distinctive nature of tribunals in general.

5.14 The particular distinctiveness of separate jurisdictions within the new tribunal will be the principal reflection of the particular needs of different system users. The rules of procedure governing the different jurisdictions in each chamber may be tailored accordingly and the statutory protections will remain in force. So, for example, the needs of children will
continue to be taken into particular account in the chamber accommodating additional support needs tribunals and the Millan principles will continue to be upheld in the chamber accommodating mental health tribunals.

**Potential for future developments**

5.15 The proposal is amenable to a greater future integration in Scotland of the currently separate reserved and devolved systems of tribunals. It will provide the structure to integrate new tribunals created by the Scottish Parliament and accommodate future developments such as proposals that will emerge in the planned Scottish Government consultation on a new housing tribunal system. Further, it does not introduce barriers to future consideration of the option of merging courts and tribunals, in Scotland, as was envisaged by Lord Philip’s first report and is characteristic of parallel developments of the tribunal system in England and Wales.

5.16 Appropriate safeguards in matters such as shared judicial training arrangements and the maintenance of common jurisprudence in matters of substantive law are reserved to the UK Parliament at Westminster.
### Question 1: Should the distinctive tribunals system be capable of reconsidering decisions and hearing appeals and, if so, what grounds of appeal from the First-tier Tribunal to the Upper-tier should be allowed?

**Comments:**

### Question 2: Which functions of judicial leadership in the tribunals system should be exercised by the Lord President, the President of Scottish Tribunals and the Chamber Presidents, respectively?

**Comments:**
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<tr>
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SECTION 7: THE SCOTTISH GOVERNMENT’S PROPOSAL FOR A NEW TRIBUNAL SYSTEM FOR SCOTLAND

RESPONDENT INFORMATION FORM

Please Note this form must be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation
   Organisation Name

Title  Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐  Please tick as appropriate
Surname

Forename

2. Postal Address

Postcode  Phone  Email

3. Permissions - I am responding as...

Individual  /  Group/Organisation  Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?  Please tick as appropriate  ☐ Yes  ☐ No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis
   Please tick ONE of the following boxes
   Yes, make my response, name and address all available  ☐
   Yes, make my response available, but not my name and address  ☐
   Yes, make my response and name available, but not my address  ☐

(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?
   Please tick as appropriate  ☐ Yes  ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?
   Please tick as appropriate  ☐ Yes  ☐ No
The Tribunals Bill will create two generic tribunals (a First-tier and Upper-tier). We are consulting on:

- STS structures
- Chambers, jurisdictions, onward appeals
- Judicial leadership
- Allocation of functions, welfare, deployment (including cross-appointment, appraisal, training, representation)
- Tribunal judiciary
- Membership, appointments, remuneration, terms and conditions
- Rules of procedure
- Mechanisms and powers
- Equalities impact

Reserved Tribunals in Scotland
Transfer of responsibilities for reserved tribunals in Scotland including Social Security, Taxation, Immigration and other matters.

UK legislation to transfer administrative functions to Scottish Ministers

UK legislation to transfer judicial functions to the Lord President

Scottish Tribunals Service
Administration and support for reserved tribunals in Scotland and MHTS, SCAP, PATS, PRPH, LTS, ASNTS
REFERENCES

1 Sir Oliver Franks, *Report of the Committee on Tribunals and Inquiries* (1957)


3 Administrative Justice Steering Group (AJSG), *Options for the Future Administration and Supervision of Tribunals in Scotland* (Scottish Consumer Council, September 2008)


10 Scottish Tribunals Service: http://www.scotland.gov.uk/Topics/Justice/legal/Tribunals/AboutSTS

11 Lord Chancellors Statement to Parliament, 16 September 2010: http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100916/wmstext/100916m0001.htm


15 Consultation on creation of a Scottish Civil Justice Council: http://www.scotland.gov.uk/Publications/2011/09/28125601/0

