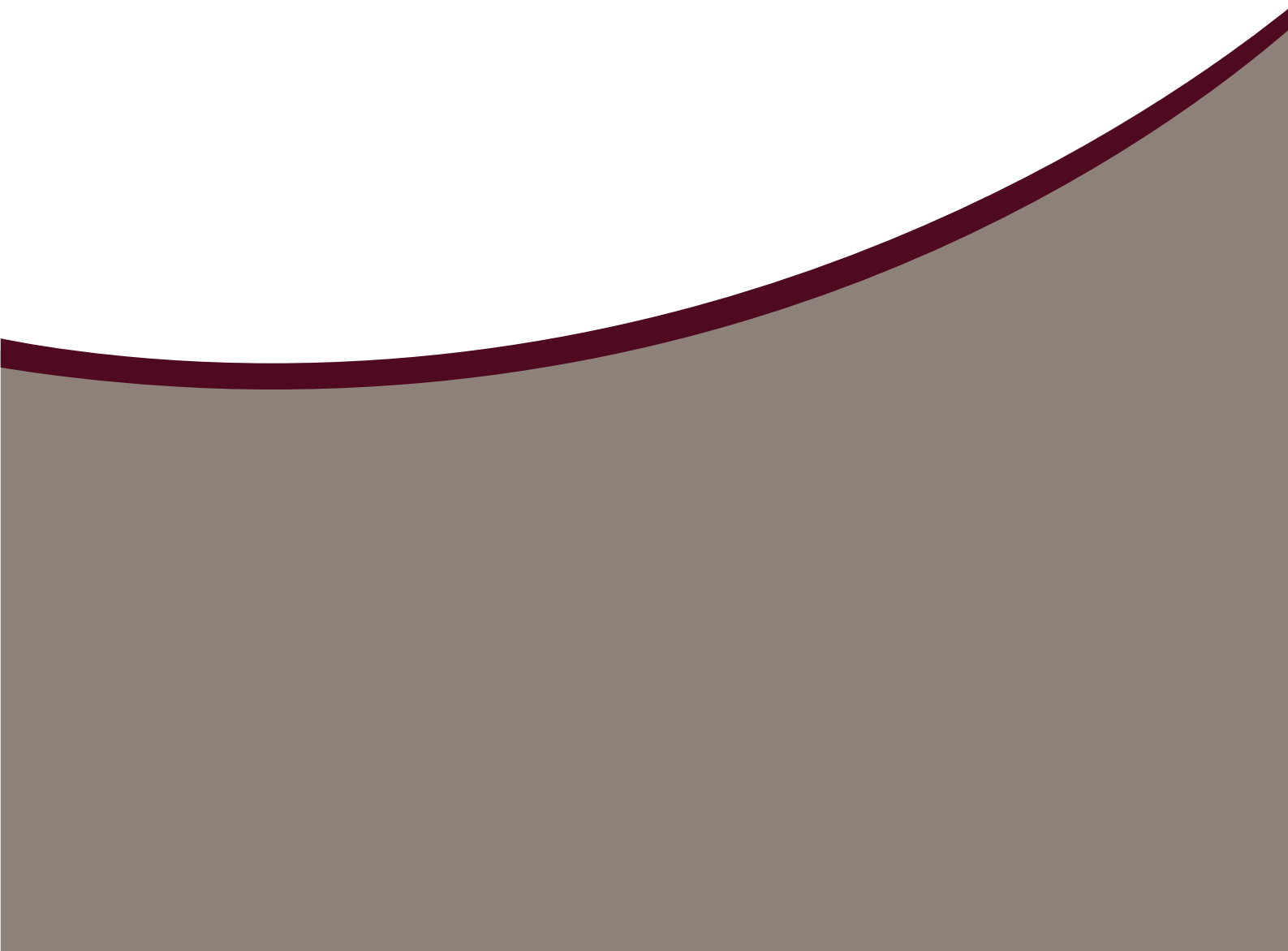


DEVELOPING ADMINISTRATIVE JUSTICE RESEARCH

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Executive Summary

'Developing Administrative Justice Research' sets out the contribution the AJTC intends to make towards the development of research on matters relating to administrative justice. This is in order to fulfil its statutory functions under the Tribunals, Courts and Enforcement Act 2007, including to keep the administrative justice system under review and making proposals for research into the system.

This paper:

- Provides a brief account, by way of example, of some organisations that have undertaken research into administrative justice matters themselves and those that have commissioned or sponsored others to do this. It also describes some research projects that have been undertaken and work that has been published or that is under way.
- Highlights the present disparity of funding for research between different parts of the justice system, the relative lack of funding for administrative justice research, and the lack of experienced researchers.
- Details the contribution the AJTC intends to make to developing research on administrative justice matters under six headings:
 - 1) Helping to articulate the scope of administrative justice;
 - 2) Working with funding bodies;
 - 3) Working with researchers;
 - 4) Developing strategic research partners internationally;
 - 5) Making authoritative research proposals; and
 - 6) Publicising research.

The concluding section of the paper summarises the AJTC's intentions as set out above.

A related study, namely *'Empirical Research on Tribunals: An Annotated Review of Research Published Between 1992 and 2007'*, by M. Partington, E. Kirton-Darling and F. McClenaghan was completed in November 2007.

1. Introduction

Under the Tribunals, Courts and Enforcement Act 2007 (the 'TCE Act'), the Administrative Justice and Tribunals Council (AJTC) is required 'to keep the administrative justice system under review', including making proposals for research into the system.¹

Although the AJTC has the power to commission research itself,² it views its primary goal as being to help initiate, facilitate and disseminate a body of research that will ultimately improve understanding across the whole of its wider remit - and consequently, improve the quality of its advice to government.

The AJTC's new remit provides the opportunity for it to play a central role in fostering sector-wide research projects in the field of administrative justice. To this end, the AJTC will be seeking to develop strong partnerships with key public sector bodies, including policy makers and service providers, user groups, academic institutions, individual researchers and other interested bodies within the independent and voluntary sector. The AJTC also aims to develop relationships with funding bodies to promote a strong impetus towards research in administrative justice. The AJTC believes that it has an important role to play, not only as an advocate of mainstream administrative justice research, but also as a facilitator of new, collaborative research initiatives working in partnership with others.

This paper is intended to stimulate discussion about how best the AJTC might promote the growth of strategic partnerships with a view to encouraging the development of research on matters relating to administrative justice.

The AJTC's interests include:

- the quality of decision-making within administrative bodies, including initial decision-making, internal review and complaints handling;
- external review and complaints handling mechanisms;
- the use of alternative / proportionate dispute resolution in all its forms;
- the role of ombudsmen;
- some aspects of regulatory and professional discipline;
- the pathways leading to tribunal adjudication;
- case handling by tribunals both before and during any hearing;

¹ Para.13(4) defines the administrative justice system as 'the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including -
(a) the procedures for making such decisions,
(b) the law under which such decisions are made,
(c) the systems for resolving disputes and airing grievances in relation to such decisions.'

² In response to a question by the AJTC Chairman during the House of Lords Grand Committee stage of the Bill about the scope of the AJTC's research role, Baroness Ashton of Upholland said:
'...it is often hugely relevant and important for independent bodies, especially those with expertise in a particular field, to do research. We have sought to ensure in the Bill that the council informs us of areas where it thinks that research will be needed. However, there is absolutely nothing to stop the council itself commissioning research ... there is no question but that the council could...bid for a share of the departmental research budget if it so wished...'
Reported in Official Report, House of Lords Debate, 14 December 2006, c GC 86.

- the efficacy of feedback mechanisms;
- the interface between courts and other elements of the administrative justice system; and
- the relationships between the various elements of redress provision within administrative justice.

Whilst these relate primarily to disputes between the state (including local government) and individuals, they are not exclusively limited to those areas. Nor are the boundaries of what constitutes administrative justice fully defined. Also, the AJTC has an interest in the work of some tribunals which are concerned with party and party disputes. Notable among these are employment tribunals and tribunals concerned with landlord and tenant issues. Information about research concerning justice in the workplace or between citizens has, therefore, been included in this paper.

Underpinning the AJTC's research interests is a focus on users, their treatment by decision-makers at all levels, their access to appropriate forms of redress, to high quality information about their options for redress, and to legal support and advice services.

For the AJTC to be able to provide authoritative advice to government on improvements to the administrative justice system, sound analytical and empirical evidence is needed. This implies a need to expand the body of interested researchers by reaching beyond socio-legal study circles to promote a more multi-disciplinary approach across other disciplines such as economics, political science, social administration, social- psychology and information technology. It is hoped that this report will help researchers identify how they might break through traditional academic boundaries.

The approach suggested would not preclude other collaborative relationships and research projects, which expand the existing body of knowledge. There is also an opportunity to link in with initiatives such as LERSnet, launched in April 2008 to encourage communication, networking and the exchange of ideas between researchers.

One of the AJTC's key objectives, as outlined in its first Work Programme³ is to develop its own understanding of the administrative justice system and to promote a better understanding among others who are part of the system or have an interest in it. In doing this, the AJTC hopes to enlarge the breadth and scope of the administrative justice research community, and to raise the profile of administrative justice in ways that are relevant and accessible to potential users.

1.1 THE PRESENT BODY OF ADMINISTRATIVE JUSTICE RESEARCH

Available on the AJTC's website is a full account of the major reported studies that have appeared over the last 15 years, which relate to tribunals and the development of administrative justice, namely, *'Empirical Research on Tribunals: An Annotated Review of Research Published Between 1992 and 2007'* by M. Partington, E. Kirton Darling and F. McClenaghan.

³ This was published by the AJTC in July 2008.

2. Current Research and Funding Landscape

This section of the paper provides a picture of the current research and funding landscape. It is not comprehensive in its coverage, but describes a number of organisations that undertake research into administrative justice themselves; and some that commission research or fund the research projects of others.

The organisations are categorised as follows:

- 1) Government Departments;
- 2) Non-Departmental Public Sector Bodies; and
- 3) The Independent Sector.

A brief account is given of the organisations themselves and some of the administrative justice research projects they have funded, sponsored or commissioned are outlined. Some of these research projects have been completed and are published; others are currently under way or are in the process of being developed.

2.1 GOVERNMENT DEPARTMENTS

2.1.1 Ministry of Justice (MoJ)

The Ministry of Justice (MoJ), which embraces the former Department for Constitutional Affairs (DCA), has overall responsibility for constitutional matters, civil and administrative justice, the courts and legal aid and criminal justice policy.

The following projects provide some examples of recent or currently funded research, which the MoJ, or its predecessor the DCA, has sponsored in the area of administrative justice:

- ☞ R. Moorhead, M. Sefton and L. Scanlan, *'Just satisfaction? What drives public and participation satisfaction with courts and tribunals'* (2008);
- ☞ Constitution and Strategy Directorates, *Human Rights Insight Project*, Ministry of Justice Research Series 1/08, January 2008;
- ☞ H. Genn, B. Lever and L. Gray, *'Tribunals for diverse users'* (2006); and
- ☞ *'Parental Confidence in the SEN Assessment, Statementing and Tribunal System'* (funding in tandem with Department for Children, Schools and Families).

In addition, the MoJ has a number of ongoing research projects that are of interest, including:

- An evaluation of an Alternative Dispute Resolution (ADR) pilot in Social Security and Child Support Appeal Tribunals;
- An evaluation of an ADR pilot in Employment Tribunals;
- A survey of the enforcement of Employment Tribunal awards; and

- An assessment of evidence relating to peoples' motivations for using the courts, tribunals or ADR and the barriers they face.

A list of relevant research funded by the MoJ/DCA in this area can be found at:

 www.justice.gov.uk/publications/research.htm

In addition, to allow the Tribunals Service, an executive agency of the MoJ, to gauge and monitor levels of customer satisfaction, FDS International Ltd have been contracted to conduct a Customer Satisfaction Survey at intervals throughout 2008-2009. The results of the survey, which will focus on appeals, will allow the development of a Key Performance Indicator for customer satisfaction, against which to monitor the performance of the agency. More information about the survey can be found at:

 www.tribunals.gov.uk/latestnews.htm

2.1.2 Department for Work and Pensions (DWP)

The DWP is responsible for the Government's welfare reform agenda; and for delivering benefits and advice to people of working age, employers, disabled people, pensioners, families and children, including entitlement to and payment of social security benefits and pensions.

The DWP is a major commissioner of social science research that distinctively involves collecting and interpreting systematic data on the knowledge, behaviour, views and perceptions of customers and partner organisations. The DWP has divided its research into three programmes: (1) Work, Welfare and Equality; (2) Pensions; and (3) Cross-Cutting issues.

Given the DWP's wide-ranging responsibilities in the area of pensions and social security benefits, research into first-tier decision making and customer satisfaction in relation to complaint handling is of particular interest to the AJTC. Examples of recent or currently funded research projects that the DWP has sponsored in this regard include:

- ☞ N. Wikeley, E. Ireland, C. Bryson and R. Smith, '*Relationship separation and child support study*' (2008);
- ☞ J. Mellor, D. Armstrong, S. Megaw, K. Lennon and L. Paton, '*Child Support Agency client insight research*' (2008); and
- ☞ K. Bunt, J. Morrison and L. Godwin, '*Customers' experience of the Independent Case Examiner Prototype: Qualitative Research*' (2007).

An archive of all previously funded work is available via the following website link:

 www.dwp.gov.uk/resourcecentre/research_analysis_stats.asp

2.1.3 Department for Business, Enterprise and Regulatory Reform (BERR)

BERR, formerly part of the Department of Trade and Industry, is the government department that leads policy on business, employment, consumer policy and sustainable development.

Employment and consumer policies are of interest to the AJTC given its remit. Examples of recent BERR research projects and papers include:

- ☞ P. Latreille, *The settlement of Employment Tribunal cases: evidence from SETA 2003*, Employment Relations Research Series No. 61. URN 07/1149, July 2007;
- ☞ K. Armstrong and D. Coats, *The costs and benefits of Employment Tribunal cases for employers and claimants*, Employment Relations Research Series No. 83. URN 07/1151, July 2007;
- ☞ G. Hammersley, J. Johnson and D. Morris, *The influence of legal representation at Employment Tribunals on case outcome*, Employment Relations Research Series No. 84. URN 07/1150, July 2007;
- ☞ M. Gibbons, *Better Dispute Resolution: A Review of Employment Dispute Resolution in Great Britain* (2007);
- ☞ M. Peters, K. Seeds and C. Harding, *Findings from the Survey of Claimants in Race Discrimination Employment Tribunal Cases* (2006);
- ☞ A. Brown, A. Erskine and D. Littlejohn, *Review of judgments in race discrimination Employment Tribunal cases* (2006);
- ☞ J. Aston, D. Hill and N. D. Tackey, *The experience of claimants in race discrimination employment tribunal cases* (2006); and
- ☞ S. Bacquet and L. Webley, *A Review of How Other Countries Provide Information and Advice to the Vulnerable on Consumer and Social Issues* (2006).

More information on employment and corporate governance related research funded by BERR is posted on its website at:

- 🔗 www.berr.gov.uk/employment/research-evaluation/index.html
- 🔗 www.berr.gov.uk/bbf/corp-gov-research/page15049.html

2.1.4 The Department for Culture, Media and Sport (DCMS)

The DCMS has responsibility within Government for, among other things, National Lottery policy. It sets the policy and financial framework within which the distributing bodies for National Lottery grants operate. The proceeds of the National Lottery support the arts, heritage, sport, charities and community and voluntary groups as well as supporting projects concerned with health, education and the environment. There are currently 13 independent distributing bodies responsible for awarding Lottery grants. These bodies make their grant decisions independently of Government and the DCMS.⁴ Below the Big Lottery Fund is examined in brief.

More information about grants made to different bodies through the various distributors of the National Lottery can be found at:

- 🔗 www.lottery.culture.gov.uk

⁴ Over £21 billion has been raised by the Lottery for good causes and over 300,000 grants have been made by the end of July 2008. Over half of the Lottery grants are of amounts less than £5000 and are made to communities across the United Kingdom.

DCMS is establishing a small-scale framework agreement for a rapid response research facility. This will provide it with flexible small-scale research services on issues relating to economics, social research, statistics, policy formulation and development in the cultural, media and sporting sectors. The aim is to strengthen the analytical underpinning of the Department's policies by providing timely and quality assured research services. The range of possible services is wide and will include literature reviews, data analysis and targeted small-scale fieldwork into specific topics. The deadline for expressions of interest was 22 August 2008.

For further information about the DCMS refer to:

 www.culture.gov.uk/what_we_do

2.1.5 Department of Communities and Local Government (DCLG)

The DCLG's aim is to create '*thriving, inclusive and sustainable communities in all regions*'. To achieve this, its priorities are to:

- Raise the levels of social inclusion, neighbourhood renewal and regional prosperity, working with the full range of Government Departments and policies;
- Provide for effective devolved decision making within a framework of national targets and policies; and
- Deliver effective programmes to help raise the quality of life for all in urban areas and other communities.

The DCLG's research objectives are to:

- Provide the evidence base to inform and support current and future ministerial decisions;
- Support policy development and delivery;
- Evaluate delivery outcomes and processes;
- Build links with the wider research community to develop capacity and strengthen the research-policy interface; and
- Support public and private sector stakeholders to deliver government policy, through the provision of research evidence and research based guidance.

DCLG analysis and research is delivered by twelve research and analytical units. Research is organised into six research programme areas, including the examples below.

Publications under the **Local and Regional Government Research Programme** include:

- ☞ '*Able Authorities: the Disability Discrimination Act, disabled people and local authorities in England*' by M. Barnes, T. Brannelly, E. Dunstan, S.Wainwright and L.Wilson, DCLG, July 2006;
- ☞ '*Review of the Evidence Base on Faith Communities*', J.A. Beckford, R. Gale, D. Owen, C. Peach and P.Weller, ODP, April 2006;
- ☞ '*Civic Education and Local Government: a Literature Review*', by R. Andrews & R. Cowell, Cardiff Business School, Cardiff University, February 2005;

- ↻ *'Promoting Effective Citizenship and Community Empowerment'* by R. Andrews, R. Cowell & S. Martin, Cardiff Business School, and D. Turner, University of Gloucestershire, Office of the Deputy Prime Minister, February 2006; and
- ↻ *'Supporting Effective Citizenship at Local Authority Level'* by R. Andrews, R. Cowell, J. Downe & S. Martin, Cardiff Business School, D. Turner, University of Gloucestershire, Department for Communities and Local Government (web only), May 2006.

Further information can be found at:

🔗 www.communities.gov.uk/index.asp?id=1500327

Under the, now closed, **University of Durham Research Programme** published research included:

- ↻ *Urban Citizenship and Rights to the City* by J. Painter, ICRRDS, Departmental Publications, September 2005.

More information is at:

🔗 www.communities.gov.uk/embedded_object.asp?id=1142007

Latest relevant publications include:

- ↻ *Citizenship Survey: April - June 2008*, CLG, October 2008.

New research projects commissioned by the DCLG include a project commissioned under the **New Horizons Research Programme** during the financial year 2006-2007:

- ↻ *'Stimulating Active Citizenship & Achieving Better Outcomes in Public Policy'*, (led by Manchester University), expected completion date: 30 March 2008; and

Under the **Strategic Research Budget** (2008-09):

- ↻ *'Local Authority Research Council Initiative (LARCI)'*, Economic and Social Research Council (01 April 2008 to 31 March 2011).

More information about completed and on-going research projects can be found on the CLG research data base at:

🔗 www.rmd.communities.gov.uk/programmes.asp

2.2 NON-DEPARTMENTAL PUBLIC SECTOR BODIES

2.2.1 Economic and Social Research Council (ESRC)

The ESRC is one of a number of national research Councils. It funds research and training in social and economic issues. The Department for Innovation, Universities and Skills (DIUS) provides most of the ESRC's funding.

The ESRC is a major investor in research: over 2007/08, £181 million was used to fund over 2,500 researchers in academic institutions and policy research institutes throughout the UK.

The ESRC's 'Research Grants and Strategic Research Boards' grant funding through the following channels:

- **Research centres and groups** are funded for an initial period of ten or five years respectively;
- **Research programmes** comprise groups of related projects which together address one or more of ESRC's priority themes;
- **Research networks** are similar to research programmes but they are smaller- scale and are managed by the researchers themselves;
- **Large grants** provide funding to experienced researchers without any restriction on the nature of the social science research to be undertaken, for up to five years at between £1.5 and £5 million; and
- The **Research Ventures Fund** is available for collaborative proposals which fall outside current ESRC funding priorities and offers the opportunity for it to collaborate with interested parties who are willing to co-fund research programmes.

In addition, a flexible **Research Grants Scheme** makes awards ranging from £15,000 to £1.5 million to eligible institutions, allowing individuals or research teams to undertake anything from a small project to a large-scale survey, provided the topic falls within the ESRC's remit.

Some projects of significance to the AJTC's remit include:

- ☞ M. Adler, *The Potential and Limits of Self-Representation in Appeals Tribunals* (November 2008);
- ☞ B. Thompson, R. Kirkham, T. Buck, *Public Service Ombudsmen and Administrative Justice: Models, Roles, Methods and Relationships* (June 2008); and
- ☞ M. Adler and R. Whitecross, *Seminar Series on Administrative Justice* (an edited book, entitled 'Administrative Justice in Context', based on papers presented at the seminar series, is to be published by Hart Publishing).

In January 2008 the ESRC made a grant to a collaborative project between the Centre for Research in Education Inclusion and Diversity at the University of Edinburgh and the School of Law, University of Manchester. The research examines the following:

- Strategies used by schools and local authorities to prevent disputes arising in the field of special and additional support needs;
- Alternative dispute resolution mechanisms in place and the way in which these are experienced by parents and service providers; and
- Success of ADR approaches in reducing the number of cases referred to courts and tribunals.

It looks at participants of both special educational needs (England) and additional support needs (Scotland) services. The full title of the project, which is due to be completed in September 2009, is: *'Dispute Resolution and Avoidance in Education: A Study of Special and Additional Support Needs in England and Scotland.'*

Three working papers have already been produced and can be found, together with more information about the project, at:

🔗 www.creid.ed.ac.uk/adr

More information on the ESRC's investment in research is available on their website at:

🔗 www.esrcsocietytoday.ac.uk/ESRCInfoCentre/research

2.2.2 Arts and Humanities Research Council (AHRC)

The AHRC is the research Council primarily concerned with research in the arts and humanities. Most of its funding comes from DIUS and it has an annual budget of more than £90 million.

The AHRC's strategic objectives are to:

- Promote and support the production of **world-class research** in the arts and humanities;
- Promote and support **world-class postgraduate training** designed to equip graduates for research or other professional careers;
- Strengthen the impact of arts and humanities research by encouraging researchers to **disseminate and transfer knowledge** to other contexts where it makes a difference; and
- **Raise the profile of arts and humanities research** and be an effective advocate of its social, cultural and economic significance.

The present research programme supports eight subject panels, one of which is: Philosophy, Religious Studies and Law. Correspondence with the AHRC indicated that there have not been any awards granted in recent years specifically relating to administrative justice research, but there is no reason why it would not consider such applications in future. There have certainly been some major investments by the AHRC in law-related issues.

For further information about the AHRC refer to:

🔗 www.ahrc.ac.uk/FundedResearch/Pages/default.aspx

2.2.3 The Law Commissions

A) Law Commission

The Law Commission is an independent statutory body set up by Parliament to review and recommend reform of the law. In England and Wales it conducts research and produces consultation papers containing systematic recommendations for consideration by Parliament on all areas of law.

The following are some examples of Law Commission projects, which the AJTC shares an interest in:

- ☞ Law Commission Consultation Paper No. 187, *'Administrative Redress: Public Bodies and the Citizen'* (July 2008).
- ☞ Law Commission Report No. 309, *'Housing: Proportionate Dispute Resolution'* (May 2008).
- ☞ Law Commission Report No. 289, *'In the Public Interest: Publication of Local Authority Reports'* (July 2004).
- ☞ Law Commission Report No. 281, *'Land Valuation and Housing Tribunals: The Future'* (Sept 2003).

For further information about the Law Commission refer to:

🔗 www.lawcom.gov.uk/projects.htm

B) Scottish Law Commission

The Scottish Law Commission defines its role as being to recommend ways of simplifying, updating and improving the law of Scotland. It emphasises the importance of engaging in a thorough and open process of consultation to ensure that its recommendations, if implemented, would result in just, principled, and responsive law that is easy to understand. Further information about the work of the Scottish Law Commission can be found at:

🔗 www.scotlawcom.gov.uk/html/publications.html

2.2.4 Legal Services Research Centre (LSRC)

The Legal Services Research Centre (LSRC), formerly the Legal Aid Board Research Unit (LABRU), is the independent Research Division of the Legal Services Commission (LSC). It was set up in 1996 to inform legal aid policy and the implementation of reform. It has a broad remit to conduct strategic research in both the civil and criminal justice fields; and to make critical contributions to the development of the LSC's functions.⁵

The LSRC conducts quantitative and qualitative empirical research, along with theoretical analysis of the political, social and philosophical underpinnings of publicly funded legal services. It has produced papers on a broad range of diverse matters, including the impact of civil justice problems on morbidity; the nature of the 'public interest'; and the prediction of costs and outcomes in civil and criminal cases.

⁵ LSRC projects have informed LSC contracting, the development of its Funding Code, changes to the civil means tests, the development of the Community Legal Service, and the development and monitoring of LSC and Ministry of Justice (MoJ) strategic targets. It is also responsible for monitoring the impact of LSC operations on the diversity of the LSC's supplier base.








The LSRC is currently working in eight main project areas namely:

- 1) The English and Welsh Civil and Social Justice Survey;
- 2) Money advice outreach pilot evaluation;
- 3) Delays in the youth court;
- 4) Spatial dimensions of 'legal need' and legal service provision;
- 5) Users' perspectives on the criminal justice process;
- 6) Research on Community Legal Advice Centres (CLAC's) and Community Legal Advice Networks (CLAN's);
- 7) Diversity of the Legal Services Commission's service provider base; and
- 8) Crime victims, offenders and civil justice.

The LSRC has a voluminous publications list, including its Research Paper Series; other LSRC Reports/ books/ chapters in books; LSRC Research Briefings Series; Conference Papers; and Journal Articles. A full list can be found at:

 www.lsrc.org.uk/publications.htm

Recent and forthcoming publications include:

-  Pleasence, P., & Balmer, N.J. *'Mental health and the experience of social problems involving rights: findings from the United Kingdom and New Zealand'*, in *Psychiatry, Psychology and Law* (in press);
-  Pleasence, P. *'Trials and Tribulations: Experimental Methodologies in a Socio-Legal Setting'* in Partington, M. (ed.), *Researching Law and Justice: Case Studies in Empirical Socio-Legal Research* (forthcoming);
-  Patel, A., Balmer, N.J., and Pleasence, P. *'The Geography of Advice Seeking'*, in *GeoForum* (in press);
-  Pleasence, P., Balmer, N.J., and Tam, T. *'Failure to Recall: Indications from the CSJS of the Relative Severity and Incidence of Civil Justice Problems'*, in Sandefur, R. (ed.) *Access to Justice*. Oxford: Elsevier Science (in press);
-  Buck, A., Pleasence, P., and Balmer, N.J. *'Do Citizens Know How to Deal with Legal Issues? Some Empirical Insights'*, *Journal of Social Policy*, Volume 37: 661-681, 2008;
-  Pleasence, P., Balmer, N.J., and Buck, A. *'The Health Cost of Civil Law Problems: Further Evidence of Links Between Civil Law Problems and Morbidity and the Consequential Use of Health Services'*, *Journal of Empirical Legal Studies*, Volume 5: 351-373, 2008;
-  Kemp, V., Pleasence, P. and Balmer, N.J. *'Crime, Social Exclusion and the Civil Society'*, London: Centre for Crime and Justice Studies, Briefing 5/2007.

As well as conducting research, the LSRC also participates in the steering and refereeing of non-LSC research projects; and in national and international research conferences, organising its own biennial international research conference.

Many LSRC projects involve collaboration with expert academics and other research organisations. Through its Ethical Advisory Board and other research advisory groups the LSRC further draws on the experience of the wider research community. It also commissions research services where it needs to augment its own small research team comprising 7 specialist researchers and an administrator. The LSRC is also helping to train and develop the next generation of socio-legal researchers through an internship programme aimed at graduate students.

Further information about the LSRC's projects can be found via:

 www.lsrc.org.uk/projects.htm

2.2.5 Audit Commission

The Audit Commission is an independent public corporation, appointing auditors to over 11,000 local public bodies and driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

The Audit Commission work across local government, health, housing, community safety and fire and rescue services to assess and improve local public services and make practical recommendations for promoting a better quality of life for people in their localities.

As a watchdog, the primary focus of the Audit Commission is to safeguard the interests of taxpayers and promote better outcomes for everyone using public services. Its main values are:

- **Economy, efficiency and effectiveness** - Promoting and providing high quality and excellent value-for-money public services - recognising that public money, which is provided involuntarily by taxpayers, is special;
- **Integrity and independence** - Upholding the highest professional standards, guarding the Commission's independence and basing judgements on evidence;
- **Collaboration** - Sharing knowledge, working with colleagues, partners and clients;
- **Equality and diversity** - Treating people with dignity and respect, and valuing them for their unique contribution;
- **Accountability** - Being fair and transparent in the way it operates, communicating openly and honestly and providing redress when things go wrong;
- **Professionalism** - Continually seeking to improve and accepting responsibility; and
- **Sustainability** - Taking responsibility for reducing the environmental impact of the way it works.

The Audit Commission has a National Studies Programme which aims to improve local public services through its independent authoritative analysis of national evidence and local practice. Its national reports address issues affecting specific sectors, as well as how local public bodies work together.⁶ The research identifies practice that works,

⁶ The Audit Commission only looks at certain local public bodies, and housing associations. National public bodies, even where they have local incarnations, are in the remit of the National Audit Office.

highlights emerging findings and examines national trends to influence local practice and national policy. An important part of the Audit Commission's remit in respect of local government is to review the impact of central government legislation, regulation and direction on the ability of local authorities to provide economic, efficient and effective services.

For further information about the work of the Audit Commission refer to:

- 🔗 www.audit-commission.gov.uk/nationalstudies/index.asp?page=index.asp&area=hpns
- 🔗 www.audit-commission.gov.uk

2.2.6 National Audit Office (NAO)

The NAO audits the accounts of all central government departments and agencies, as well as a wide range of other public bodies, and reports to Parliament on the economy, efficiency and effectiveness with which they have used public money.

The NAO also works towards good practice guidelines, seminars, briefings and conferences, all of which closely relate to the current AJTC project looking at generally applicable principles of administrative justice.

The NAO has produced a number of publications, which are of interest to the AJTC. These include:

- 🔗 2008: *'Feeding back? Learning from complaints handling in health and social care'* (HC 853 of 2007-08);
- 🔗 2008: *'Department for Work and Pensions: Handling Customer Complaints'* (HC 995 of 2007-08);
- 🔗 2007: *'The compensation scheme for former Icelandic water trawlermen'* (HC 530 of 2006-7);⁷
- 🔗 2005: *'Citizen Redress: What citizens can do if things go wrong with public services'* (HC 21 of 2004-05); and
- 🔗 2003: *'Getting it right, putting it right: Improving decision-making and appeals in social security benefits'* (HC 1142 of 2003-04).

The NAO is also conducting a value for money examination in relation to the Independent Police Complaints Commission.

Further information regarding the NAO's work can be found via the following link:

- 🔗 www.nao.org.uk

2.2.7 Consumer Focus

As of 1st October 2008 a new statutory organisation, Consumer Focus, was created through the merger of three consumer organisations - Energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils).

⁷ This NAO investigation report is an example of an investigation prompted by an MP who also referred the issue to the Parliamentary Ombudsman.

The new legislative powers of Consumer Focus include the investigation of any consumer complaint of wider interest; the right to open up information from providers; the power to conduct research; and the ability to make an official super-complaint about failing services.

It is anticipated that the new organisation will facilitate more joined-up consumer advocacy, with a single organisation speaking with a more powerful voice; and able to bring cross-sector expertise to issues of concern.

Details about the strategic aims and work plan of Consumer Focus in England, Wales and Scotland can be found at:

 www.consumerfocus.org.uk/en/content/cms/Scotland/About_Us/Work_planning/Work_planning.aspx

In the past the National Consumer Council has conducted research on public services and redress and on legal services, including:

 S. Brooker, 'Lessons from Ombudsmania' (March 2008).

2.2.8 The Equality and Human Rights Commission (EHRC)

The Equality and Human Rights Commission, which was established on 1 October 2007, is a non-departmental public body established under the Equality Act 2006. It comprises the three former commissions responsible for promoting disability, race and sex equality in Britain, combining this experience with other equality and human rights issues. The Commission is looking at ways to build up knowledge and develop its work to tackle discrimination based on sexual orientation, religion or belief, and age.

Section 17 of the Equality Act 2006 allows the Commission to give financial assistance to organisations concerned with promoting good relations, promoting equality and human rights, and supporting the development of legal casework.

Over 2008/2009 an Interim Funding programme, comprising more than £10 million, was created to provide awards to organisations across England, Scotland and Wales for projects designed to achieve change in their local communities. Two hundred and eighty six (286) organisations have been awarded funds under this programme.⁸ There appears to be no reason why future awards could not be made for developing administrative justice research provided the applicant organisation and project meet with the Commissions criteria.

The Commission currently has twenty-seven commissioned research projects under way, grouped into nine broad themes:

- 1) Career mobility, life chances and social class
- 2) Equality statistics and indicators
- 3) Human rights
- 4) Minority groups
- 5) Pay and income
- 6) Other equality strands (age, religion or faith, sexual orientation)

⁸ A public consultation will be undertaken during late to determine the future of the Commission's permanent funding programme.

- 7) Procurement
- 8) Scotland
- 9) Wales

Further information about these research projects can be found at:

🔗 www.equalityhumanrights.com/en/policyresearch/Pages/Researchprojects.aspx

It is anticipated that the knowledge generated by the commissioned research projects will be published.

The Commission also has a number of 'final legacy publications' produced by the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission before they merged to form the new Equality and Human Rights Commission.

Reports of formal investigations, advice and guidance and other reports are organised under the themes of disability; gender; race, and sexual orientation. Publications in 2008 include:

- 🔗 'Ours to Own: Understanding human rights';
- 🔗 'Sex and Power 08 in Scotland'; and
- 🔗 'Sex and Power report'.

Further information about all the Commissions publications can be found via:

🔗 www.equalityhumanrights.com/en/publicationsandresources/Pages/legacypublications.aspx

2.2.9 Big Lottery Fund

The Big Lottery Fund, which is overseen and regulated by the Department for Culture, Media and Sport (DCMS), will provide up to £20 million in the UK over 2007-2009 to fund social and medical research grants in the UK.

Overall, the programme aims to enable Third Sector Organisations (i.e. voluntary and community organisations) to produce and disseminate evidence based knowledge, to influence local and national policy and practice and, in the longer term, develop better services and interventions for beneficiaries.

Integral to meeting the programme aim are the following five outcomes:

- 1) Improved **understanding of issues** relating to the Big Lottery Fund's UK themes and country outcomes;
- 2) Improved **Third Sector participation and knowledge** in developing, doing and using research;
- 3) Improved **dissemination** of Third Sector led research;
- 4) Increased **participation of beneficiaries and users** in a range of research roles; and
- 5) Improved **partnerships** between the Third Sector and the research community.

The programme is demand-led, funding high quality social and medical research on issues identified, and considered important, by the charitable and voluntary and community sector; and then to support the use and dissemination of this research. Emphasis is given to ensuring that beneficiaries and users are involved, in setting the agenda, conducting, managing and disseminating the research. Only Third Sector Organisations are eligible for funding. These are encouraged to link up with universities and the wider research community.

The Big Research Programme is being delivered by Momenta which works for the public sector to turn policy into practice by offering a range of programme management services, including research management, knowledge transfer, best practice, fund management and behaviour change programmes. Help is available to organisations that wish to do research, so that they have the skills and expertise to lead an application from Third Sector First; a collaboration of specialists in research and social policy, working primarily in the public and 'third' sectors. It is linked through past or current membership to several of the UK's leading university research centres and has conducted project evaluations in many subject areas, including health, social care, community safety, childcare and addictions.

For more information about the Big Research Programme refer to:

 www.biglotteryfund.org.uk/prog_research_programme?regioncode+uk&prog

In addition to funding research, the Big Lottery Fund has an Advice Plus Programme designed to help people in need access good quality advice on their legal rights and responsibilities so that they can avoid or overcome disadvantage. During round one of the project £30 million was awarded to 71 advice agencies across England. Round two was launched in November 2007 with a budget of £20 million to distribute across the nine England regions. Applications closed on 1st April 2008 and it is anticipated that the grants will be made in October 2008. Projects that raise awareness of, increase access to, or improve existing legal advice services were eligible for these.

The Community Fund, which was a predecessor organisation of the Big Lottery and no longer exists, also provided research funding to community organisations and groups.⁹

2.2.10 Advisory, Conciliation and Arbitration Service (Acas)

Acas aim is to improve organisations and working life through better employment relations, emphasising the motto that 'prevention is better than cure'. It offers a range of services including advice, training, the Acas Arbitration Scheme, mediation and conciliation.

Acas's vision, which is underpinned by six pledges, is to be Britain's champion for successful workplaces and for a motivated workforce:

- 1) We are a **fair, unbiased and professional public service**
- 2) Our priority is to **meet customers' needs**

⁹ For example, it provided four project grants over November 1995 to November 2005, totalling just over a million pounds to the Public Law Project for work on administrative justice.

- 3) **We are committed to, and promote, equality** and diversity
- 4) We are proud of our **staff**, respect their views and invest in helping them meet their potential
- 5) At all times we are **accountable** for our performance
- 6) We are **one organisation**, no matter where we are based or what job we do.

Acas has a Strategy Unit and a Research and Evaluation Section, which work closely with its advisers, customers and other stakeholders to analyse working life issues. Research findings are used to improve Acas services and develop new methods for meeting the changing requirements of workplaces.

Recent Policy Discussion Papers produced by Acas include:

- ☞ S. Podro and R. Suff in collaboration with J.Purcell (Acas Strategy Unit), *'Employee Representatives: Challenges and changes in the workplace'* (undated);
- ☞ R. Suff in collaboration with K. Mizon and C. Reid (Acas individual conciliation unit), *'New rules, new challenges: Acas' role in the employment tribunal system'*, No 3, April 2006; and
- ☞ S. Podro and R. Suff in collaboration with Acas Mediation Development Group, *'Making more of Alternative Dispute Resolution'*, No.1 January 2005.

Further information can be found at:

🔗 www.acas.org.uk/index.aspx?articleid=1578

Acas current and forthcoming research priorities for 2008/9 include:

- Research and evaluation of the **new dispute resolution system**, including evaluation of pilots to make its statutory conciliation service more widely available to parties before disputes become tribunal claims;
- Funding for, and involvement in, the **Survey of Employment Tribunal Applications** and the Workplace Employment Relations Survey; and
- Deliberative research on management best practice in handling **sexual orientation and religion and belief (SORB)** at work.

Included in its most recent Research Papers (2007 and 2008) are the following:

- ☞ G. Dix (Acas), J. Forth (NIESR) and K. Sission (University of Warwick), *'Conflict at work: The pattern of disputes in Britain since 1980'* (Ref: 03/08);
- ☞ T. Johnston (Acas Research and Evaluation Section), *'Knowledge and use of mediation in SMEs'* (Ref: 02/08);
- ☞ L.Harris, A. Tuckman and J. Snook (Nottingham Trent University) and S.Tailby, S. Hutchinson and J. Winters (University of the West of England), *'Small firms and workplace disputes resolution'* (Ref: 01/08);

- ☞ M. Hudson, H. Barnes, S. Brooks and R. Taylor (Policy Studies Institute), *'Race discrimination claims: Unrepresented claimants' and employers' views on Acas' conciliation in employment tribunal cases'* (Ref: 04/07); and
- ☞ A. Denvir, A. Broughton, J. Gifford and D. Hill (IES), *'The Experiences of Sexual Orientation and Religion or Belief Discrimination Employment Tribunal Claimants'* (Ref: 02/07).

Further information about research publications can be found at:

🔗 www.acas.org.uk/researchpapers

2.3 THE INDEPENDENT SECTOR

2.3.1 The Nuffield Foundation

The Nuffield Foundation is an endowed foundation that provides grants for research and development in education, law, science and social policy. The Foundation has a long-standing interest in the area of access to justice. Its current objectives are to:

- Promote developments in the legal system that will **improve accessibility** to all people;
- Promote wider access to legal services and advice and a better understanding of the **obstacles to access to justice**;
- Fund research and promote developments in **alternative dispute resolution**;
- In all its areas of interest the Foundation is keen to support a greater knowledge of the rights and duties of the individual, including those of the **European citizen**;
- Examine the implications of new **human rights obligations** on civil (not criminal) justice;
- Help promote a greater **public understanding of the role of law** in society and of the legal system.

In all its areas of interest the Foundation is interested in supporting work that has an international comparative dimension and is particularly interested in fostering work that considers European perspectives.

In 2005-06, the Nuffield Foundation hosted a seminar series designed to investigate the broad area of administrative justice and to identify a possible research agenda. The Council on Tribunals was pleased to participate fully in the series. Following this, in January 2007, the Foundation announced that it would support an administrative justice funding initiative, which would focus on inter-disciplinary work with a strong empirical element.

A major portion (up to 80%) of the Nuffield Foundation's Access to Justice budget (totalling £500,000 per annum) will be spent in the area of administrative justice research in the next two to three years.

Four main strands of work have been identified as follows:

- 1) **Pathways:** from initial handling and filtering to sorting and settlement;
- 2) **Feedback mechanisms** and administrative justice;
- 3) Questions about **quality**; and
- 4) The choice of **redress** mechanism.

The following proposals have received approval under this initiative or before its launch:

- ☞ V. Bondy, *'Design and choice of redress mechanism - a conceptual and empirical study'*;
- ☞ S. Halliday and C. Scott, *'A conceptual analysis of administrative justice and feedback mechanisms'*;
- ☞ H. Genn and C. Thomas, *'Tribunal decision-making: impact of oral hearings and consistency of outcomes'*;
- ☞ P. Dunleavy *'Information redress processes and administrative justice in the UK/England'*;
- ☞ R. Thomas *'Asylum adjudication: a study of the procedure and determination of asylum appeals'* (project due to end December 2008);
- ☞ S. Craig *'An evaluation of onward immigration and asylum appeals in Scotland'* (project due to end December 2008);
- ☞ C. Haley *'Mediation and judicial review - an action research study'* (project completed June 2008).

The Foundation will be launching revised guidelines in the autumn of 2008, but will retain its special interest in administrative justice.

A selection of research in the administrative justice area previously funded by the Nuffield Foundation can be found at:

🔗 www.nuffieldfoundation.org/go/grants/accesstojustice/page_480.html

In April 2008 LERSnet, the website of the Legal Empirical Research Support Network, was launched. This grew out of the Nuffield Report: 'Law in the Real World' and is intended to:

- **Promote communication** between empirical researchers, working both in academic institutions and in other research organisations;
- **Encourage new entrants** to the field by enabling them to ask more experienced colleagues for advice and assistance on research matters;
- **Provide new channels of communication** between researchers and research funders.

Further information about the project, and the content of the site may be found by visiting the site at:

🔗 www.lersnet.ac.uk

2.3.2 The Leverhulme Trust


The Leverhulme Trust, with an annual funding budget of some £40 million, is the largest all-subject provider of research funding in the UK.

It has a significant range of different programmes devoted to supporting research. Among these are:

- 1) **Research Programmes:** comprise two themes selected by the Trust on an annual basis for which bids are invited from research teams for up to five years to enable them to explore significant issues in the social sciences, the humanities and, to a lesser extent, in the sciences. Each of the two awards is set at a sum of up to £1.75 million and not below £500,000. Eligible institutions include universities, other institutions of higher and further education in the UK and charities registered in the UK. Joint applications are welcomed, although there must be a lead applicant responsible for directing the grant.
- 2) **Research Fellowships:** are offered to approximately 90 individuals for original research. The individuals do not necessarily have to be university graduates or academics but they should be experienced researchers, resident in the UK and able to demonstrate an established track record in their chosen area of research. Applications are considered in all subject areas. The maximum total value of an award is £45,000.
- 3) **Research Leadership Awards:** were granted as an initiative in 2007 to encourage younger researchers who had succeeded in beginning a university career and needed to build a research team of sufficient scale to tackle an identified but distinctive research objective. Each award was at a level of up to £800,000 in total spread over 5 years. Selection criteria included:
 - The ability of the award to bring about a compelling change in the wider shaping of research disciplines;
 - The capability of the applicant as demonstrated by existing research achievement and by the statement of the forward research objectives; and
 - The fit of the research group to the institution's stated research ambitions and the confirmation of this fit in terms of the support provided by the host institution for the group.
- 4) **Research Project Grants:** The aim of these awards, each of up to £250,000 and over a duration of two to three years, is to provide financial support for innovative and original research projects of high quality and potential. The choice of theme and the design of the research lie entirely with the applicant. Eligible institutions are universities, other institutions of higher and further education in the UK, and registered charities in the UK and abroad.

A review of research grants awarded by the Trust since 1999 did not reveal any grants made specifically in the area of administrative justice research, although grants have been made in areas such as child law and policy. Discussion with the Trust indicated, however, that there is nothing to preclude the award of such a grant for an administrative justice research project provided it satisfies the applicable criteria.

More information can be found at:

 www.leverhulme.ac.uk/grants_awards/grants/research_project_grants

2.3.3 The Joseph Rowntree Foundation (JRF)

The JRF is one of the largest social policy research and development charities in the UK. It spends approximately £5 million per annum on its grant-making programme. JRF fund research and development programmes that seek to understand the causes of social difficulties and explore ways of overcoming them.


JRF's work is organised into three broad themes around which programmes of funding are built. These are:

- **Poverty:** to examine the root causes of poverty and disadvantage and identify solutions
- **Empowerment:** to identify ways of enabling people and communities to have control of their lives
- **Place:** to contribute to the building and development of strong, cohesive and sustainable communities.

Most funding is purposive and is to enable the JRF to build an evidence base, which will provide evidence and solutions to identified problems. In addition, the JRF has a Responsive Mode funding stream which is to provide funding for innovative and groundbreaking ideas.

JRF also funds projects focused around the operational activities of the Joseph Rowntree Housing Trust. Almost all research work is commissioned to a specific brief. Examples of recent themes under which work has been undertaken include 'Housing finance and low-cost home ownership'; and 'Risk and regulation in the residential care sector'.

Current work funded by the JRF of interest to the AJTC includes:

 D. Finn, D. Mason, N. Rahim and J. Casebourne *'Delivering benefits, tax credits and employment services: Problems for disadvantaged users and potential solutions'* (2008).


Examples of other work that the JRF has funded recently can be found via the following website link:

 www.jrf.org.uk/research-and-policy

2.3.4 British Academy

The British Academy receives grant-in-aid from the Department for Innovation, Universities and Skills to fund research at postdoctoral level in all branches of enquiry within the humanities and social sciences.

The British Academy's research funding strategy centres on the provision of awards to researchers. There have been a number of awards made for research on administrative justice, including:

 Thank-Offering to Britain Fellowship 2006: *'The Fathers' Rights Movement and Law Reform'*, by Professor R. Collier;

- ☞ Postdoctoral Fellowship 2006: *'The Use of Ideal Theory in Social Justice Debates'* by Dr K. Eddy;
- ☞ British Academy Research Readership 2003-2005: *'Security and Justice: An Enquiry into the Normative Issues Raised by Changes in the Governance of Crime'* by L. Zedner;
- ☞ Small Research Grant 2003: *'Justice and work in Modern Britain'*, by Dr R C Whiting; and
- ☞ Senior Research Fellowship Award 1991-92: *'A Treatise On Social Justice: Justice as Impartiality'* by B. Barry, published in 1995.

Further information about the British Academy is available at:

🔗 www.britac.ac.uk/funding/guide/index.cfm

2.3.5 Advice Services Alliance (ASA)

ASA is the umbrella body for independent advice networks in the UK. It has a membership comprising national networks of not-for-profit organisations, which provide advice on the law, access to services and related issues. Current members include: adviceuk, Age Concern England, Citizens Advice, Citizens Advice Northern Ireland, DIAL UK, Law Centres Federation, Shelter, Shelter Cymru and Youth Access. There are also a significant number of associate member organisations.

ASA undertakes policy work on its members' behalf, including responding to government initiatives relating to advice.¹⁰ It has produced a large number of **policy papers and briefings** including the following:

- ☞ *'Getting past reception: Access and intake systems in Not for Profit legal services providers'*, by M. Sefton, ASA Policy Report, (April 2008);
- ☞ *'CLACs - are they worth it?'*, by A. Griffith, ASA Policy Report (May 2008); and
- ☞ *'Hunt Review of the Financial Ombudsman Service, The Advice Services Alliance's response to the Hunt Review of the Financial Ombudsman Service'*, (January 2008).

Further information about ASA's policy publications and papers can be found at:

🔗 www.asauk.org.uk/go/SubSection_50.html

In addition there are a number of interesting papers that have been published by ASA and its member organisations on the Outcomes of Advice. Included are the following:

- ☞ *'Bridging the Gaps, Age Concern London's research report on the outcomes of its information and advice services'*;
- ☞ *'Measuring the outcomes of employment advice - Initial findings from the Islington Law Centre pilot'*, ASA (February 2008) ;
- ☞ *'A Practical Guide to Outcomes for Advice'* - written by S. Bhavnani, ASA's Policy Officer for Quality and Standards of Advice, (November 2005); and

¹⁰ ASA also has a **Working Together for Advice** project funded by the Big Lottery Fund which is being delivered by a consortium of advice agencies.

☞ *'Impact of Advice - a brief report'*, ASA (June 2003).

Links to web reports on outcomes by: Citizens Advice; National Homelessness Advice Service (NHAS); Shelter; and Youth Access are also available on the following ASA website:

🔗 www.asauk.org.uk/go/SubSection_39.html

2.3.6 Citizens Advice

Citizens Advice and its Citizens Advice Bureaux (CABs) are registered charities, which rely on over 20,000 volunteers to provide services to help people resolve their legal, money and other problems. It does this by providing free information and advice from over 3,200 locations, and by influencing policy makers. It also co-ordinates social policy, media, publicity and parliamentary work. Adviceguide, its information and advice website, receives over 7.3 million visits a year and can be accessed via the following web link:

🔗 www.adviceguide.org.uk

Citizens Advice publishes issue-based reports on a number of themes, such as, *'Justice matters: Citizens Advice service and publicly funded legal services'* (2004). It also has a substantial list of policy and campaign publications covering a broad range of topics (including benefits and tax credits, debt, education, employment, equality, diversity and discrimination, health and community care, housing, immigration and asylum, legal affairs, modernising government, rural affairs, and utilities).

Regular evidence reports and briefings explore key issues raised by CAB clients' evidence in order to make recommendations for policy change. Consultation responses are presented to Government departments, MPs, Peers and other policy makers. Parliamentary briefings and a quarterly 'Evidence Journal' on its campaigning work are also published.

A recently published Social Policy Evidence Briefing is:

☞ *'Justice denied: the deliberate non-payment of Employment Tribunal awards by rogue employers'* (October 2008).

Further information about Citizens Advice publications can be found on its website at:

🔗 www.citizensadvice.org.uk/index/publications.htm

2.3.7 Policy Studies Institute (PSI)

PSI is a registered charity, run on a not-for-profit basis; merging in 1998 to become an independent subsidiary of the University of Westminster. It undertakes and publishes research on public policy issues; and prides itself on its adherence to a politically neutral stance. PSI's income comes from a variety of sources, including government departments, charitable trusts, research councils, and companies.

PSI's 35 researchers are organised in two multi-disciplinary groups: Environment, and Work and Social Policy. Policy research often addresses issues requiring interdisciplinary approaches. The PSI collaborates in its research with a range of leading research institutes, think tanks and academic departments.

PSI's values are to be independent, non-partisan, transparent, and inclusive. Its research work is based on six key principles:

- **Utilitarian:** applying research skills for useful social purposes;
- **Theoretical:** seeking to build a body of knowledge;
- **Methodological:** refining and improving its research tools ;
- **Inferential:** seeking to draw justifiable conclusions from its research;
- **Accountable:** placing its work in the public domain directly at the service of the public; and
- **Ethical:** applying professional and ethical standards to its work

The publication and dissemination of its research are integral to PSI's activity, encouraging the public scrutiny of findings and recommendations. Some recent research projects and publications include the following:

- ↻ *'Estimating DLA/AA take-up rates: a feasibility study - Stage 2'* (May 2008);
- ↻ *'Feasibility of estimating DLA/AA take-up rates: Extension to AA claims and DLA Child claims - Scoping study'* (May 2008);
- ↻ *'Analysis of the Acas Model Workplace'* (November 2007 to July 2008);
- ↻ *'Qualitative Research on Unrepresented employers and claimants views of the Acas Individual Conciliation service in Race Discrimination claims'* (December 2006 to July 2007);
- ↻ *'Engaging with older citizens: A study of London boroughs'* (January 2007 to June 2007);
- ↻ *'Approaches to estimating DLA/AA take up rates: a feasibility study'* (July 2006 to December 2006); and
- ↻ *'Continuity of Older Citizen's Involvement in the Whole Policy Process: A Review of Practices'* (April 2005 to May 2006).

Further information about the PSI's research can be found at:

↻ www.psi.org.uk/research/default.asp

3. Looking Ahead

3.1 THE PRESENT POSITION

Administrative justice lies at the core of everyday life - covering, as it does, social security benefits, schools admissions and exclusions, employment, health and social care, mental health, immigration and asylum, taxation and tax credits, transport, planning and so on. Yet, to date there has been a clear lack of co-ordinated and sustained government investment in research in this area. A recent independent inquiry¹¹ has pointed out a notable investment discrepancy within government itself in terms of the quantum of budget allocations set aside for different parts of the justice system. Research on criminal justice issues, for example, has tended to attract significantly more resources than those devoted to administrative justice.

There is also a dearth of capacity in terms of experienced, empirical legal researchers in most areas of civil justice, including administrative justice. As the *Law in the Real World* report concluded, there is an ageing cadre of experienced legal researchers, but the field is not attracting sufficient numbers of newly qualified researchers to replace, let alone expand, existing capacity. The AJTC therefore welcomes the launch of the LERSnet web site¹² and hopes to find ways to work with it to promote empirical research in law and to encourage new researchers into the field.

3.2 THE CONTRIBUTION THE AJTC CAN MAKE

Although there are a number of challenges to be met, it is clear from the above examples that there is a significant range of institutions that are already undertaking relevant research into administrative justice matters. This is being done in various ways: through in-house commissioning, the employment of research staff, and financial grant making to institutions and individuals.

The AJTC is keen to take the opportunity to pursue its goal of helping to initiate, facilitate and disseminate a body of research on administrative justice. Its strategy has six core components which are outlined below.

3.2.1 Helping to articulate the scope of administrative justice

For the first time there is a statutory definition of the 'administrative justice system' which the AJTC is charged with keeping under review.

The administrative justice landscape is broad. The AJTC expects that its work in giving an account of the system, making recommendations about it, and identifying priorities for research, will give both researchers and research funders a better understanding of this landscape and of the significance of administrative justice. The AJTC

¹¹ H. Genn, M. Partington and S. Wheeler, *Law in the Real World: Improving our Understanding of How Law Works* (2006), p 34.

¹² www.lersnet.ac.uk

anticipates that this will have the effect of stimulating interest in the field more generally and enabling individuals and organisations better to identify the links with their own particular fields of interest.

3.2.2 Working with funding bodies

Whilst the funding landscape changes fast, there are evidently funds available for research which meets the requirements of individual funders. In some cases, the challenge may lie in demonstrating to a particular funding agency the benefits or value added that would accrue if it were to raise the profile of administrative justice research as a thematic programme or research topic.

The AJTC is firmly committed to putting the needs of potential users of the administrative justice system first. In that respect its focus is clear. It hopes to identify and then work collaboratively with strategic research partners (both research institutions and funding bodies) who share this focus and are interested in investigating a particular aspect, or aspects, of the administrative justice system. Some potential strategic partners may be willing to fund or co-fund relevant research. Alternatively, they may prefer to work collaboratively on a research proposal with a view to submitting this to one of the larger funding bodies for a research grant.

3.2.3 Working with researchers

Engagement with individual researchers, research groups and research institutions will be essential if the AJTC is successfully to encourage research into administrative justice in all its forms.

By initiating discussion and convening seminars and workshops it will keep abreast of emerging issues and explore new developments and ideas. The AJTC will use its website (www.ajtc.gov.uk) and *Adjust* newsletter to promote closer collaboration across the research community and more broadly. It will also maintain close contact with others who are engaged in initiatives to promote and facilitate networking on administrative justice research.

The AJTC will also explore possible incentives to encourage the new generation of researchers to undertake fresh and innovative research on key administrative justice priorities and concerns. For example, funders may be interested in offering a prize for the best research paper on a topical administrative justice question.

3.2.4 Developing strategic research partners internationally

The AJTC has begun to explore research initiatives elsewhere in Europe. The European Union 'Civil Justice' programme¹³ aims to improve the daily life of individuals and businesses by enabling them to assert their rights throughout the EU, notably by fostering access to justice. It also aims to improve the contacts, exchange of information and networking between legal, judicial and administrative authorities and the legal professions in order to enhance better mutual understanding.

¹³ This was adopted on 25 September 2007 by the European Parliament and Council (Decision 100/1149/2007/EC) as part of the EU's General Programme 'Fundamental Rights and Justice' which falls under its generic social development budget line.

The European Union Democratic Observatory (EUDO) has recently set up a project relating to Ombudsmen: *'Ombudsman Studies: An Interdisciplinary Study of Multilevel Accountability and Political Effectiveness'*. This research project is looking at the nature, role and effectiveness of the office of the Ombudsman using approaches from law, political science and public policy and both normative and empirical methods of analysis. It is doing this from the theoretical perspective of the separation of powers and checks and balances on administrative power; as well as looking at perceptions of the office through the eyes of other state institutions and citizens.

The AJTC also enjoys strong and developing links with a range of institutions and individuals in other common law jurisdictions, and Canada and Australia in particular. It plans to build on these and undertake further investigation of key administrative justice research internationally;¹⁴ and to develop and consolidate relationships where it believes collaboration can have most value added impact.

3.2.5 Making authoritative research proposals

The AJTC believes that high quality and high impact research will be generated best through close collaboration and the development of strategic partnerships and alliances with others who share its vision and values. Through its work across the whole field of administrative justice the AJTC will identify priority areas in which it will wish to encourage research.

In 2007 the Council on Tribunals, the AJTC's predecessor body, published its response to the Nuffield Foundation's call for research in Administrative Justice. This response included the following potential areas of inquiry:

- The significance of advice and support in determining robust administrative justice outcomes;
- The effect of fees and potential cost awards;
- The part played by internal review. Does internal review serve to resolve issues early or does it also deflect 'good' claims by draining the claimant's resolve?
- Feedback and its role in improving first-instance decision-making;
- The impact of procedural informality/formality on the quality of resulting decisions;
- In terms of fact-finding and evidence testing, what are the respective benefits and disadvantages of the oral hearing, common in tribunals, and the investigatory techniques employed by ombudsmen?
- What principles should guide the policy maker when matching a redress mechanism to a dispute? When, for example, might a negotiated settlement be preferable to adjudication by way of an oral hearing, or vice versa; or an ombudsman preferable to mediation?

¹⁴ For example, the work of B. Edgeworth, (2006), *'Access to Justice in Courts and Tribunals: Residential Tenancies in New South Wales (1971-2001)'*, 31(2) *Alt L J* pp 75-78; C. Hunter and J. Nixon's: *'Report to Law Commission on Australian Tenancy Tribunals'* (June 2005); and L. Pearson's work on Tribunal Review and Reform summarised in *'Queensland's Proposed Civil and Administrative Tribunal'* in *Adjust*, October 2008 at: www.ajtc.gov.uk/adjust/articles/queensland.htm

- Means of encouraging and supporting the greater use of alternative resolution methods/techniques where this is deemed to be appropriate in particular circumstances;
- How best to address the needs of an increasingly diverse user base, with particular reference to projected changes in demography including the growth in the number of older people, and cross-border migration and increasing population mobility? and
- Comparative research into the current state of administrative law in Europe and how European based reforms might inform future developments in the United Kingdom.

The AJTC is pleased to note that some of these priority areas have already attracted funding. While it will continue to encourage work on the remaining questions listed above, other topics will emerge as its work progresses and the AJTC will draw these to the attention of funders and researchers.

3.2.6 Publicising research

The publication of this paper marks a first step in raising awareness about some of the research, completed, ongoing and proposed, into administrative justice. The AJTC will continue to disseminate information about research initiatives and findings through posting news and articles on its website and featuring articles in its bi-monthly electronic magazine *Adjust*.

4. Conclusion

The publication of this paper marks the first step by the AJTC in seeking to fulfil its statutory remit on research. There remains much to be done. The six key areas identified as being the main focus in the future can be summarised as follows:

- 1) **Helping to articulate the scope of administrative justice** so that it becomes better understood by multiple stakeholders, including government, the research community and funding bodies;
- 2) **Working with funding bodies:** identifying and engaging proactively with agencies interested in funding or co-funding research on shared priorities and systematically networking with key actors to develop mutual understanding and find synergies;
- 3) **Working with researchers:** identifying and engaging proactively with members of the research community more broadly defined than just academic research;
- 4) **Developing strategic research partners internationally:** in order to promote comparative research on issues of shared concern and facilitate the exchange of ideas, information and experience.
- 5) **Making authoritative research proposals** which reflect the needs of users and the AJTC's own strategic priorities; and
- 6) **Giving publicity to research:** publicising high quality and reputable research that is under way and communicating and disseminating resulting findings.

The AJTC looks forward to reporting on its progress in its annual reports and elsewhere, as the work proceeds. It would also welcome feedback on this paper. For example:

- Are there significant pieces of research or archived sources that are not referred to?
- Are there any additional areas for research, which ought to be identified as being topical now?

The AJTC would be pleased to hear from researchers or organisations working on matters relating to administrative justice, and who are not mentioned in this paper.



