



members should act independently and in good faith in the best interests of the trust port and all its stakeholders, including responding appropriately to complaints from stakeholders and having a duty of care to the trust port and its current and future stakeholders.

The guidance notes that interested parties who believe a trust port is acting in breach of the principles of the trust port should raise the matter with the port in the first instance. The trust port should provide a written response within a reasonable timescale. This should explain whether they consider the complaint justified and set out the remedial action they intend to take. If the complainant does not believe the response they have received from the trust port is reasonable in addressing the grounds of his or her concern, the matter can be reported to Scottish Ministers who may assist in resolving any dispute in a role as "honest broker". This should not however be considered to represent an escalation of the complaint and Ministers have no locus in regulating the commercial decisions or activities of a trust port. Nor do they become involved in 'good neighbour' disputes as these are matters for the board to resolve. As mentioned at the Committee meeting, complaints about noise from a port or harbour should be directed through the established channels at the relevant local authority who have a responsibility to investigate noise complaints from all businesses.

Ministers' role as "honest broker" is limited to working with the port and stakeholders to resolve conflicts and ensure the board does not take decisions in an arbitrary unaccountable manner which is inconsistent with the spirit of the guidance. An example of where Scottish Ministers' role could be applied is if there was a complaint from a stakeholder of a perceived unreasonable increase in port fees, or if a stakeholder believed they were being treated unreasonably compared to other businesses on access to the port, with no explanation from the port.

The Convenor asked when the Scottish Government had written to trust ports to remind them of the guidance and their responsibilities. Transport Scotland officials meet with the majority of Scottish ports 3 times per annum at the British Ports Association's Scottish Ports Group Committee meetings, along with fortnightly meetings with some of the main ports, and are in regular correspondence with individual ports on a wide range of issues. Trust ports are well aware of the guidance, and their need to adhere to the principles of it. Officials and Ministers regularly emphasise the need for all model of ports, not just trust ports, to continue to engage with their local communities through formal and informal consultation processes and community engagement and the Harbour Order process is built around this principle.

At the Committee meeting there was discussion about the number of complaints received regarding trust ports, and Port of Cromarty Firth (PoCF) in particular, and what evidence there was to demonstrate confidence that trust ports are operating with reference to the guidance. I think it has to be considered firstly that any industrial activity has the potential to create some negative impacts for local communities as well as the positive benefits of supporting local employment and businesses in the catchment area. This applies to airports as it does ports as well as a variety of other businesses. The key is to ensure that the negative impacts do not breach noise and environmental standards and that adequate protocol is in place to ensure that communities have the ability to voice complaints and concerns with confidence that these will be taken seriously and with the ability to seek redress as appropriate.





that grants advice and assistance and it is for the solicitor to decide whether they collect the contribution from the applicant.

If there is a situation where a number of potential litigants have claims which are the same as, or similar or related to each other the Court may give permission to allow a group procedure. Group procedure allows multiple litigants the opportunity to bring one group action at a lower cost to individual litigants.

If judicial review is deemed to be appropriate, then anyone looking to take action will need to raise their own individual proceedings in the Court of Session, as the newly introduced rules on group proceedings do not currently apply in these cases.

If an applicant is deemed to have a joint interest with other persons, and they cannot show that they would be seriously prejudiced in their own right if legal aid were not granted, then Reg 15 of the Civil Legal Aid (Scotland) Regulations 2002 applies, and SLAB may need to ask more about those who share a common interest in the matter including information about their financial resources, and ability to assist with the cost of the proposed proceedings.

If the merits tests are met, and the applicant can show they would be prejudiced in their own right if proceedings are not raised, then SLAB have the ability to assess the applicant as an individual as detailed above.

I hope that this has been of assistance.