

Council  
on  
Tribunals

# Annual Report

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2006/2007

The Council on Tribunals' 48th Report is made to  
the Lord Chancellor and the Scottish Ministers

Laid before Parliament and the Scottish Parliament  
by the Lord High Chancellor and the Scottish Ministers  
pursuant to section 4(7) of the Tribunals and Inquiries Act 1992  
and section 88(3) of the Scotland Act 1998

The Council's Scottish Committee publishes its own report  
which is laid before the Scottish Parliament  
with the agreement of the Scottish Ministers

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## Chairman's Preface

Here at 81 Chancery Lane, the year's most welcome news was the appearance of the legislation needed to complete the reform programme following from the 2001 Leggatt Report and the White Paper '*Transforming Public Services*' of July 2004.

With the Bill expected to become law in Summer 2007, this is likely to be the Council on Tribunals' last report before it mutates into the Administrative Justice and Tribunals Council for which the Bill provides.

Although the new Council will continue the work on tribunals of the old, it will also have a much wider remit to review and advise across the administrative justice board – including the relationship between tribunals, ombudsmen and courts – to secure the fair and proportionate resolution of disputes of many kinds.

It is an understatement to say that the new role is challenging. But it is one we greatly welcome, and for which we have continued with confidence to prepare during the year on which we report.

We have built good links with the new Tribunals Service established in April 2006. We have maintained and strengthened those with the Senior President designate, Lord Justice Carnwath; with the British and Irish Ombudsman Association; with the Judicial Studies Board; and with the academic and research community.

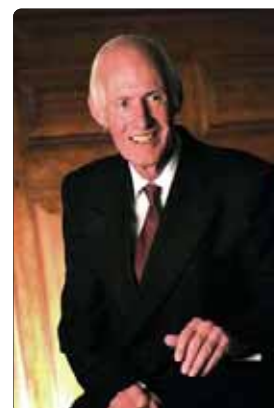
We have improved the 'feedback' from our members' visits, and broken new ground with a survey of user groups, a study of video-linking as an aid to efficiency and access to justice, and the development of contact with original decision makers.

In Wales, our second conference – once again attended by the First Minister, Rhodri Morgan – began to map the work of the intended new Welsh Committee. And in Scotland, our Scottish Committee has begun developing its own work to reflect the changing landscape.

So, 50 years on from the Franks Report which led to the Council on Tribunals, we look forward to our extended role as the AJTC. But the watchwords remain those of Franks: Openness, Fairness and Impartiality.



**The Rt Hon. the Lord Newton of Braintree OBE, DL**



# Statement of Purpose

The purpose of the Council is to keep under review, and report on, the constitution and working of the tribunals under its supervision, and where necessary to consider and report on the administrative procedures of statutory inquiries.

The Council seeks to ensure that tribunals and inquiries:

- are independent
- are open, fair and impartial
- are accessible to users
- have the needs of users as their primary focus
- offer cost effective procedures
- are properly resourced and organised
- are responsive to the needs of all sections of society

## Strategic Objectives

In support of its purpose the Council has the following strategic objectives:

1. To oversee the performance of tribunals and inquiries against common standards and to draw attention to matters of particular importance or concern;
2. To promote the accessibility of tribunals and inquiries to all their users through fair, open, proportionate and straightforward procedures and high quality, user friendly information and guidance;
3. To promote the provision of training for all tribunal and inquiry judiciary and administrators;
4. To promote modern, user friendly, efficient and effective tribunal and inquiry administration;
5. To promote a culture of excellence in tribunals and inquiries through collaboration and sharing of best practice among judiciary and administrators.

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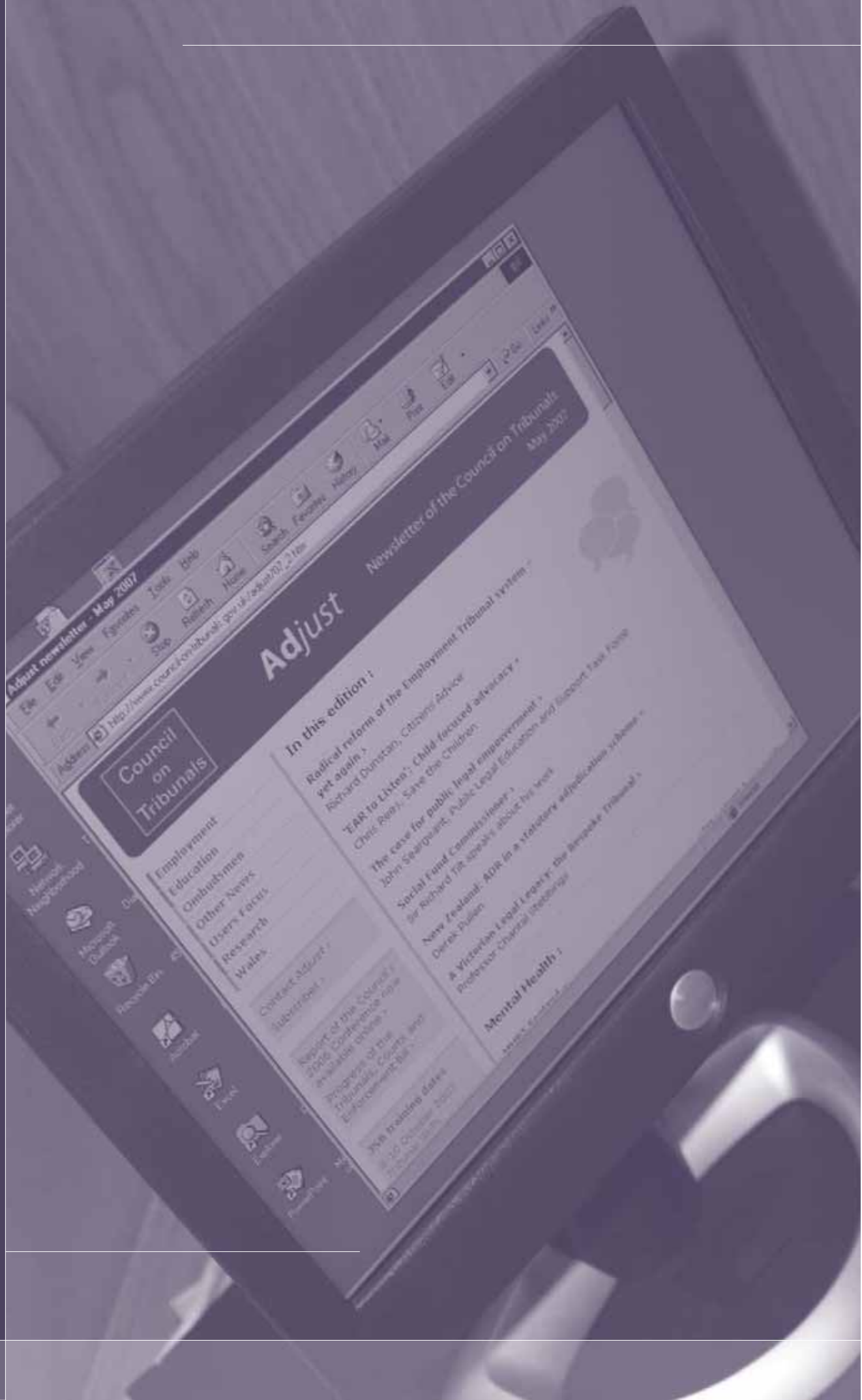
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# 1 | Overview of the Year





1. This Report relates to the period 1 April 2006 to 31 March 2007 and is likely to be the last full report we issue as the Council on Tribunals. The Tribunals, Courts and Enforcement Bill provides for our transformation into an Administrative Justice and Tribunals Council (AJTC).

### **Tribunals Service**

2. The past twelve months have been a landmark year for tribunals, following the establishment on 3 April 2006 of the new unified Tribunals Service. This involved the transfer of some of the most significant tribunal systems from their existing sponsoring government departments into a new executive agency within the Department for Constitutional Affairs (now the Ministry of Justice).
3. We have paid particular attention to the operation of the Tribunals Service in its first full year, both in respect of particular issues concerning individual transferring tribunals and the evolution of the Tribunals Service as an organisation more generally. Feedback from members of the tribunals that have joined the service has been generally positive, with many recognising the benefits, particularly the enhancement of the perception of their independence.
4. We have exercised our oversight function not just through our usual programme of visits to observe tribunal hearings but also through membership of steering boards set up to oversee the transfer of particular tribunals to the Tribunals Service, including those for the Employment Tribunals and the Mental Health Review Tribunal (MHRT). Our Chairman also sits as an observer on the Tribunals Service Management Board and attends meetings of the Tribunal Presidents Group, which provides a forum for the Presidents of the various tribunals within the service.
5. Throughout the year we have held meetings with Tribunals Service officials and judiciary. These included meetings with Martin John, then Director of the Asylum and Immigration Tribunal; Rosemary, Lady Hughes, President of the Special Educational Needs and Disability Tribunal; His Honour Judge Phillip Sycamore, MHRT Liaison Judge and Jeremy Cooper, Regional Chairman of the MHRT; Peter Lovell, Head of Performance and Planning; and Jeanne Spinks, the Deputy Chief Executive. We plan to pay attention to the development of new key performance indicators for the various tribunals, about which we expressed preliminary views to Peter Lovell. We continue to have particular concerns about the performance of the MHRT to which we refer in the main body of this report.

6. The year ahead will see major restructuring within the Tribunals Service, with the introduction of a new hearing centre network, administrative support centres dealing with a wide range of tribunals, and a single management structure, all intended to ensure improved service for users. The blueprint was set out in the Tribunals Service Strategic and Business Plan for 2007-08, published in May 2007. We will continue to observe developments with keen interest and contribute our views.

### **Tribunals, Courts and Enforcement Bill**

7. Following publication of the White Paper *'Transforming Public Services: Complaints, Redress and Tribunals'* in July 2004, work began on preparing legislation to implement the key proposals. Our secretariat worked closely with DCA officials on the development of those parts of the Bill concerned with the oversight of the administrative justice system, tribunals and inquiries, and particularly with our transition to an AJTC. The Tribunals, Courts and Enforcement Bill was published in draft in July 2006 and introduced in Parliament in November 2006.
8. As its title suggests, the Bill covers a wide range of different matters, including reforms to the criteria for judicial appointments, enforcement and management of debt and the powers of the High Court in relation to judicial review. Our interest is in the Bill's provisions to create a new, simplified statutory framework for tribunals, bringing existing tribunal jurisdictions together and providing a structure for new jurisdictions and new appeal rights. The Bill creates a unified structure comprising a First-tier Tribunal and an Upper Tribunal, into which existing tribunals (except for employment tribunals and the Asylum and Immigration Tribunal) can be fitted. The new structure will complement the administrative reforms discussed earlier.
9. The Bill provides for the membership of the Tribunals; for rights of appeal from the First-tier to the Upper Tribunal; for the Upper Tribunal to have the power of judicial review in certain circumstances; and for the establishment of a Tribunal Procedure Committee to make procedural rules. The new provisions clarify the relationship between tribunals and the courts, including onward appeals and the supervisory jurisdiction of the courts.
10. The Bill replaces the present Council on Tribunals with an Administrative Justice and Tribunals Council. Provisions pertaining to the work and future structure of the AJTC include:
  - extending the present Council's remit in relation to keeping the administrative justice system as a whole under review;
  - requiring the AJTC to formulate a programme of work and provide a copy to the Lord Chancellor, Welsh Ministers and Scottish Ministers;

- conferring on the AJTC express power to scrutinise and comment on legislation relating to tribunals;
  - providing for AJTC representation on the Tribunal Procedure Committee; and
  - creating a new Welsh Committee.
11. Our Chairman played an active part in all stages of debate on the Bill in the House of Lords. In particular his contributions clarified the following matters:
    - the role of the AJTC in identifying new areas where research into the administrative justice system might be appropriate;
    - the importance of proportionate dispute resolution, especially mediation, as a key feature of the reformed tribunals system;
    - the right of AJTC members to attend tribunal proceedings, including the tribunal's deliberations; and
    - the overriding principles of fairness and justice in making rules of procedure for tribunals.
  12. In January 2007 the Chairman of our Scottish Committee, Professor Alistair MacLeary, gave evidence on the Bill to the Scottish Parliament's Justice 2 Committee in connection with necessary Legislative Consent Memorandum.
  13. At the time of writing, the Bill has completed its passage through the House of Lords and is nearing its final stages in the Commons. It is hoped that it will receive Royal Assent before the Summer recess.

## **Towards an AJTC**

### ***Research***

14. As an AJTC we will have an important role to play in identifying research priorities in the administrative justice system and promoting the conduct of research. This year we have been continuing to build our links with the academic world.
15. As we reported last year, the Nuffield Foundation hosted a series of seminars in 2005/06, in which we were pleased to participate, designed to investigate the broad area of administrative justice and to identify a possible research agenda. In January 2007 the Foundation published a note describing four main strands of work that had been identified as a result of the seminars:
  - Pathways: from initial handling and filtering to sorting and settlement
  - Feedback mechanisms and administrative justice
  - Questions about quality
  - The choice of redress mechanism

16. Nuffield announced its intention to spend up to £400,000 per year for the next two to three years and called for research proposals within the four strands. All four strands are of interest to us and we have contributed suggestions about how such research might be best focused.
17. We also reported last year that the Economic and Social Research Council (ESRC) had sponsored a series of seminars on administrative justice, organised by Professor Michael Adler and Dr Richard Whitecross of the University of Edinburgh. The series has been progressing this year and we have been represented at all of the seminars, including one that focused in part on the role of the proposed AJTC. The dual aims of the final seminar in the series were to produce an assessment of the current state of administrative justice in the UK and our understanding of it, and to outline a research agenda designed to fill existing gaps in our knowledge.
18. We have welcomed the attention being paid to this subject matter and regard the series as a considerable success. We look forward to the published output from the series in due course.

#### *Landscape Mapping Project & Survey of Proportionate Dispute Resolution*

19. We have pursued two significant projects during the year that stem from the White Paper proposals concerning the role of the new AJTC in examining the relationship between ombudsmen, tribunals and the courts and the government's focus on wider use of proportionate dispute resolution.
20. We have been pleased to work with Jodi Berg and Ian Pattison, representing the British and Irish Ombudsman Association (BIOA), on a joint project to map the wider administrative justice landscape, identifying what organisations exist and how they work. An initial pilot exercise has proved to be extremely helpful in identifying the practical issues and problems to be addressed in advance of a full-scale mapping exercise, and further work in the light of the pilot is under way.
21. Following on from our oral hearings consultation last year, we have conducted a survey on the use of 'alternative' or 'proportionate' dispute resolution techniques such as mediation, conciliation, arbitration, early neutral evaluation and negotiation in tribunals. Initial results show that non-traditional forms of dispute resolution are not yet well embedded in tribunal practice despite active promotion by the government. Some tribunals surveyed expressed the view that the use of such techniques is not appropriate for their jurisdiction or that they lacked enabling powers. Nevertheless, it is clear that many systems employ techniques aimed at streamlining tribunal processes, increasing accessibility and avoiding the need for formal hearings.
22. We are currently analysing the responses and expect to disseminate the results of the survey later this year, with a view to encouraging a greater level of debate within the wider sector about the extent to which such techniques might be usefully employed more frequently.

### ***Feedback to initial decision makers***

23. Another key theme of the White Paper was that of feedback within the administrative justice system. It said "tribunals are simply at the end of the process with no formal machinery to feed back their views on decision-making or any expectation that their views will be acted upon if they do. But there is an end-to-end process in all jurisdictions. All the participants in the system have a duty to make it work better."
24. This is an issue that we have been addressing this year and anticipate that it will be an important part of the work of the Administrative Justice and Tribunals Council also.
25. We focused on this issue at our 2006 annual conference, in order both to highlight its importance and to promote debate on how improvements can be made. Among other things, participants suggested that the new Council might usefully play a role in drawing together existing feedback mechanisms to assist in establishing a standard framework and in developing a best practice model. We have published a report of the conference discussion on our web site. The discussion provided food for thought and will be likely to inform future projects for the work programme of the AJTC.
26. We also had a constructive meeting with Kim Archer from the Disability and Carers Service (DCS), an agency of the Department for Work and Pensions. Two of our members, with members of our secretariat, recently visited the Disability Benefits Centre in Glasgow to see the impact of new initiatives aimed at improving the quality of decision making and to discuss how these might have wider application both across the agency and elsewhere.
27. As we mentioned earlier, we have also been discussing research in relation to this issue in both the Nuffield and ESRC seminar series.

### ***Ombudsmen***

28. We were consulted by the Parliamentary and Health Service Ombudsman (PHSO), Ann Abraham, on the Ombudsman's '*Principles of Good Administration*'. The Principles are broad statements of what public bodies within the Ombudsman's jurisdiction should be doing to deliver good administration and customer service. The Ombudsman's aim is to ensure that both complainants and public bodies were clear about the tests applied by the Ombudsman in determining maladministration and service failure. The Principles are:
  - Getting it right
  - Being customer focused
  - Being open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement

29. We considered this to be a very helpful document and that it complemented existing guidance issued by the Treasury Solicitor and the Cabinet Office. We thought that the Principles represented a positive statement of good administrative practice, which would help public bodies to manage their business better. We also hoped that they might reduce both the incidence of judicial review and complaints to the Ombudsman. The final version was published in March 2007.
30. The PHSO has recently consulted us further on draft *'Principles for Remedy'*. These flow from the Principles of Good Administration and comprise a set of Principles for use by bodies within the Ombudsman's jurisdiction when considering remedies for injustice or hardship resulting from maladministration or poor service. We are currently considering our response to the consultation.
31. In April 2007 BIOA also published its guide to principles of good complaint handling, after a period of consultation. As we reported last year, we were pleased that one of our members, Bernard Quoroll, participated in the working group that produced the guide.

#### ***Law Commission***

32. We have maintained good links with the Law Commission. Two of their current projects are of considerable interest to us in view of our expanding remit. In June 2006 we had a helpful discussion with Law Commission officials about the April 2006 issues paper *'Housing: Proportionate Dispute Resolution'* to which we referred briefly last year. Central to the paper's vision of a new holistic scheme of proportionate housing dispute resolution is the concept of 'triage plus', incorporating the three principal functions of signposting, oversight and intelligence gathering. This fits in well with some of our own thinking. We have also flagged up our interest in the Law Commission's work on remedies against public bodies, which began as an investigation into the availability of monetary remedies in public law. A scoping report published in October 2006 extended the project's ambit beyond damages in the courts to other forms of redress through other means, such as ombudsmen, tribunals, and mediation. We look forward to a consultation paper expected in Autumn 2007.

## **Other projects**

### ***Adjust***

33. *Adjust*, our quarterly electronic magazine, continues to build its reputation as an information source and forum for the administrative justice and tribunals world. This year we have continued to be active in promoting *Adjust* and we are pleased that readership continues to grow. We have sought contributions from a diverse range of perspectives, and contributors have included members of the tribunals judiciary, ombudsmen, academics, a mediator, an interpreter, and an advice sector worker. Our 'profile' series has included interviews with Sir Richard Tilt, the Social Fund Commissioner, and Mike Biles, the Housing Ombudsman. We have increased the international content, with contributions from Australia, New Zealand and Canada, and look forward to further international contributions in the year ahead.
34. In February this year we produced our second *Adjust* 'Education Special', focusing on current developments in education appeals in England and Wales. We refer to this in more detail in the main body of this report.

### ***Tribunal user groups***

35. We regularly attend tribunal user group meetings (sometimes known as stakeholder groups) and have consequently gained invaluable first-hand experience of how user groups operate. We have noted, however, that there is little centrally held information about user groups and their operating practices vary significantly.
36. Against this background we have undertaken a survey of user group attendees (including tribunals both within and outside the Tribunals Service) in order to learn more about their perceptions and to identify best practice in this area. We have received an encouraging number of responses to the survey and we are presently collating the results. We plan to publish our findings later this year.

### ***Video-Linking***

37. Over the past year, we have undertaken a project relating to the use of video-linking in tribunals. Our members have attended a number of hearings involving the use of a video-link to observe its practical operation. This has enabled us to gain a snapshot of how extensively video-linking is used, how its use impacts on tribunal proceedings, and whether it has the potential to save time and money for both tribunal members and appellants and in some cases to make the tribunals more accessible.

38. The initial results have been encouraging. Whilst we have learned that video-linking is not in widespread use by many tribunal systems, there is growing evidence that its potential use is beginning to be perceived as a cost-effective measure. Our members found the results of their observations promising – very clear links, few technical hitches, satisfied panel members and appellants – and, provided that high standards of equipment and facilities are maintained, video-linking appears to offer a cost-effective way of holding hearings. There are distinct advantages for disabled people in using video-linking, especially for people with sensory disabilities.

### **Our 2006 Annual Conference**

39. Our 2006 Annual Conference was attended by 200 delegates from within the tribunals, regulatory, complaints handling, academic and advice sectors. The theme for this year's Conference drew on proposals in the White Paper for a new approach to dispute resolution. The main focus was on the role of feedback from tribunals in improving the standard of original decision-making within government Departments and local authorities and improving users' experience of the end-to-end process.
40. We were pleased to welcome both Lord Falconer of Thoroton, Lord Chancellor and Secretary of State for Constitutional Affairs, our keynote speaker, and the Parliamentary Under-Secretary of State with responsibility for tribunals, Baroness Ashton of Upholland.
41. Delegates also heard addresses from the Senior President of Tribunals designate, Lord Justice Carnwath; His Honour Judge Michael Harris, President of Social Security and Child Support Appeal Tribunals; the Hon. Mr Justice Hodge, President of the Asylum and Immigration Tribunal; and Mr Tony Redmond, Local Government Ombudsman and Chair of the British and Irish Ombudsman Association, who each spoke about stimulating improvements in decision-making through feedback from tribunals and ombudsmen.



Mrs Rhiannon Ellis Walker

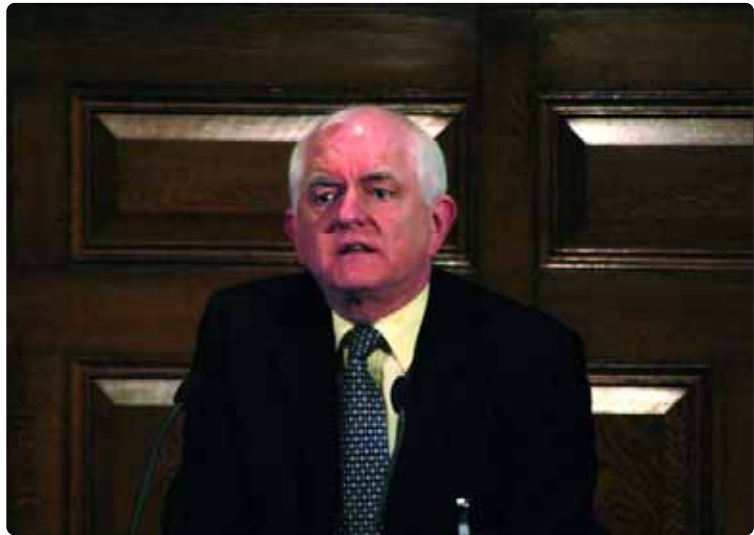


Professor Alistair MacLeary

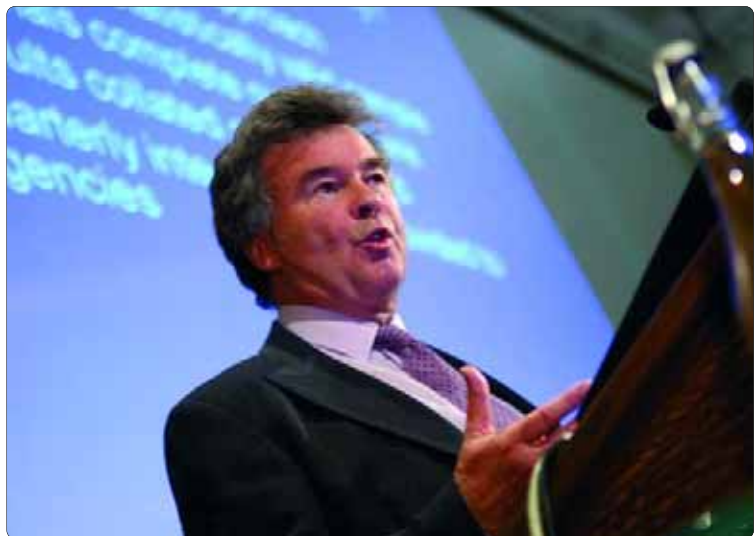




The Hon. Mr Justice Hodge



Mr Tony Redmond



His Honour Judge Michael Harris

## Diversity

42. Last year we published our revised diversity policy, which set out the steps we would take in fulfilling our commitment to playing a role in the elimination of discrimination and the promotion of diversity and equality. The headline commitment in our diversity policy is *“recognising our responsibility to take account of the interests of all sections of society in our work and ensure that the tribunals we oversee do likewise”*.
43. We have embedded this commitment into the various ways in which we carry out our statutory functions. Some examples of how we have demonstrated this include the following:
- Our response to consultation on revised statutory guidance to school admission appeal panels advocated the introduction of mandatory training for panel members, including issues such as diversity and human rights;
  - The feedback report from our Users Support Workshops highlighted, among other things, the problems faced by users whose first language is not English and the need for tribunals to improve access for disabled users, both in the physical sense but also in terms of the provision of auxiliary aids and services;
  - We have investigated the use of video-linking in tribunal hearings, which could be more widely used to improve access, particularly for people with disabilities; and
  - During our visits to tribunals, we make a point of monitoring the availability of translation services and access to interpreters at hearings.

## Judicial Studies Board

44. One of our members, Penny Letts, continues to sit on the Judicial Studies Board (JSB) Tribunals Committee and on the editorial board of its *‘Tribunals’* journal. Our Chairman was also pleased to accept an invitation earlier this year from the Rt Hon. Lord Justice Keene to become a member of the JSB’s new Advisory Council.
45. During the past year, the JSB has continued its programme to evaluate training, appraisal and mentoring in tribunals. The aim of the project is to assess how far tribunals have been able to meet the standards set out in the JSB’s series of guidance and framework documents, reported on in previous annual reports, that virtually all tribunals have accepted as standards they wish to meet. Evaluation of the tribunals who joined the Tribunals Service in April 2006 and April 2007 will be completed by July 2007 – those carried out so far have identified a great deal of good practice and interesting initiatives, particularly in the delivery of training. The evaluation programme will continue in 2007–08 with visits to the remaining jurisdictions both in and outside the TS and also to second tier tribunals.

46. The Tribunals Committee has also conducted a review of the JSB Competence Framework for Chairmen and Members of Tribunals, published in October 2002. The review was prompted in part by the publication of the Judicial Appointments Commission's (JAC) *'Framework of Qualities and Abilities'* and the *'Tribunals for Diverse Users'* report, and aims to ensure that the revised JSB framework and the JAC framework are complementary. We are contributing to the JSB's consultation process on proposed revisions and look forward to the publication of the revised framework in due course.

### **Wales**

47. Heather Wilcox, our member who represents the interests of people in Wales, was re-appointed for a further year with effect from 1 February 2007. We continue to work with and through her to advance tribunals in Wales. We have carried out a programme of visits to tribunals in Wales which has taken in both tribunals administered in Wales and those within the Tribunals Service.
48. On 21 June 2007, as this report was going to press, we held our second conference in Wales. We were particularly grateful to the Rt Hon. Rhodri Morgan AM, First Minister, for taking part in the conference as our keynote speaker for the second time. His speech looked at administrative justice reform against the background of the important changes introduced by the Government of Wales Act 2006. We were also privileged to welcome the Rt Hon. Lord Justice Thomas, who addressed the conference on the subject *'Legal Wales: administrative justice in context'*. The conference was attended by nearly 100 delegates.
49. We have noted the proposed regional structure for the Tribunals Service, in which Wales will be part of a larger area including the south west of England, with an Administrative Support Centre in Cardiff. We expect to be consulted further as the new structure is put fully in place. Among other things, we will seek to ensure that Welsh language issues and access to hearing centres in Wales are fully addressed and that due weight is given to the practical effects of devolution.
50. We have commented on an early draft Welsh Language Scheme for the Tribunals Service and will be considering the final draft as part of the wider consultation exercise that has recently begun. We were also pleased to be consulted this year on a draft scheme for the Valuation Tribunal Service for Wales, a tribunal outside the Tribunals Service. Our Welsh member represents the Council on The Lord Chancellor's Standing Committee on the Welsh Language and we are pleased to note the increasing attention that Committee pays to the position of tribunals in Wales.
51. Under the provisions of the Tribunals, Courts and Enforcement Bill, our successor body, the Administrative Justice and Tribunals Council, will have a new Welsh Committee along similar lines to our present Scottish Committee.

52. Under current legislation the need for Welsh interests to be represented on the Council on Tribunals is merely expressed as an obligation on the Lord Chancellor and the Scottish Ministers, when making appointments to the Council, to have regard to “the need for representation of the interests of persons in Wales”. In practice this has meant that at any one time there is one Council member who represents the interests of people in Wales.
53. The new committee will comprise members appointed by the Welsh Ministers and two *ex-officio* members, the Parliamentary Commissioner for Administration and Public Services Ombudsman for Wales. The Committee’s role is reinforced in the Bill through the requirement for the Committee to make a separate annual report on its work to the Welsh Ministers, which must be laid before the National Assembly for Wales. There is also a recognition that the AJTC’s formal work programme will include a Welsh element through the requirement to submit the programme and any substantive amendments to it to the Lord Chancellor and the Scottish and Welsh Ministers.
54. Subject to the passage of the Bill, Ministers expect to begin the recruitment process for members of the prospective Welsh Committee during the latter part of 2007. The Administrative Justice and Tribunals Council project board, which has been established to manage our evolution to an AJTC, includes representatives from the Welsh Assembly Government.

### **International Links**

#### ***Australia***

55. We were delighted that our Chairman was invited by Jillian Segal AM, President of the Administrative Review Council (ARC) in Australia, to address a seminar in Canberra in September 2006 to mark the occasion of the ARC’s 30th anniversary. The theme of the seminar was the future of administrative law and the challenges that lie ahead.
56. During his visit to Australia, our chairman was also able to participate in a series of other engagements, including meetings with the President and members of the Australian Law Reform Commission and the Commonwealth Ombudsman and a visit to the Administrative Appeals Tribunal in Sydney.
57. Building further on our Australian links, several of our members were pleased to meet with Mr Steve Karas, Principal Member, Australian Migration Review Tribunal and Refugee Review Tribunal, in November 2006 during his visit to London. This followed an earlier visit by Mr Karas in 2005. One of our members also met with Mr John Lesser, President of the Mental Health Review Board of Victoria, as part of his Churchill Fellowship study tour to investigate best practice in Mental Health Tribunal hearings, processes and practices.

### **Canada**

58. In May this year our Chairman and one of our members attended the Council of Canadian Administrative Tribunals' 4th International Conference in Vancouver, *'Administrative Justice Without Borders'*, on which we will report more fully next year.

### **Europe**

59. Our Chairman and one of our members attended the Fifth Seminar of the Regional Ombudsmen of EU members held in London in November 2006. The seminar was entitled *"Working together to promote good administration and defend citizens' rights in the EU"* and speakers included Tony Redmond, Local Government Ombudsman, and the European Ombudsman, P. Nikiforos Diamandouros.

### **Visits**

60. During the year our members, both of the Council and the Scottish Committee, observed 105 tribunal and inquiry hearings and participated in 29 conferences and training seminars. Details are at Appendix D.
61. We reported last year on a review we had been undertaking of our visits reporting system, including the arrangements for providing feedback to tribunals following our visits, with a view to putting in place a more open, transparent and informative system. In February 2007 we had a useful meeting with the Deputy Information Commissioner, Graham Smith, to discuss the impact of freedom of information and data protection legislation on the matters which arise routinely in our members' visit reports. Following further work on the format of our visit reports, we decided that from April 2007 reports of our visits from that date would be disclosed as matter of routine to the Chair of the tribunal we observed and the President or Head of the tribunal system in question, where appropriate. We plan to monitor closely the operation of our new reporting and feedback system.

# 2 | Policy Issues



# Asylum and Immigration

## Asylum and Immigration Tribunal

1. We continue to take a close interest in the working of the Asylum and Immigration Tribunal, including visiting hearings (reconsideration hearings in particular) and attending stakeholder meetings. In July 2006 we invited Martin John, then Director of the Tribunal, to a meeting to talk about the first 15 months of the Tribunal's existence. Among the matters discussed were the progress being made in reducing the backlog of cases inherited from the Home Office, the operational impact of direct lodgement of appeals with the Tribunal, new streamlined procedures for lodging appeals abroad, the value of case management reviews, the use of video-linking, the developing practice on reconsideration hearings, and the availability and effect of representation.

## Advice and Representation

2. In December 2006 we invited Suzanne McCarthy, the Immigration Services Commissioner, to a meeting to discuss the work of her Office (OISC) in regulating immigration advisers, promoting good practice, receiving and handling complaints against advisers and taking criminal proceedings against advisers who are acting illegally. Our interest in these matters arises not only from our concerns about the availability and quality of advice and representation in the asylum and immigration field but also because appeal from the Commissioner's decisions lies to the Immigration Services Tribunal, which is under our oversight. We found the meeting very informative and will continue to take a keen interest in the OISC's work.

## UK Borders Bill

3. The 2006-07 session saw the introduction of yet another Bill on matters to do with immigration and asylum, namely the UK Borders Bill. Among other provisions, the Bill introduces what is described as "automatic" deportation of "foreign criminals". Rights of appeal are modified in such cases. There is also provision preventing new evidence on appeal in 'points-based' applications. Great care will be needed to ensure that these new provisions do not operate unfairly in individual cases.

## Procedural Rules

4. We were consulted on two small but significant amendments to the Asylum and Immigration Tribunal (Procedure) Rules. Both arose out of Court of Appeal judgments that found the rules in question unlawful. One rule put the Tribunal under a duty to hear an appeal in the absence of a party or his representative, if satisfied that the party or representative had been given notice of the date,

time and place of the hearing and had given no satisfactory explanation for his absence. The other applied to cases transferred from the old two tier appellate system and had the effect of preventing the amendment of grounds of appeal at the reconsideration stage. The Department for Constitutional Affairs acted quickly to put these matters right. We welcomed the introduction of a degree of flexibility that was lacking before. This should help avoid the unfairness to appellants identified in the Court of Appeal judgments.

### **Asylum Support**

5. The Asylum Support Adjudicators have been under our oversight since their establishment in 1999 and we have taken a close interest in their operation. We are pleased that we are able to make our accommodation available to them for their user group meetings. As from April 2007 they were absorbed into the Tribunals Service under a new name, the Asylum Support Tribunal. Previously the Home Office had been the sponsoring department. This was not conducive to the perception of independence since the Home Office was the department responsible for the making of initial decisions on asylum support. We welcome the transfer to the Tribunals Service.

## **Education**

### **School Admission Appeal Panels**

#### *Consultation on a new Admission Appeals Code*

6. The Department for Education and Skills consulted on a further revision to the Admission Appeals Code of Practice, Ministers having decided not to issue the previous version, on which we reported last year. Provisions in the Education and Inspections Act 2006 strengthened the status of the Code of Practice, requiring those to whom it applies to “*act in accordance*” with it rather than simply “*have regard*” to it. The Code therefore imposes mandatory obligations, which must be complied with. This is a welcome development, which should go some way to ensuring greater consistency in decision-making standards by LEAs, schools and governing bodies, and by admission appeal panels.
7. We were broadly content with the revised Code and particularly welcomed the effort made to highlight those statutory provisions which “*must*” be followed, which we thought would be materially helpful to admission authorities and appeals panels. Amongst the comments we made in response to the consultation, the two key points were:



- Whilst we were pleased to note the greater emphasis on training for panel members, including a new mandatory requirement for training imposed through the new Code of Practice, we would have preferred to see training made mandatory by law, an approach that had already been adopted successfully for school exclusion appeal panels.
  - The draft Code included the statement *“Appeal panels must be, and be seen to be, independent at all times.”* We suggested that this needed to be backed up by some explanation of the concept of independence and guidance on how this might best be demonstrated.
8. Whilst the department has not yet introduced the new Admission Appeals Code it has issued the main Admissions Code, which has been published by the Stationery Office (TSO) as a priced document. We raised this with the Department and were advised that, since the Code now has the same statutory force as regulations it must be published by TSO. The Department confirmed that one copy of the new Code had been issued free of charge to all admission authorities, but that any additional copies would have to be purchased at £16.00 each. Our concern is that since the law now requires admission authorities and appeal panels to act in accordance with the new Codes of Practice, if the new Admission Appeals Code is also a priced document, sufficient copies may not be made available to appeal panel members. However, we note that the Appeals Code, like the main Admissions Code, will be available as a free download on the department’s website. Nevertheless, we will monitor the position closely as regards the availability of the new Codes to appeal panels.

## **School Exclusion Appeal Panels**

### ***Consultation on draft Exclusion Regulations and Guidance***

9. We were consulted last year on draft amendment regulations governing school exclusion appeal panels and associated revisions to the Secretary of State’s guidance on exclusion. We warmly welcomed the proposal to make training mandatory for panel members, which was one of the key recommendations in our Special Report published in May 2003. However, we expressed firm opposition to a proposal to extend the right to be legally represented to head teachers, since we believed that to do so would add to what we already consider to be an unacceptable inequality of arms. We pointed out that the governing body and the LEA already had the right to be legally represented and that our members frequently observe hearings where unrepresented parents have to present their case against a legally represented LEA, the head teacher and his or her deputy. Despite our severe reservations the Department pressed ahead with this proposal but agreed to remind governing bodies and head teachers that they should not normally be separately represented at appeal hearings. We plan to monitor this closely at our future visits to observe exclusion appeal hearings.

***Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units***

10. The Department recently consulted on a further revision of the Secretary of State's guidance to effect changes to exclusion policy and practice brought about by the Education and Inspections Act 2006. The changes were based largely on the recommendations of the Practitioners' Group on School Behaviour and Discipline, chaired by Sir Alan Steer, head teacher of Seven Kings Schools, Ilford. Among other things the Group recommended that excluded children should receive suitable education from the sixth day of exclusion; during the first five days they should be supervised so that they do not wander the streets; and parents of excluded children should attend reintegration interviews.
11. We were pleased to note that many of our comments on the earlier revision had been incorporated in the guidance, in particular placing greater emphasis on early intervention to avoid exclusion in the first place. Amongst our comments we strongly encouraged the use of less directive language, which we considered to be inappropriate in guidance to an independent appeal panel. We also suggested that a reference to the availability of local advocacy services would be helpful, particularly since pupils were being encouraged to participate in appeal hearings and the new reintegration process. We suggested that the guidance should also highlight the need to avoid potential conflicts of interest between the members of the panel and the parties to an appeal. Finally, we suggested that, whilst the law provides for the head teacher and the governing body to be separately legally represented at a hearing, this would rarely if ever be appropriate. We recommended that the key messages with regard to representation should be that:
  - Legal representation is permissible but not obligatory;
  - It will rarely be appropriate for the head teacher and the governing body to be separately legally represented at a hearing as this would raise equality of arms issues, particularly where the parents are not legally represented;
  - Parents should be permitted to be accompanied at a hearing by a legal representative *and* a friend for support.

***Adjust 'Education Special'***

12. During the year we produced a further 'Education Special' edition of our electronic magazine 'Adjust', focusing on current developments in education appeals in England and Wales. This edition highlighted our response to the DfES consultation on School Admissions Appeals, in which we urged mandatory training for panel members. It also included an appeal clerk's blueprint for the establishment of an "Education Appeals Tribunal" within the Tribunals Service and a report of the Education Appeals Support Initiative (EASI) annual conference. All editions of 'Adjust' are available on our website.

## Education Appeals Support Initiative – South of England Conference

13. The first regional conference of the EASI<sup>1</sup> groups across the south of England took place on 9 November 2006. The conference, which we sponsored jointly with the Judicial Studies Board, was held at the JSB's premises in Millbank and brought together EASI group representatives from across the south of England. Our Chairman chaired the conference, which included contributions from speakers such as Professor Dame Hazel Genn QC who spoke about her research study *'Tribunals for Diverse Users'*. Other contributions included speakers from the Department for Education and Skills, the Disability Rights Commission, the Advisory Centre for Education and the Local Government Ombudsman's Office. This proved to be such a useful event that it is planned to hold a further conference this year, which our Chairman has again agreed to chair.

### *Save the Children – 'Education through Advocacy and Rights'*

14. Our Social Affairs Committee had a meeting with Chris Rees, a development officer with Save the Children, to discuss their independent advocacy project *'Ear to Listen: Education through Advocacy and Rights'*. Mr Rees became aware of our interest in school admission and exclusion appeals through our *'Adjust'* electronic magazine and was keen to share with us the early findings of his project.
15. *'Ear to Listen'* is a three year research project set up by Save the Children, looking at the role of independent advocacy in supporting young people at risk of exclusion from full-time education. As part of this work Mr Rees and his colleagues have been working within three London boroughs – Islington, Enfield and Brent – providing support services to disadvantaged families, including representing parents and young people at school exclusion appeal hearings. Many of the issues he raised in connection with the operation of the panels were very familiar to us and chimed closely with matters we raised in our *'Special Report on School Admission and Exclusion Appeal Panels'* (Cm 5788). These included:
- A wide variation in the quality of panel Chairs and panel members in general;
  - Hearings are often heavily stacked against the parents, particularly where the governing body and/or the LEA are legally represented and the parents are not;
  - 'Looked after' children are amongst the most disadvantaged in the appeals process, in particular through lack of advocacy support;
  - The need for better training for panels in how best to enable children to participate in the hearing process;
  - The high incidence of governing bodies and LEAs being legally represented at hearings, against unrepresented parents, creating an inequality of arms.

<sup>1</sup> EASI (Education Appeals Support Appeals Initiative) comprises groups of school appeals panel clerks who meet regularly to discuss issues of mutual interest and share good practice.

16. We are keen to assist in identifying the extent to which, and the reasons why, some London boroughs and governing bodies are routinely legally represented at exclusion appeal hearings, and indeed whether this is a UK-wide issue. We are therefore putting Mr Rees in touch with the organiser of the London-based EASI group, with a view to his raising this issue at the group's next meeting. We have also raised this with the Department for Education and Skills in our response to a recent consultation on new school exclusions guidance.

### **Special Educational Needs and Disability Tribunal**

17. Our Social Affairs Committee had a useful meeting with the President of the Special Educational Needs and Disability Tribunal (SENDIST), Rosemary, Lady Hughes. SENDIST was in the first tranche of tribunals to transfer to the Tribunals Service and Lady Hughes reported that, overall, the transition had gone smoothly, with only the IT system needing some re-alignment. The discussion with the President touched on a number of key issues, including:
- The continued improvement in the time for cases to get to a hearing, with a proposed key performance indicator for the coming year of 75% of cases being disposed of in 22 weeks.
  - Positive feedback from the Judicial Studies Board's evaluation of SENDIST training.
  - Continuing low numbers of disability discrimination cases coming before the tribunal.
  - The significant variations in LEA appeal numbers across the country, which might be a fruitful subject for future research.
  - Lady Hughes' guidance to tribunals on involving children in appeal hearings, which she has incorporated into training for SENDIST panel members. We welcome this initiative and hope that it might provide some read-across in informing other education appeal bodies on how best to involve children in hearings.
18. Lady Hughes also expressed the hope that SENDIST's accommodation problems, through having to use unsuitable local hotels, were a thing of the past now that they had access to Tribunals Service hearing suites. However, at a recent visit to a SENDIST hearing one of our members raised the issue of the unsuitability of the hotel venue for wheelchair users. Our member was advised that Tribunals Service venues are not always available for hearings that are scheduled to run on after 5 o'clock. We raised this matter with the Deputy Chief Executive of the Tribunals Service when she attended one of our monthly meetings and she assured us that this would be resolved satisfactorily. We will continue to monitor the position and look forward to Tribunals Service offices being open for hearings on a more flexible basis.

## Special Educational Needs Tribunal for Wales

19. We were pleased to receive a copy of a DVD produced by the Special Educational Needs Tribunal for Wales (SENTW). Entitled *'Minnie's Appeal: A Mock Hearing'*, the DVD depicts a hearing of a case about a child's special educational needs, which although fictitious, was based on an actual appeal. The DVD aims to give potential users of SENTW a flavour of its work, which we are certain will be helpful.

## Schools Adjudicators

20. In his Annual Report for 2005-06 the Chief Adjudicator, Dr. Philip Hunter, reported a significant increase in the number of cases referred to the adjudicators during the year – 343 referrals, up from 227 in 2004/05, and 270 in 2003/04. A significant number (245) of these cases were objections to admission arrangements, which appeared to arise from local authorities and admission forums reviewing the admission arrangements of all schools in their areas and objecting to those that appeared to contravene the Code of Practice. Dr. Hunter welcomed this development, as do we.
21. We were consulted by the Department on draft regulations *'The School Admissions (Adjudicator Determinations Relating to Looked After and Certain Other Children) (England) Regulations 2007'*. The regulations flowed from provisions in the Education and Inspections Act 2006 aimed at ensuring that looked after children are guaranteed a place at the most appropriate school to meet their needs, by giving local authorities powers to direct their admission to any state school. We were entirely content with the draft regulations, which prescribed the requirement for the Adjudicator to consult before making a determination directing the admission of a child to a particular school.

# Employment

## Review of employment dispute resolution

22. We reported last year that we anticipated a review of the dispute resolution arrangements in Employment Tribunals, which was subsequently announced by the Secretary of State for the Department of Trade and Industry in December 2006 as part of the government's wider initiative to simplify employment law. The Secretary of State appointed Mr Michael Gibbons<sup>1</sup> to chair a panel of practitioners to advise on simplification and to conduct a root and branch review of government support for resolving disputes in the workplace.

<sup>1</sup> Michael Gibbons is a member of the DTI's Ministerial Challenge Panel and of the Better Regulation Commission. He is also Chair of the Hertfordshire Family Mediation Service Ltd and has held the post of Director of UK Communications at Powergen.

23. We welcomed the opportunity to meet Mr Gibbons and his officials to put forward our views on his review of dispute resolution, which we then followed up in a written submission from the members who attended the meeting. Our members' submission expressed strong support for the use of proportionate dispute resolution, not just in dealing with workplace disputes, but more generally across the landscape of administrative justice. They also recognised the need to promote better understanding of the advantages and disadvantages of dispute resolution, particularly the range of techniques which come under the umbrella heading of 'mediation'. Some of the other points raised included:
- The potential risks and disadvantages of making mediation compulsory;
  - If the review were to include a proposal for mediation to be required before an appeal to an ET, or otherwise risk detriment, such mediation must be readily accessible and of good quality;
  - The level of mediation services offered in any particular case should be proportionate to the issues at stake and enable trivial cases to be weeded out;
  - Any mediation scheme would need to have the strong support of the business sector;
  - The importance of the greatest possible clarity about employment law through more effective reporting of the key decisions of Employment Appeal Tribunals;
  - The scope for the respective ET Presidents in England/Wales and Scotland to give guidance in practice directions to ETs;
  - The need to make the current application forms more user friendly and to give administrative staff greater discretion to correct and accept applications with minor deficiencies;
  - The proposal for an initial exploratory discussion to try to identify the most appropriate form of dispute resolution in any particular case, which ACAS could be funded to carry out;
  - Exploring the scope for providing a number of dispute resolution 'reconsideration points' within the process, up to and even after the case has crossed the threshold of the tribunal.
24. Michael Gibbons subsequently published his report '*A review of employment dispute resolution in Great Britain*' in March 2007, in tandem with a consultation by the Department of Trade and Industry (DTI) setting out proposals aimed at resolving workplace disputes at an earlier stage and improving the way employment tribunals work. His report took on board many of the points raised in our members' submission. We will report further on our response to the DTI's consultation in our next Report.

## Employment Tribunals

25. Employment Tribunals were among the first wave of tribunals to join the Tribunals Service in April 2006, a transition which, from our discussions with the tribunal judiciary and members, went relatively smoothly. For the most part, in its first year within the TS the tribunal has continued to operate much as it has always done, with no immediately apparent change to outside observers. The coming year will bring a greater challenge as the TS puts its new organisational arrangements in place, with a single regionally based management structure and shared processing and hearing centres.
26. We were pleased that one of our members was invited to sit as a member of the Employment Tribunal System Steering Board, which was set up to oversee the transition of the Employment Tribunals to the TS. Membership of the Steering Board has enabled us to maintain a close interest in the key issues affecting the tribunal at this time and exert our influence where appropriate.

# Health and Care

## Mental Health Bill

27. We mentioned in our last Report that the Government had decided not to proceed with its earlier draft Mental Health Bill but instead to amend the Mental Health Act 1983 rather than replace it. The Mental Health Bill, which was subsequently introduced in the House of Lords on 16 November 2006, was subject to scrutiny by the Parliamentary Joint Committee on Human Rights who invited submissions from outside organisations on human rights compatibility issues. We made a submission to the Committee, which included the following points:
  - We were broadly content with the Bill's provisions so far as they related to the Mental Health Review Tribunal (MHRT), in particular the creation of a statutory office of President for each of the Tribunals for England and Wales. However, we expressed serious concern about whether the MHRT would be able to cope with the significant increase in its workload, particularly as a result of new provisions in the Bill for Community Treatment Orders (CTO).
  - We were disappointed that the overarching principles underlying the legislation were not included on the face of the Bill, which we thought would greatly assist Tribunals in carrying out their judicial functions.
  - The new, broadly-drawn definition of 'mental disorder' in the Bill, in tandem with the new, wider criteria for compulsory detention, could potentially draw ever greater numbers of people within the scope of compulsory powers because of the lack of clarity they would be likely to create.

- The Bill proposed replacing the Responsible Medical Officer (RMO) with a Responsible Clinician (RC), who would not necessarily be a medical practitioner but could be a psychologist, nurse, social worker or occupational therapist. We thought it might be difficult for some of these professionals acting as the RC to provide the Tribunal with the level of objective medical expertise necessary to satisfy the Tribunal that detention was justified.
- We thought that the new “appropriate treatment test” needed to be better defined in the legislation, otherwise Tribunals would have difficulty satisfying themselves whether the test was met in any particular case.
- We were concerned that the overall impact of new CTOs would be to increase significantly the numbers of people who at any given time would be subject to compulsory powers, with a consequential increase in the numbers of cases coming before Tribunals. We also pointed out that patients would only have the right to apply to be discharged from a CTO but not to seek a review or relaxation of its conditions.
- We were also concerned at the complexity of the proposals for handling ‘Bournewood’<sup>1</sup> type cases which would be likely to make the proposed arrangements unworkable, leaving vulnerable people who lacked capacity to raise concerns on their own behalf without the necessary protection and procedural safeguards.

28. The Committee’s report, which was published on 4 February 2007, included many of the points we had raised. At the time of writing the Bill is still completing its passage through Parliament.

### **Mental Health Review Tribunal**

29. We have continued to take a particular interest in the Mental Health Review Tribunal for England, which was among the first tranche of tribunals to transfer to the Tribunals Service. We have taken an active role in the oversight of the arrangements for the transfer – one of our members sat on both the MHRT Transfer Board, pre-transfer, and on the Tribunal Steering Group, post-transfer. We have also regularly attended the meetings of the MHRT National Stakeholder Group.
30. A number of changes have been taking place within the MHRT over the past year, which have been drawn together to form the MHRT Modernisation Project. We warmly welcomed these initiatives, which included:
- A Judicial Case Management Pilot in the South London and Maudsley Mental Health NHS Foundation Trust;
  - An IT database replacement project aimed at introducing an effective IT solution to the Tribunal’s business;

<sup>1</sup> *HL v United Kingdom* (Bournewood) concerning the rights of mental health in patients who lack capacity to consent to treatment.



- A Business Improvements Project comprising the electronic movement of documents; prospective booking of panel members; and a review of the current arrangements for providing Tribunal Assistants at hearings;
  - Administrative Case Management, which will provide a single point of contact and accountability for a case throughout its lifespan;
  - Improving the Secretariat's telephone call-handling, including investment in a new telephone system.
31. We provided the Head of the MHRT Secretariat, Jack Fargher, with the opportunity to describe the key elements of the Modernisation Programme and the challenges faced by the MHRT in the January issue of our electronic magazine *'Adjust'*. Many of these initiatives flowed from the findings of a stakeholder satisfaction survey undertaken in 2005, which identified the least satisfactory areas from the perspective of the MHRT's stakeholders. It was disappointing to note, therefore, that the findings of a follow-up survey in 2006 indicated that the overall level of stakeholder satisfaction had continued to deteriorate, down from 19% in 2005 to 18% in 2006. It is unfortunate that the survey took place in the middle of a major reorganisation to administrative case management, which may have influenced the results. However, when compared to an overall satisfaction rate of 87% across government departments and agencies, these results highlight the need for further urgent action to reverse this trend. We raised this with Jeanne Spinks, the Deputy Chief Executive of the Tribunals Service, when she attended one of our meetings and she reassured us that an action plan was being drawn up to address the findings of the survey, in particular in the following areas:
- Timeliness and efficiency of processes
  - Ease of making contact and communication being actioned
  - Office staff competency and skills
  - Strategic direction and feedback
  - Organisation and process.
32. We are keen to do whatever we can to assist in addressing these matters and have agreed to facilitate a round table discussion with key MHRT stakeholders, with a view to identifying whether the MHRT's proposed action plan fully addresses their concerns.
33. The Head of the MHRT secretariat also sought feedback from us on a draft business plan for the MHRT secretariat. Our response was based on the findings from our most recent visits to MHRT hearings, including the following points:
- We welcomed the proposal for a single point of contact to deal with applications and referrals for a group of hospitals within a specific area, since MHRT members have continued to report problems in communicating with the MHRT secretariat.

- Whilst the replacement of the IT database was also to be welcomed, we suggested that this could take some time and that improved telephone call-handling would bring some quicker results.
- We welcomed the development of guidelines for the standards of hearing accommodation and offered to assist in any way we could.
- We highlighted the continuing problems with the frequent non-attendance of tribunal assistants, and the variable quality of those who do attend.
- We viewed the transfer of the MHRT to the Tribunals Service as a critical factor in securing future improvements in administration and welcomed the introduction of targets for reducing staff turnover and a staff development scheme for MHRT cases workers.

34. We have recently learned that the MHRT secretariat is due to be relocated to Leicester in the coming year. We have been reassured that plans are in place to minimise any potential disruption to the Tribunal's administrative support. New case workers may need to be recruited and it is hoped that the possibility of recruiting experienced staff from the wider Tribunals Service will prevent an adverse impact on the secretariat's skills base. We will continue to monitor the situation closely in the coming year.

### **Care Standards Tribunal**

35. The Care Standards Tribunal's (CST) Annual Report for 2005–06 reported a continued increase in the numbers of appeals received over the previous year, up by 17% over the previous year. The Tribunal's jurisdiction has been extended further in the past year to include appeals by approved childcarers, on which we were consulted separately by the Department of Health and the Welsh Assembly. In our response, we repeated our usual message about the need to consider carefully the resource implications for the Tribunal of further extending its jurisdiction. However, we are aware that previous fears of an influx of cases have been largely unfounded. Indeed, at recent visits to observe hearings CST members have mentioned the continuing low number of actual hearings (52 in 2005–06), which result in some members sitting infrequently. This is unsatisfactory from the perspective of maintaining members' skills.
36. The Care Standards Tribunal joined the Tribunals Service in April 2007 and we plan in the coming year to observe closely the impact this has on its operation.

## **Family Health Services Appeal Authority**

37. The Chair of our Social Affairs Committee and a member of our secretariat had a useful meeting with Paul Kelly, the President of the Family Health Services Appeal Authority, and Paul Burns, Head of the Family Health Services Appeal Unit (previously the FHSAA(SHA)), which was transferred to the National Health Service Litigation Authority (NHSLA) in 2005. The opportunity was also taken to attend an FHSAA appeal hearing.
38. Mr Kelly advised us that the FHSAA is scheduled to join the Tribunals Service in 2008. However, it is not entirely clear how the transfer will impact on the close working relationship between the FHSAA and the NHSLA, on whom the tribunal relies for administrative support. Neither is it clear whether the FHSAA will remain located in Harrogate following its transfer to TS, but there is thought to be a good case for this. We were pleased to note that the FHSAA had come to an arrangement with the Care Standards Tribunal to use the CST's hearing accommodation when the FHSAA holds hearings in London.
39. Mr Burns confirmed that, following the introduction of new contract arrangements for doctors and dentists, primary care trusts disciplinary committee hearings, in which we continue to have an interest, were few and far between. The new General Medical Services Contracts Regulations provide for a right of appeal to the NHSLA on contractual matters between a particular group of doctors or dentists and a Primary Care Trust, which constitutes a Secretary of State's appeal and does not therefore come within our jurisdiction. Where the refusal to contract relates to an individual practitioner, which usually relates to capability issues, the individual's right of appeal lies to the FHSAA, which is within our jurisdiction. Cases which hinge on a practitioner's capability will frequently overlap with the question whether a practitioner is fit to practise, which is primarily a matter for the General Medical Council's fitness to practise panel. There is therefore the potential for confusion on the part of practitioners through having two apparently separate routes for appeal on broadly similar issues. We plan to raise this in our prospective discussions with DH policy officials mentioned in paragraph 42 below.

## **Report by the Chief Medical Officer '*Good doctors, safer patients*'**

40. The Chief Medical Officer, Sir Liam Donaldson, published a report '*Good doctors, safer patients*', which contained proposals to strengthen the system to assure and improve the performance of doctors and protect the safety of patients. The review which led to this report had been commissioned by the Secretary of State for Health following publication of the Shipman Inquiry report. Among its key recommendations the Report proposed that, in serious fitness to practise cases investigation and assessment should be carried out by the General Medical Council (GMC) but formal adjudication should be undertaken by a separate, independent tribunal (with legal, medical and lay representation), with a right of appeal to the

High Court. This was intended to increase the transparency and public accountability of judgements about a doctor's registration and was in line with the recommendation of Dame Janet Smith in her report on the Shipman Inquiry.

41. Our Chairman wrote to Sir Liam Donaldson expressing the Council's interest in the proposal for a new independent tribunal and asking for further details about the tribunal to enable us to take a view on whether it should come under our oversight.

#### ***Trust, Assurance and Safety – The Regulation of Health Professionals***

42. The Department of Health subsequently published a White Paper '*Trust, Assurance and Safety – The Regulation of Health Professionals*', which adopted many of the recommendations in Sir Liam Donaldson's report. It included, in particular, the proposal for the separation of investigation and prosecution from adjudication in fitness to practise cases in order to ensure confidence in the independence of decisions made by the adjudicator. The White Paper proposed to legislate to establish an independent body to adjudicate on fitness to practise cases involving the medical profession, with a right of appeal against the decision of the independent body to the High Court or Court of Session in Scotland. It also proposed that the new body should establish a list of vetted and approved panellists, chosen by the Appointments Commission for their expertise, to adjudicate on cases from the General Medical Council and the other regulatory bodies, such as the General Dental Council, General Optical Council etc. We plan to pursue this matter with officials in the Department of Health and will report on the outcome of our discussions in our next Report.
43. We have also been giving consideration to the wider question of our interest as an AJTC in professional disciplinary bodies, on which we will report further next year.

## **Property, Land and Local Government**

### **Local Government and Public Involvement in Health Bill**

#### ***Valuation Tribunals***

44. The Local Government and Public Involvement in Health Bill was introduced in December 2006 following a Local Government White Paper '*Strong and prosperous communities*' published two months earlier. It contained a number of provisions of interest to us. Perhaps the most significant from our viewpoint are those concerned with valuation tribunals. The Bill will establish a single Valuation Tribunal for England in place of the present 56 tribunals, and makes provision for the appointment of a President and Vice-Presidents and their remuneration.

45. This has been the subject of extensive consultation over the past two years, most recently in a consultation paper '*Valuation Tribunals – Modernisation and Reorganisation*' (June 2006). We warmly welcomed what was proposed. We have indeed been advocating reform along these lines for many years. We suggested that, looking ahead, consideration should be given to whether a system whereby all members give their services voluntarily necessarily provides the best model for the future. At least for certain kinds of case, professional qualifications could be thought to be an advantage. That could raise the question of remuneration for members. We had an opportunity to discuss this and other matters with Mrs Anne Galbraith, the Chair of the Valuation Tribunals Service Board, at a meeting in October 2006.
46. In December 2006 the Department for Communities and Local Government issued a further consultation paper, setting out proposals for council tax appeals to be made direct to valuation tribunals rather than through the Valuation Office. Again, this is an idea that we have advocated for many years and that we warmly support.
47. A review of the Valuation Tribunal Service in Wales, commissioned by the Welsh Assembly Government, is currently under way and we look forward to being consulted on it in due course. We are not aware of plans for a similar review in Scotland.

#### ***Adjudication Panel for England***

48. The Local Government Bill also includes provision about the conduct of local authority members in England, aimed at devolving most decision-making on the conduct regime to local authorities, with a revised, regulatory role for the Standards Board. There are also new provisions about the Adjudication Panel's case tribunals and interim case tribunals, both of which are under our oversight. We will monitor how the new arrangements work out in practice.

#### ***Local Government Ombudsman***

49. The Local Government White Paper contained various proposals to modernise and clarify the role and working of the Local Government Ombudsmen, to ensure that they can operate effectively and continue to be accessible to all. The Bill as introduced did not include provisions reflecting these proposals, but amendments to give effect to some of them were brought forward at Committee stage in the Commons. At the time of writing, there is also before Parliament a draft Regulatory Reform Order to enhance the ability of the Local Government Ombudsman and the Parliamentary and Health Service Ombudsman to work together more closely by carrying out joint investigations and issuing joint reports. As a prospective Administrative Justice and Tribunals Council, with responsibility for keeping the whole field of administrative justice under review, we welcome these developments.

### **Parking Adjudicators**

50. In June 2006 the House of Commons Transport Committee published a report on Parking Policy and Enforcement, including a chapter on appeals to the parking adjudicators. The report was complimentary about the parking adjudication services but considered that more needed to be done to raise public awareness of their existence and of their independent status. We agree, especially about the parking adjudicators' status as an independent tribunal, which can all too easily be lost sight of.
51. We invited the Chief Parking Adjudicators Caroline Sheppard (National Parking Adjudication Service) and Martin Wood (Parking and Traffic Appeals Service, London) to a meeting to discuss the report and other current issues. These included a consultation by the Department for Transport on implementing Part 6 of the Traffic Management Act 2004, about which the Chief Parking Adjudicators were very concerned. Part 6 provides a single framework for the civil enforcement by local authorities of parking and waiting restrictions, bus lane restrictions and some moving traffic offences. The existing statutory provisions, including those for parking adjudicators, will be replaced. Instead, there will be "adjudicators" who will be under our oversight. The consultation was on regulations to give detailed effect to the new framework. We agreed with the Chief Parking Adjudicators that the draft regulations needed improvement, particular with regard to the adjudicators' powers, and we so informed the Department. At the time of writing, regulations have still to be made.

### **Residential Property Tribunal Service**

52. We have mentioned in previous Annual Reports our close liaison with the Residential Property Tribunal Service (RPTS), whose Management Board and National User Group meetings we attend when we can. The year under review saw the full implementation of the provisions in the Housing Act 2004 conferring jurisdiction on residential property tribunals to hear appeals from local authority decisions and actions on a range of housing matters, such as unfitness for human habitation, licensing of houses in multiple occupation, and management orders. We followed with close attention the RPTS's preparations for assuming the new jurisdictions, though to date the number of cases received has been smaller than expected. We are also very interested in the RPTS pilots in mediation and telephone hearings, which we hope may point the way for other tribunal systems.

## Land Use Inquiries

53. Our annual trilateral meeting with the Planning Inspectorate and the Advisory Panel on Standards, postponed from the previous year, took place in June 2006. These meetings give us an opportunity to keep in touch with current concerns and prospective developments. Among the matters we discussed were the imbalance between workload and resources and the failure to meet hearings and inquiries targets. There was a need for the Inspectorate to get back on target because of the new work on the examination of development plan documents that was beginning to come through. We shall be updated further at the next meeting in June 2007.
54. We also discussed the Government's Energy Review and its implications for Electricity Act inquiries. In due course the Department of Trade and Industry issued a consultation paper on updating the relevant inquiry procedure rules, which dated back to 1990. Since then there have been several "generations" of inquiry procedure rules, most recently those for major infrastructure projects. Essentially what the consultation proposed was to incorporate changes similar to those already introduced in other areas. DTI officials came to discuss the draft Rules with us in January 2007.
55. We considered that the draft rules, taken as a whole, were proportionate and not unreasonable or objectionable. But there is always the possibility that people will to a greater or lesser degree feel shut out of an inquiry or unable to put over their arguments properly. We thought it important to maintain the principle that the inquiry will continue to be a forum in which all appropriate interests have a voice and all the relevant issues are fully and fairly considered, while improving the efficiency of the process and avoiding disproportionate and unjustifiable delay in decisions. Much will depend on the way in which the Rules are applied in practice. We intend to visit one or two such inquiries soon.

# Social Security and Criminal Injuries Compensation

## Disability and Carers Service

56. We reported last year on our further meeting with Dr Christina Townsend, the then Chief Executive of the Appeals Service, and Sir Leonard Peach, non-Executive Director of the Appeals Service, to discuss Sir Leonard's feasibility study of decision making and appeals in social security benefits. Sir Leonard sent us a copy of his final report to Leigh Lewis, the Permanent Secretary at the Department for Work and Pensions, *'Reducing the Volume of Social Security Appeals'*. We subsequently had sight of the Permanent Secretary's response to his recommendations, which was broadly positive. The response highlighted a number of initiatives that were being taken forward by the Disability and Carers Service, the DWP Agency which administers disability benefits – i.e. Disability Living Allowance, Attendance Allowance, Carers Allowance and Vaccine Damage Payments.
57. In order to learn more about DCS's work we invited Kim Archer, its Customer and External Relations Director, to meet our Social Affairs Committee. Ms Archer explained that DCS was placing great emphasis on improving the experience of its customers, staff and other stakeholders. Changes to the operation of the Helpline had already enabled staff to answer many more telephone enquiries. New initiatives which were being piloted included:
- A Customer Case Management project, aimed at improving the end-to-end processing of DLA claims, comprising:
    - new guidance for decision makers
    - encouraging decision makers to be more proactive in contacting customers
    - the introduction of a new claim form, which is better structured and asks more relevant questions
    - improved reason for decision letter
  - The introduction of professional accreditation in decision making, in partnership with Chester University, introducing a higher decision maker to deal with complex cases;
  - The development of a decision making database in the Glasgow office to track details of applications and outcomes in order to analyse trends and identify problem areas.
58. Ms Archer explained that the evaluation of the customer case management project showed that more decisions could be made without recourse to additional medical evidence; and customers liked the contact with decision makers and the improvements to the letter explaining the decision. The initial evaluation also suggested that where cases went to appeal the overturn rate was lower. It is intended to roll out this and the other initiatives across DCS.



59. We raised the question of using feedback from tribunal decisions as a learning tool. However, tribunals do not as a matter of course give reasons for their decisions and simply indicate whether an appeal has been allowed. DCS could ask for reasons but only does so exceptionally. Our Chairman raised this matter with His Honour Judge Harris, the President of Social Security and Child Support Appeals Tribunals, who explained that giving decisions in every case, or even just in overturned cases, would be very resource intensive and would lead to a reduction in the number of cases heard per hearing session, which in turn could have a negative impact on appeals clearance times. He also questioned the value of adopting a tick-box approach, i.e. allocating a 'category' of reason why a decision had been overturned, e.g. additional evidence, different view of medical evidence etc., as adopted in his own report on standards. Judge Harris's view is that the attendance of DWP Presenting Officers at appeal hearings is the most effective means of providing a direct line of feedback to decision makers. However, we share his concerns at the continuing low incidence of attendance by Presenting Officers at hearings (see paragraph 62 below).
60. We firmly believe that there is value in feedback from the decisions of tribunals to initial decision makers and are keen to investigate how this might be improved in social security and child support appeals without adversely impacting on hearing numbers and clearance times.
61. Two of our members, accompanied by members of the senior secretariat, subsequently paid a visit to the DCS office in Glasgow, where they met the staff involved in the processing of claims and appeals for Disability Living Allowance and Attendance Allowance. They were impressed by the clear commitment of both senior management and front line staff to improving the quality assurance of decisions and the experience of customers in their dealings with the office. The establishment of specialist quality assurance staff who give guidance to decision makers on complex claims appears to have been welcomed by staff and has no doubt been a contributing factor in helping to improve the quality of decisions and reduce the number of overturned appeals. They also saw at first hand the operation of the database system which tracks the outcome of appeals, which has the potential to provide useful data on trends. Our members were grateful for the time and care taken by DCS staff to make the visit both informative and enjoyable, and which confirmed the potential advantage in these initiatives being rolled out across the Agency.

*Report by the President of Appeal Tribunals on the standards of decision-making by the Secretary of State*

62. In his 2005–06 report on standards of decision making Judge Harris once again highlighted many of the same issues he has been raising over the previous 6 years, and we in turn make no apology for repeating our support for some of these concerns, in particular the low incidence of attendance by Presenting Officers at appeal hearings and the delays by DWP agencies in submitting appeals to the Appeals Service (as it was called during the period of the Report). The level of attendance by Presenting Officers remains at an unacceptable 27%, despite the Secretary of State’s earlier commitment that POs will attend all hearings of complex cases. Delays in some areas of the Department’s business also remain unacceptable, with Income Support appeals taking an average of 13.3 weeks from receipt of an appeal to the date the papers are submitted to the Tribunals Service. However, Attendance Allowance cases take only 5.8 weeks.
63. We would like to take the opportunity to pay tribute to Judge Harris as he prepares to leave Social Security and Child Support Appeal Tribunals after nine years as President. His arrival in 1998 coincided with the implementation of the changes arising from the Social Security Act 1998. He saw these changes through successfully and has gone on to become one of the key figures in the tribunals world, not least in recent years in connection with the creation of the Tribunals Service. We are pleased to note that he is to take up an important role supporting the Senior President of Tribunals.

**Review of Pensions Institutions – Consultation**

64. We were consulted on a review of pensions institutions, which was being undertaken by an independent external reviewer, Mr Paul Thornton.<sup>1</sup> Its purpose was to review the functions of the institutions involved in the regulation and protection of work-based pensions, including those dealing with advice provision, dispute resolution and compensation. This includes bodies under the Council’s supervision, i.e. the Pensions Ombudsman, the Pension Protection Fund Ombudsman, the Pensions Regulator and the Pensions Regulator Tribunal. Some other bodies mentioned in the paper fall outside the Council’s jurisdiction, i.e. the Pensions Advisory Service, the Financial Ombudsman Service and the Financial Services Authority.
65. Among the initial issues emerging, on which views were invited, was whether there was a good case for bringing closer together certain of the bodies involved, i.e. the Pensions Regulator and the Pension Protection Fund; the Financial Services Authority and the Pensions Regulator; and the Pensions Ombudsman and the Financial Ombudsman Service.

<sup>1</sup> Paul Thornton is a Managing Director of Gazelle Corporate Finance and a previous President of the Institute of Actuaries.

66. Our key concern was that the basis for the review was substantially premature since a number of the bodies affected by it had only been in operation since 2005, having been established by the Pensions Act 2004. We therefore strongly advocated a cautious approach to institutional change at this time, and only on the basis of strong supporting evidence, which we believed would be lacking.
67. On the question of whether there was a good case for bringing certain of the bodies involved closer together we did not believe the case had been made for merging the Pensions Regulator and the Pension Protection Fund, as this would, in our view, raise some serious questions of principle, including a lack of functional overlap and potential conflicts of interest. Neither did there seem to be a compelling case for merging the Financial Services Authority and the Pensions Regulator, since the Regulator's business is well defined and operates under a quite distinct regime from the insurance based approach of the FSA. The nearest to a good case for possible merger, in our view, lay in the ombudsman area, where the two roles are broadly similar.
68. Mr Thornton's subsequent report included a recommendation to transfer the office of the Pensions Ombudsman into a new Pensions Jurisdiction in the Financial Ombudsman Service.

### **Criminal Injuries Compensation Scheme**

69. We were consulted by the Office for Criminal Justice Reform on proposed changes to the rules of the Criminal Injuries Compensation Scheme, in particular those relating to appeals.
70. We were broadly content with the proposals, with the exception of the proposal that applications for review should be considered by a different claims officer in the Criminal Injuries Compensation Authority, rather than by a more senior officer. In our view significant benefits accrue from review by senior, i.e. more experienced, officers, in terms of providing a means of identifying training needs and improving overall standards of decision making. Moreover, our experience of decision making in other areas suggests that officers in the same grade are more likely to feel inhibited about interfering with the decisions of someone in the same grade. We urged that the present arrangement should be retained.

# Other Legislation

## New Procedural Rules

71. We were consulted on draft procedural rules for two new tribunals, the Gambling Appeals Tribunal and the Claims Management Services Tribunal, both of which now form part of the Tribunals Service. We mentioned the Gambling Appeals Tribunal in our 2004–05 report. It was established under the Gambling Act 2005 to hear appeals from various regulatory decisions of the new Gambling Commission. The Claims Management Services Tribunal was established under the Compensation Act 2006 to hear appeals by businesses and individuals providing claims management services against decisions of the claims management Regulator. For both tribunals, the draft rules were closely based on those for the Financial Services and Markets Tribunal and the Pensions Regulator Tribunal, and our comments were confined to minor points.

## Fees Regulations

72. In the case of the Gambling Appeals Tribunal, we were also consulted on fees regulations. This is the first tribunal within the Tribunals Service to operate at full cost recovery. This was determined with the agreement of the Treasury during the passage of the Gambling Act 2005, in order to avoid any burden on the public purse. The fees under consideration ranged from over £14,000 for an appeal in relation to a casino operating licence to £785 for an appeal in relation to a personal operational function licence. No fee would be payable when a person was in receipt of a qualifying benefit or in cases of undue hardship.
73. As we stated in our *'Guide to Drafting Tribunal Rules'* (2003), we consider that provision for the charging of fees in tribunals should be exceptional, and that fees should not be charged:
- where the liberty of the subject is involved, in claims for social welfare benefits, in education or health matters or in appeals to tax tribunals
  - for hearings before a licensing authority which makes decisions about the right of an individual or body to pursue a livelihood
  - in respect of a tribunal established as an instrument of social policy for disputes between individuals as in the case of rent controls and employment relations.

Even where fees are chargeable they must not be excessive or act as a deterrent to the parties.

74. In the case of the Gambling Appeals Tribunal, we were in some doubt about the extent to which the proposed fee structure in the draft instrument might offend against the general principles set out above. Indeed, in this context we wondered whether the principles themselves might be in need of some adjustment.

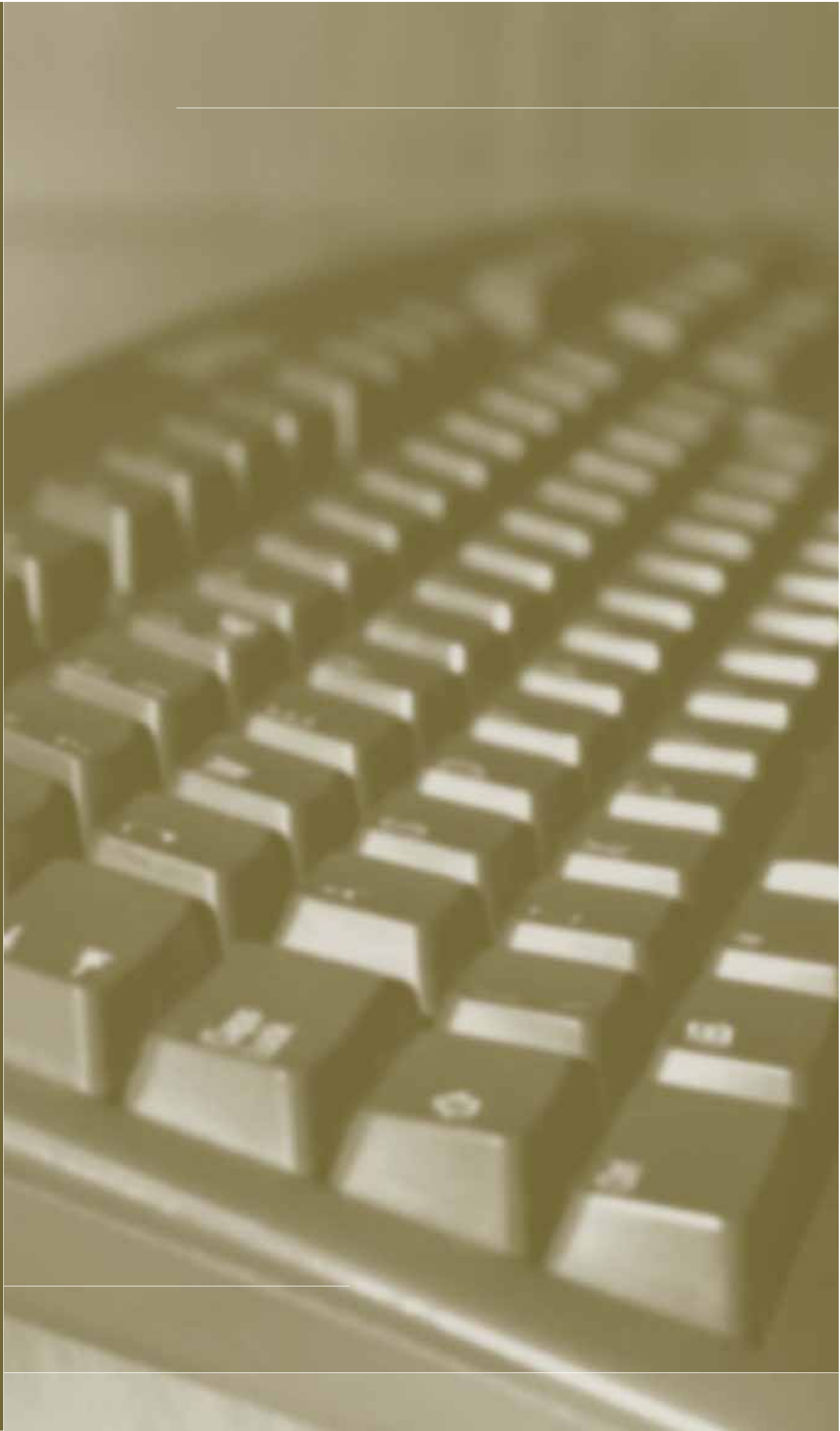
We saw some justification for distinguishing between major commercial corporate operators and an individual whose livelihood is at stake. But we were concerned that small community groups engaging in activities regulated by the Gambling Act for beneficial social or charitable purposes may find themselves liable to pay large fees for appealing to the Tribunal without being able to avail themselves of the provision for exemption, reduction or remission of the fee. We thought that, if such groups are indeed caught by the Act's provisions, serious thought should be given to introducing a special exemption. In any event, some of the proposed fees seemed exceptionally high and capable of acting as a serious deterrent.

75. We were assured by the Department for Constitutional Affairs that the provision for remission and exemption would cover the position of unincorporated groups such as community groups. The Regulations when made also showed some reduction in the levels of fees from those we had been consulted on. In January 2007 we had a helpful discussion with Tribunals Service officials about the consideration being given to fees within the Tribunals Service as a whole, and we were to some extent reassured by what we heard. The Tribunals Service's developing thinking was set out in its Strategic and Business Plan for 2007–08 (May 2007). This is an area to which we shall continue to pay careful attention.

### **Future Consultations**

76. Two other new tribunals are expected to be set up within the Tribunals Service in the course of the coming year, namely the Charity Tribunal under the Charities Act 2006 (England and Wales) and the Consumer Credit Appeals Tribunal under the Consumer Credit Act of the same year. We shall be consulted on procedural rules in due course.

# Appendices



## Appendix A |

# Membership of the Council and Scottish Committee

The end of the year saw the departure of Susan Howdle and Carolyn Berkeley from the Council, after 9 and 8 years as members respectively. They both made major contributions to our work: Susan especially in matters relating to property and land law and latterly as Chair of the Economic and Regulatory Committee; and Carolyn in health and education, notably as Chair of the Education Committee and a leading contributor to our 2003 Special Report on School Admission and Exclusion Appeal Panels. Their personal contributions will be greatly missed.

The Scottish Committee has also said farewell to two of its members after 7 years, Douglas Graham and Mary Wood. Douglas brought to the Scottish Committee a sharp overall perception and a wide knowledge of employment law and more rural matters; and Mary, a deep interest in social justice and the needs of users. We wish them both well for the future.

The vacancies on the Council have been filled by Bronwyn McKenna, UNISON Director of Organising and Membership, and Brian Thompson, Senior Lecturer in Law at the University of Liverpool. At the time of writing, arrangements are in train to appoint new members to fill the vacancies on the Scottish Committee.

### Council Membership at 31 March 2007



**The Rt Hon. the Lord Newton of Braintree OBE, DL:**

Chairman of the Council since 1 October 1999. Lord Newton was Conservative Member of Parliament for Braintree, Essex, from 1974–97. During that period he held many Ministerial offices including Secretary of State for Social Security (1989–92). Lord President of the Council and Leader of the House of Commons (1992–97). He became a Life Peer in 1997.



**Professor Alistair MacLeary:** Honorary Professor, University of Heriot-Watt. Member of the Lands Tribunal for Scotland (1989–2005). Formerly MacRobert Professor of Land Economy at the University of Aberdeen. Past appointments included membership of the Natural Environment Research Council and the Scottish Valuation and Rating Council. Member of the Council and Chairman of the Scottish Committee since September 2005. Member of the Economic & Regulatory committee and Dispute Resolution Group.



**Mrs Carolyn Berkeley JP:** Justice of the Peace since 1989. Chair of Enfield Primary Care Trust since April 2001 and Enfield Community Care NHS Trust 1998–2001. Lay Inspector, OFSTED 1995–99. Non-Executive Director and Mental Health Manager, Barnet Healthcare NHS Trust 1995–97. Member of the Social Security Appeal Tribunals 1995–97. Member of the Council since April 1999. Deputy chair of the Social Affairs committee, chair of the User Issues Group and member of the Diversity sub-group.



**Mrs Elizabeth Cameron:** Formerly worked for the Citizens Advice Bureau, latterly in Edinburgh Sheriff Court as manager of the In-Court Advice Services and co-ordinator of the Mediation Service. Vice Chair of the Scottish Mediation Network. Lay member of the Scottish Solicitors' Discipline Tribunal since 2001. Member of the Council and the Scottish Committee since September 2002, and of the Social Affairs committee and User Issues Group.



**Mrs Sue Davis CBE:** Chair of Sandwell & West Birmingham Hospitals Trust. Deputy Chair of RegenWM, centre of excellence in regeneration for the West Midlands. Formerly an elected member of Telford & Wrekin Council and Shropshire County Council. Involved at senior level in regional, national and international local government for 25 years, most recently as Cabinet Member for Resources in Telford, and as member of UK delegation to the Congress of the Council of Europe. Previously served as Chair of Telford's Primary Care Trust. Deputy Chair of the Advantage West Midlands Regional Development Agency 1998–2004. Member of the Council since December 2005, and of the Social Affairs committee and Dispute Resolution Group.



**Miss Judith Edwards:** A partner with tax consultants, Balfour Kent since October 2002, advising on tax planning for individuals, companies and trusts. Member of the Council since September 2003, and of the Economic & Regulatory Committee, User Issues Group and Diversity sub-group.





**Mrs Susan Howdle:** Former lecturer in law at the University of Sheffield. Vice-President of the Methodist Conference 1993-94, and Chair of MHA Care Group 1996-2002. Vice-President of the Yorkshire Rent Assessment Panel 1991-98. Part-time Chair of the Social Security Appeal Tribunals 1996-98. Member of the Council since April 1998. Chair of the Economic & Regulatory committee and member of the Dispute Resolution Group.



**Ms Penny Letts:** Policy Consultant and Trainer specialising in mental health, mental capacity and disability law. Member of the Mental Health Act Commission 1995-2004. Policy Advisor for the Law Society 1987-2001. Member of the Judicial Studies Board's Tribunals committee since May 2003. Member of the Council since September 2002. Chair of the Social Affairs committee and member of the User Issues Group.



**Mr Stephen Mannion QPM:** Scottish Area Commander of the British Transport Police 1992-99 following a career with Strathclyde Police 1960-92, reaching the rank of Assistant Chief Constable. Awarded the Queen's Police Medal for Distinguished Service in 1997. Lay member of the Employment Tribunal Service 1999-2001. Member of the Council and the Scottish Committee since August 2001. Member of the Economic & Regulatory committee, Dispute Resolution Group and Diversity sub-group.



**Mr Bernard Quoroll:** Solicitor and CEDR registered mediator with an extensive career in local government. Held the post of Chief Executive in three local authorities: Aylesbury Vale District Council 1985-95; Royal Borough of Kingston upon Thames 1995-99; Isle of Wight County Council 1999-2001. Member of the Council since May 2003. Chair of the Dispute Resolution Group and member of the Economic & Regulatory committee.



**Professor Geneva Richardson CBE:** Professor of Law, King's College London. Member of the Mental Health Act Commission 1987–92. Chair of the Prisoners' Advice Service 1994–2003. Chair of the Expert Committee on Reform of Mental Health Legislation 1998–99. Member of the Medical Research Council 2001 to date. Trustee, Nuffield Foundation 2002 to date. Member of the Council since February 2001. Deputy chair of the Economic & Regulatory committee and member of the Dispute Resolution Group.



**Dr Jonathan Spencer CB:** Civil servant 1974–2005, Director General and Departmental Board Member first at the DTI (Director General Resources and Services, then Director General Business Group) and at LCD/DCA (Director General Clients and Policy) where among other tasks he was responsible for the work leading up to publication of the White Paper on Tribunal reform. Over the last 25 years has worked in a wide variety of government roles in three departments (Cabinet Office, DTI, LCD/DCA). Now a public policy consultant, and member of the Solicitors Regulation Authority. Member of the Council since December 2005, and of the Economic & Regulatory committee and User Issues Group.



**Dr Adrian V Stokes OBE:** Chief Executive of CAT Ltd, a consultancy specialising in health informatics, international standards and computer networking. Worked in NHS 1981–2000, retiring as Joint Director of the Information Management Centre. Non-Executive Director of Barnet Primary Care Trust and a Special Trustee of the Royal National Orthopaedic Hospital NHS Trust. Governor, University of Hertfordshire. Member of Disability Appeal Tribunals 1992–2003. Member of the Council since November 2003 and of the Social Affairs committee and User Issues Group.



**Mrs Pat Thomas CBE:** Local Government Ombudsman in the north Midlands and the north of England 1985–2005 and Vice-chairman of the Commission for Local Administration 1993-2005. Previously head of School of Law at Lancashire Polytechnic. Member of the Greater Manchester and Lancashire Rent Assessment Panel 1977–85, Vice-President and President 1984–85. Part-time chair of Blackpool Supplementary Benefit Appeal Tribunal 1980–85. Member of the Council since December 2005, and of the Social Affairs committee and Dispute Resolution Group.



**Heather Louise Wilcox:** Accountant and former career civil servant. Director of Primary and Community Health, National Assembly for Wales until retirement September 2001. Appointed by the Privy Council as a member of General Optical Council from January 2002 to December 2006. Serves on Quaker Finance and Property Central Committee and as a director of Friends Trusts Limited. Former Treasurer of Cruse Cymru. Member of the Council since February 2003 and of the Social Affairs committee and User Issues Group. Also represents the interests of people in Wales.



**Ms Ann Abraham:** UK Parliamentary Ombudsman and Health Service Ombudsman for England. *Ex-officio* member of the Council since her appointment in November 2002. *Ex-officio* member of the Commission for Local Administration in England. Chair of the British and Irish Ombudsman Association 2004-06, and remains a member of their validation committee.



**Professor Alice Brown:** Scottish Public Services Ombudsman. *Ex-officio* member of the Council and the Scottish Committee since July 2004.

## Scottish Membership at 31 March 2007



**Ms Lyndy Boyd:** Solicitor with a history of working in the public sector as a Children's Reporter, Welfare Rights Officer, Solicitor with Aberdeen City Council, and Professional Adviser (Legal) for the Care Commission. Former Associate Lecturer, Monitor and Consultant with the Open University. Legal member of the Parole Board for Scotland from January 2005. Member of the Scottish Committee since December 2004.



**Mr Douglas Graham:** Solicitor in private practice. Former board member, Chair of the Audit and Risk Committee and member of the Scottish Land Fund Committee of the Big Lottery Fund. Member of the Scottish Committee since May 2000.



**Mrs Audrey Watson:** Solicitor with the legal services section of West Lothian Council, responsible for licensing and training JPs. Depute Clerk of Court and Depute Clerk of the Peace. Project co-ordinator for the District Courts Association. Consultant providing training in relation to the practice and procedure of District Courts. Legal Assessor and former panel member for the Health Professions Council and Depute Clerk to the Scottish Solicitors Discipline Tribunal. Member of the Scottish Committee since August 2001.



**Mrs Mary Wood:** Former senior Governor in the Scottish Prison Service involved in developing training in the new Prison Service Code of Conduct. Citizen's Advocacy Support volunteer working with learning disabled to promote social inclusion. Independent Custody Visitor for Strathclyde Joint Police Board. Former Deputy Chair Water Commissioner's West of Scotland Water Consultative Committee until its disbandment in April 2002. Former Manager, Ayrshire Centre, Scottish Marriage Care. Former part-time resource worker, Richmond Fellowship, Scotland. Member of the Scottish Committee since July 2000.

## Appendix B |

# The Council's Committees

Set out below are the Council's committees and their spheres of interest. The committees meet prior to Council meetings to discuss current consultation issues and their workplans, and also transact a great deal of business electronically. They report back to the full Council as necessary.

- **Social Affairs committee:** Policy and procedural issues in respect of tribunals and appeals systems in the areas of education, social security, pensions, criminal injuries compensation, health and care, employment.
- **Economic & Regulatory committee:** Policy and procedural issues in respect of tribunals and appeals systems in the areas of asylum and immigration, property and land, housing, planning and local government, finance and tax, transport, competition and fair trading, information, intellectual property.
- **User Issues group:** Advice to the Council on user issues and priorities. Liaison with the user community, advice sector and pressure groups. Making proposals for other opportunities for joint working with users support organisations and the advice and voluntary sectors.
- **Dispute Resolution group:** Advice to the Council on appropriate and proportionate dispute resolution and the role of the prospective Administrative Justice and Tribunals Council in reviewing the balance between components in the administrative justice system. Liaison with British and Irish Ombudsman Association and other interested organisations.
- **Chairman's committee:** Oversight of all planning and strategic issues concerning the Council.
- **Sub committees/groups:** Tribunal training and JSB liaison; Video Conferencing; Diversity; Communications; Welsh issues.

# Appendix C | The Council's Secretariat

## **Secretariat at 31 March 2007**

- Ray Burningham – Acting Secretary
- Alexander Hermon – Legal Adviser
- Paul T Smith – Policy Adviser
- Simon Butterworth – Policy and Operations Manager
- Jackie Cummins – Policy Assistant
- Diana Worman – Policy Assistant
- Rebecca Rowsell – Legal Assistant
- Angela Gittens – Office Manager and Policy Assistant
- Lisa Chilver – Personal Secretary
- Brenda Harrow – Visits Manager
- Yemi Balogun – Administrative Officer
- Jessica Pritchard – Administrative Assistant

## ***Scottish Committee Secretariat***

- Marjorie MacRae – Secretary
- Gordon Quinn – Assistant Secretary
- Julia Hewitt – Administrative Assistant

# Appendix D |

## The Council's Work 2006/2007

### Statutory Instruments

Listed below are the Statutory Instruments (excluding Orders under the Road Traffic Act 1991) considered by the Council and the Scottish Committee and made during the period 1 April 2006 to 31 March 2007.

The Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006	S.I. 2006/2788
The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2006	S.I. 2006/2789
The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment No.2) Rules 2006	S.I. 2006/2898
The Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2007	S.I. 2007/835
The Claims Management Services Tribunal Rules 2007	S.I. 2007/90
The Education (Appeal Committee Procedures) (Scotland) Amendment Regulations 2006	S.S.I. 2006/322
The Education (Pupil Exclusions and Appeals) (Miscellaneous Amendments) (England) Regulations 2006	S.I. 2006/2189
The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007	S.I. 2007/841
The Gambling Appeals Tribunal Rules 2006	S.I. 2006/3293
The Gambling Appeals Tribunal (Amendment) Rules 2007	S.I. 2007/577
The Health and Social Care (Community Health and Standards) Act 2003 Consequential Provisions (Recovery of NHS Charges) Order 2007	S.I. 2007/917
The Health and Social Care (Community Health and Standards) Act 2003 Supplementary Provisions (Recovery of NHS Charges) (Scotland) Order 2007	S.S.I. 2007/223
The National Health Service (Discipline Committees) (Scotland) Regulations 2006	S.S.I. 2006/330

The Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Amendment Regulations 2006	S.I. 2006/2892
The Pensions Appeal Tribunals (Additional Rights of Appeal) (Amendment) Regulations 2006	S.I. 2006/2893
The Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006	S.I. 2006/3398
The Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006	S.S.I. 2006/593
The Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Amendment Regulations 2007	S.S.I. 2007/222
The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007	S.S.I. 2007/173
The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Disqualification Orders) Regulations 2006	S.I. 2006/1929
The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Amendment) Regulations 2006	S.I. 2006/1930
The Registered Designs Rules 2006	S.I. 2006/1975
The Residential Property Tribunal Procedure (Wales) Regulations 2006	S.I. 2006/1641 (W.156)
The School Admissions (Adjudicator Determinations Relating to Looked After and Certain Other Children) (England) Regulations 2007	S.I. 2007/105
The Scottish Charity Appeals Panel Rules 2006	S.S.I. 2006/571
The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006	S.S.I. 2006/313
The Valuation Appeal Committee (Electronic Communications) (Scotland) Order 2007	S.S.I. 2007/124
The Valuation Appeal Panels and Committees (Scotland) Amendment Regulations 2007	S.S.I. 2007/212
The Valuation Timetable (Scotland) Amendment Order 2007	S.S.I. 2007/81



## Visits

Our visits to tribunals are the most effective means by which we can discharge our statutory duty to “keep under review the constitution and working” of the tribunals we supervise. The discharge of our duty in relation to inquiries is effected in the same way. The details below expand the summary given in the introduction to this Report.

<i>Tribunals</i>	
Additional Support Needs Tribunal (Scotland) (2)	Clydebank, Polmont
Adjudication Panel for England	Nottinghamshire
Adjudication Panel for Wales	Gwent
Adjudicator to HM Registry	London
Agricultural Land Tribunals	Derbyshire
Asylum & Immigration Tribunal (Scotland)	Glasgow
Asylum & Immigration Tribunal (8)	London (4), W.Midlands (2), Staffordshire, Gwent
Asylum Support Adjudicators	Surrey
Board of the Pension Protection Fund	Surrey
Care Standards Tribunal (2)	Greater Manchester, Merseyside
Children’s Hearings (Scotland) (2)	Glasgow, Selkirk
Criminal Injuries Compensation Appeals Panel (3)	Manchester, Somerset, W.Yorkshire
Criminal Injuries Compensation Appeals Panel (Scotland) (2)	Dundee, Glasgow
Crofters Commission	Arisaig
Education Appeal Committee (Scotland) (4)	Aberdeen, Airdrie, Dumfries, Edinburgh
Employment Tribunals (5)	Berkshire, Kent, Surrey, W.Yorkshire, Dyfed
Employment Tribunals (Scotland) (2)	Dundee, Edinburgh

Family Health Services Appeal Authority	N.Yorkshire
Financial Services & Markets Tribunal	London
General Commissioners of Income Tax (3)	Kent, Lancashire, London
General Commissioners of Income Tax (Scotland)	Dundee
Immigration Services Tribunal	London
Information Tribunal	London
Lands Tribunal (Scotland)	Aberdeen
Lands Tribunal	Durham
Mental Health Review Tribunals (4)	Lancashire, London, Northumberland, W.Midlands
Mental Health Review Tribunal for Wales	Gwent
Mental Health Tribunal (Scotland) (7)	Aberdeen, Ayr, Carstairs, Edinburgh, Glasgow, Inverness, Kirkcaldy
NHS National Appeal Panel (Scotland) (2)	Aberdeen, Larbert
Pensions Appeal Tribunals	London
Pensions Ombudsman	Edinburgh
Pensions Regulator Tribunal	London
Planning Inspectorate	W.Yorkshire
Police Appeals Tribunals	Tyne and Wear
Police Appeal Tribunal (Scotland) (2)	Edinburgh, Inverness
Residential Property Tribunal Service (3)	Gloucestershire, London, W.Sussex
School Admission Appeal Panels (4)	Devon, Kent, Merseyside, Gwent
School Exclusion Appeal Panels (5)	Cumbria, Essex, Greater Manchester, Norfolk, Gwynedd
Schools Adjudicators	Lincolnshire

Scottish Parking Appeals Service (Scotland)	Edinburgh
Social Security & Child Support Appeals (Scotland) (3)	Aberdeen, Dundee, Glasgow
Social Security & Child Support Appeals (6)	Tyne and Wear (2), Kent, Surrey, W.Midlands, Powys
Social Security & Child Support Commissioners	London
Special Commissioners of Income Tax (Scotland)	Edinburgh
Special Education Needs and Disability Tribunal (2)	Gloucestershire, Merseyside
Special Educational Needs Tribunal for Wales	Clwyd
Traffic Commissioners	Cambridgeshire
Transport Tribunal	London
Valuation Appeal Committee (Scotland)	Glenrothes
Valuation Tribunals (2)	Essex, Suffolk
VAT & Duties Tribunal (Scotland)	Edinburgh

### ***Inquiries***

Appeal to the Secretary of State from a decision of the Office of Fair Trading	London
Public Local Inquiry (Scotland)	Dollar

### ***Conferences, Training Seminars, User Groups and Other Events***

Additional Support Needs Tribunal Training Event	Edinburgh
Additional Support Needs Tribunal User Group	Perth
Agricultural Lands Tribunal Wales Training Event	Powys
Asylum and Immigration Tribunal User Group	Glasgow
Children's Hearings Review	Glasgow
Criminal Injuries Compensation Appeals Panel Advisory Committee	London

Education Appeal Committee Training Event (2)	Edinburgh, Glasgow
Employment Tribunal Steering Board (2)	London
Employment Tribunal User Group (2)	Nottinghamshire, Glasgow
Gender Recognition Panel User Group	London
General Commissioners of Income Tax Training Event	Glasgow
Mental Health Review Tribunal: 21st Century Mental Health Law Reform and Human Rights	Mid Glamorgan
Parking & Traffic Appeals Service NCP Conference	London
Residential Property Tribunal Service National Members' Conference 2006	London
Royal Institute of Chartered Surveyors	Edinburgh
School Appeals Panel Training Session	London
Scottish Association Study of Offending Seminar	Peebles
Social Security & Child Support Appeals Training Event	Edinburgh
Social Security & Child Support Commissioners Training Day	London
Social Security Unified User Group	Glasgow
Special Educational Needs & Disability Tribunal User Group Meeting	Yorkshire
Special Educational Needs Tribunal for Wales North Wales User Group	Gwynedd
Special Commissioners and VAT & Duties Tribunal Conference	Berkshire
Special Commissioners and VAT & Duties Tribunal User Group	Edinburgh
Tax Appeal Stakeholder Group Meetings	London
The New Schools Admissions Code Conference	London

## ***Meetings***

Lord Justice Carnwath, Senior President of Tribunals, has regularly attended our meetings in an observer capacity.

Apart from routine meetings held by our committees, we had meetings during the course of the year with:

- Professor Dame Hazel Genn QC, University College London
- Richard Percival, Law Commission
- Peter Lovell, Head of Performance and Planning, Tribunals Service
- Graham Smith, Deputy Commissioner, Information Commissioner's Office

The Dispute Resolution Group had meetings with:

- Ian Pattison and Jodi Berg, British and Irish Ombudsman Association

The Economic and Regulatory committee had meetings with:

- Anne Galbraith OBE, Chair of Valuation Tribunals
- Caroline Sheppard (NPAS) and Martin Wood (PATAS), Chief Parking Adjudicators
- Martin John, Director of The Asylum and Immigration Tribunal
- Suzanne McCarthy, Immigration Services Commissioner

The Social Affairs committee had meetings with:

- Rosemary, Lady Hughes, President of the Special Educational Needs and Disability Tribunal
- Kim Archer, Customer and External Relations Director, Disability and Carers Service
- Chris Rees, Save the Children
- Caroline Gooding, Disability Rights Commission and Alice Leonard, Equal Opportunities Commission
- Michael Gibbons, DTI Review of Dispute Resolution in the Workplace

The User Issues Group had a meeting with:

- Paul Stockton and David Webb, Department for Constitutional Affairs

Groups of members also met with:

- Karla Morris, Asylum and Immigration Tribunal (via video-link)
- Steve Karas, Principal Member of the Australian Migration Review Tribunal and Refugee Review Tribunal

Our Chairman has attended meetings of the Tribunals Service Management Board and the Department for Constitutional Affairs Tax Appeals Modernisation Project Board. He has participated in meetings or events held by tribunals including the General Commissioners of Income Tax, the Essex Valuation Tribunal, the Transport Tribunal and the Traffic Commissioners. He has also met with British and Irish Ombudsman Association Board members and attended several BIOA events. He visited Australia to participate in the Australian Administrative Review Council's 30th Anniversary celebrations and held a series of meetings in Canberra and Sydney with senior office holders concerned with administrative justice issues. He chaired a conference of EASI (Education Appeals Support Initiative) members and has attended events held by Citizens Advice, the Judicial Studies Board, the Bar Pro Bono Unit, the Parliamentary Ombudsman and the Public Legal Education and Support Task Force. He and other members of the Council also attended a series of seminars on administrative justice run by the Nuffield Foundation.

He participated in a series of round table discussions chaired by Baroness Ashton of Upholland, Under Secretary of State, Department of Constitutional Affairs, with non-legal members of tribunals as part of the Department's review of their role.

Apart from those he met at these events and at the Council's own Conference, our Chairman had separate meetings with:

- Cheryl Saunders AO, former President, Australian Administrative Review Council
- Sir Richard Tilt, Social Fund Commissioner
- Baroness Prashar CBE, Chair, Judicial Appointments Commission
- His Honour Judge Hickinbottom, Chief Social Security, Child Support and Pensions Appeal Commissioner & Designated Civil Judge for Wales
- The Hon. Mr Justice Hodge, President, Asylum and Immigration Tribunal
- Trevor Buck, Professor of Socio-Legal Studies, De Montfort University
- His Honour Judge Sycamore, Liaison Judge, Mental Health Review Tribunal for England
- Peter Handcock CBE, Chief Executive, Tribunals Service.

## Appendix E |

# Cost of the Council and Scottish Committee

The table on the following page contains details of the Council's income and expenditure for the financial year ending 31 March 2007, with the 2005/06 figures for comparison.

The Council's funding is provided through the Ministry of Justice (formerly the Department for Constitutional Affairs) in accordance with Section 3(3) of the Tribunals and Inquiries Act 1992.

Certain costs – in particular accommodation, IT and accounting/payroll services – are funded centrally and do not feature in the accounts. Other costs, such as staff pay rates, are determined centrally but paid from the Council's budget.

The total allocation for this year, excluding items funded centrally, was £1,185,000 (£1,253,000 in 2005/06). The Council's actual expenditure for the year was less than budget at £1,100,494. This underspend of £84,506 was due mainly to staff vacancies and a temporary reduction in the use of agency staff.

*(see overleaf)*

£	Council on Tribunals		Scottish Committee	
	2005/2006	2006/2007	2005/2006	2006/2007
Staff Salaries <sup>1</sup>	399,688	415,783	63,790	67,870
Members' Retainers <sup>2</sup>	220,159	253,436	38,564	40,028
Members' Travel etc <sup>3</sup>	40,897	53,211	5,955	4,729
Consultancy <sup>4</sup>	17,221	15,359	–	–
Agency Staff <sup>5</sup>	167,144	110,386	–	–
Printing and Publishing <sup>6</sup>	10,111	17,820	2,811	2,624
Other Administrative Costs <sup>7</sup>	90,519	105,795	17,542	13,443
Capital Expenditure	–	–	–	–
<b>Totals</b>	945,739	971,800	128,662	128,694

<sup>1</sup> The staff of the Council Secretariat are civil servants seconded from the Ministry of Justice and the Scottish Executive. Salary costs include employer's National Insurance Contributions and superannuation.

<sup>2</sup> The Council and Scottish Committee Chairmen's salaries were increased in April 2007 and are £53,876 and £26,938 respectively. The retainers for Members of the Council (based on 44 days work per year) and of the Scottish Committee (based on 35 days work per year) are £12,030 and £9,569 respectively and are due to increase again in August 2007. The figures for Members' retainers include the remuneration of the Scottish Committee Chairman and the two members of the Council who are also members of the Scottish Committee. These costs include employer's National Insurance Contributions.

<sup>3</sup> Members' expenses for attending meetings of the Council, visits to tribunals and other events, including Scottish Committee expenses for attending meetings held in London.

<sup>4</sup> Costs of work done by external contractors, primarily those engaged on our joint research project with The British and Irish Ombudsman Association.

<sup>5</sup> Agency personnel are engaged as required to cover vacancies and absences and to provide specialist skills including additional legal work and the editing of our electronic magazine, 'Adjust'.

<sup>6</sup> Design and printing of all our publications including *Adjust*. The increase from 2005/06 reflects new arrangements for design and typesetting of our Annual Report.

<sup>7</sup> Other general administrative expenditure associated with the Council's conferences and events, office supplies, postage, catering for meetings etc.



## Appendix F |

# Note on the functions and constitution of the Council

1. The Council was set up by the Tribunals and Inquiries Act 1958 and now operates under the Tribunals and Inquiries Act 1992.
2. The Council is to consist of not more than 15 or less than 10 members appointed by the Lord Chancellor and the Scottish Ministers. In addition, the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and the Scottish Public Services Ombudsman are members by virtue of their office. In appointing members, regard is to be had to the need for representation of the interests of persons in Wales.
3. The Scottish Committee of the Council is to consist of two or three members of the Council designated by the Scottish Ministers, and three or four non-members of the Council appointed by them. The Parliamentary Ombudsman and the Scottish Public Services Ombudsman are also ex-officio members of the Committee.
4. The Council has 15 appointed members, of whom one is appointed primarily to represent the interests of people in Wales. The Scottish Committee has seven appointed members, of whom three are members of the Council.
5. The principal functions of the Council as laid down in the Tribunals and Inquiries Act 1992 are:
  - a) to keep under review the constitution and working of the tribunals specified in Schedule 1 to the Act, and, from time to time, to report on their constitution and working;
  - b) to consider and report on matters referred to the Council under the Act with respect to tribunals other than the ordinary courts of law, whether or not specified in Schedule 1 to the Act; and
  - c) to consider and report on matters referred to the Council, or matters the Council may consider to be of special importance, with respect to administrative procedures which involve or may involve the holding of a statutory inquiry by or on behalf of a Minister.
6. The term “statutory inquiry” means (i) an inquiry or hearing held in pursuance of a statutory duty, or (ii) a discretionary inquiry or hearing designated by an order under section 16(2) of the Act. The relevant order is the Tribunals and Inquiries (Discretionary Inquiries) Order 1975 (S.I. 1975/1379) as amended.

7. The Council must be consulted before procedural rules are made for any tribunal specified in Schedule 1 to the 1992 Act, and on procedural rules made by the Lord Chancellor or the Scottish Ministers in connection with statutory inquiries. It must also be consulted before any exemption is granted from the requirement in section 10 of the Act to give reasons for decisions. It may make general recommendations to Ministers about appointments to membership of the scheduled tribunals.
8. The jurisdiction of the Council extends over the whole of Great Britain but it has no authority to deal with any matter in respect of which the Parliament of Northern Ireland had power to make laws.
9. The Council is required to make an annual report which must be laid before Parliament and the Scottish Parliament and may, at any time, make a special report on its own initiative under (a) or (c) of paragraph 5 above.
10. References to the Council or reports by it are made by or to the Lord Chancellor and the Scottish Ministers, either both or one or other of them according as the matter in question relates to Great Britain as a whole, to England and Wales or to Scotland.
11. Certain tribunals operating in Scotland, which are specified in Part II of Schedule 1 to the 1992 Act, come under the particular supervision of the Scottish Committee. Before making any reports in regard to these, or on any matter referred by the Scottish Ministers, the Council must consult the Scottish Committee. In addition, the Scottish Committee has the right in certain circumstances to report directly to the Scottish Ministers.

# Appendix G |

## Tribunals overseen by the Council and Scottish Committee

This appendix contains information about tribunals and certain inquiries within the Council's jurisdiction, and that of its Scottish Committee, under the Tribunals and Inquiries Act 1992 as at 31 March 2007. It is divided into the following sections:

- Tribunals overseen by the Council;
- Tribunals overseen by the Council's Scottish Committee;
- Some inquiries overseen by the Council and Scottish Committee;
- Cases decided in 2006/07 in Great Britain (chart).

### Considerations

- The statistical information shown is supplied by the systems themselves or their sponsoring departments, and is intended to provide a broad overview of workloads and waiting times. Some figures are provisional or estimated.
- The figures relate to either the 2006 calendar year or the 2006/07 financial year, except where otherwise stated.
- Where a jurisdiction has changed recently the statistical information normally relates to the superseded jurisdiction.
- A dash '-' indicates that data is either inapplicable or unavailable.
- Links to websites for many of the listed tribunals and inquiries can be found at the Council's website ([www.council-on-tribunals.gov.uk](http://www.council-on-tribunals.gov.uk)).

### Terminology

- **pool:** number of chairmen and members (full and part time) available to conduct the tribunal's work.
- **days sat:** number of days that judiciary sat to consider cases during the period.
- **received:** new cases submitted during the period.
- **w/drawn:** cases settled or withdrawn before a final judgement was required.
- **decided:** final determinations made by judiciary within the period.
- **o/standing:** undecided cases (including rescheduled and adjourned hearings) on the tribunal's books at the end of the period.
- **success:** percentage of 'decided' cases where decision went in favour of appellant/applicant in part or in whole.
- **oral:** percentage of 'decided' cases that were determined via an oral hearing (as opposed to a 'paper' or 'ex parte' hearing).
- **before:** average weeks from tribunal's receipt of appeal/application to hearing.
- **after:** average days from hearing to despatch of written decision.

## Tribunals overseen by the Council [1 of 4]

<b>Asylum and Immigration</b>	<b>Asylum and Immigration Tribunal</b> <sup>1</sup>	constituted under s.81 of the Nationality, Immigration and Asylum Act 2002.
	<b>Asylum Support Adjudicators</b>	established under s.102 of the Immigration and Asylum Act 1999.
	<b>Immigration Services Tribunal</b> <sup>2</sup>	established under s.87 of the Immigration and Asylum Act 1999.
<b>Education</b>	<b>Admission Appeal Panels</b> <sup>3,4</sup>	constituted in accordance with regulations under s.94(5) and 95(3) of the School Standards and Framework Act 1998.
	<b>Exclusion Appeal Panels</b> <sup>3</sup>	constituted in accordance with regulations under s.52 of the Education Act 2002.
	<b>Schools Adjudicators</b> <sup>3</sup>	appointed under s.25 of the Schools Standards and Framework Act 1998.
	<b>Special Educational Needs and Disability Tribunal</b>	under s.28H of the Disability Discrimination Act 1995.
	<b>Special Educational Needs Tribunal for Wales</b>	under s.195 of the Education Act 2002.
<b>Employment</b>	<b>Employment Tribunals</b> <sup>5</sup>	for England and Wales established under s.1(1) of the Employment Tribunals Act 1996.
	<b>Industrial Arbitration Tribunal</b> <sup>6</sup>	established under Sch.3 to the Industry Act 1975.
	<b>Industrial Training Levy Exemption Referees</b> <sup>6</sup>	established by the Industrial Training (Levy Exemption Referees) Regulations 1974.
	<b>Mines and Quarries Tribunals</b> <sup>6</sup>	for the purposes of s.150 of the Mines and Quarries Act 1954.
	<b>Police Appeals Tribunals</b> <sup>7</sup>	constituted under the Police Act 1996.
	<b>Reserve Forces Appeal Tribunals</b>	constituted under Part IX of the Reserve Forces Act 1996.
	<b>Reserve Forces Reinstatement Committees and Umpires</b> <sup>8</sup>	appointed under Sch.2 to the Reserve Forces (Safeguard of Employment) Act 1985.
	<b>Financial Services and Markets Tribunal</b> <sup>9</sup>	under s.132 of the Financial Services and Markets Act 2000.
<b>Finance / Revenue</b>	<b>Foreign Compensation Commission</b> <sup>6</sup>	constituted under s.1 of the Foreign Compensation Act 1950.
	<b>General Commissioners</b> <sup>10</sup>	(for England and Wales) acting under s.2 of the Taxes Management Act 1970.
	<b>Insolvency Practitioners Tribunal</b>	referred to in s.396 of the Insolvency Act 1986.
	<b>Section 703 Tribunal</b>	for the purposes of the Income and Corporation Taxes Act 1988.
	<b>Special Commissioners</b>	appointed under s.4 of the Taxes Management Act 1970.

<sup>1</sup> Figures exclude bail cases and High Court Review (Filter) work and relate to substantive Immigration Judge and Reconsideration hearings only.

<sup>2</sup> 92.9% of cases were disposed of within 30 weeks of receipt.

<sup>3</sup> Figures refer to the 2005/06 academic year.

<sup>4</sup> Appeals to: Local Authority (Loc. Auth.) for Community and Voluntary Controlled Schools; Governing Body (Gov. Body) for Foundation and Voluntary Aided Schools.

<sup>5</sup> Withdrawn, decided, success and oral figures are taken at jurisdiction, rather than case, level.

	Judiciary pool / days sat	Cases received	w/drawn	decided	o/standing	success	oral	Waiting Times before	after
	748 / 34,751	146,309	17,798	156,496	61,576	33%	69%	28wks	9dys
<i>England &gt; Wal (Sco) &gt;</i>	23 / 1,161	1,786 122(41)	213 15(3)	1,344 92(34)	0	22% 1(1)%	63% 5(1)%	1wk	2dys
	13 / -	16	7	6	6	-	-	see note	
<i>Loc. Auth. &gt; Gov. Body &gt;</i>	-	57,170 21,500	18,450 3,630	38,720 17,870	-	39% 31%	-	-	-
	-	1,060	-	980	-	24%	-	-	-
	8 / -	343	28	274	41	77%	-	-	-
	197 / 232	3,423	2,084	1,078	1,133	82%	-	22wks	8dys
	13 / 174	146	137	42	35	77%	98%	18wks	9dys
	1,920 / 27,175	103,859	89,044	74,346	103,021	35%	45%	16wks	16dys
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	10 /	-	-	-	-	-	-	-	-
<i>Eng+Wal (Sco) &gt;</i>	122(89) / 3(1)	9(1)	2(0)	3(1)	4(0)	0%	100 %	5(4)wks	13(4)dys
<i>England &gt;</i>	see note	4	0	4	0	0%	100%	4wks	10dys
	25 / 33	13	8	17	2	-	100%	see note	
	-	-	-	-	-	-	-	-	-
<i>GB &gt;</i>	1,661 / 2,438	41,600	3,074	31,114	8,411	-	-	-	-
<i>Eng (Sco) &gt;</i>	18(1) / -	0	-	0	-	-	-	-	-
	8 / -	8	-	9	0	100%	0%	5wks	1dy
	27 / 145	301	223	126	404	-	100%	-	-

<sup>6</sup> Tribunal rarely convened.

<sup>10</sup> Figures refer to the whole of GB.

<sup>7</sup> Data not collected centrally and therefore unavailable.

<sup>8</sup> Judicial pool shared with Reserve Forces Appeal Tribunals.

<sup>9</sup> 77.8% of cases were disposed of within 50 weeks of receipt.

## Tribunals overseen by the Council [2 of 4]

	VAT and Duties Tribunal <sup>1</sup>	for England and Wales and for Northern Ireland, established under Sch.12 to the Value Added Tax Act 1994.
<b>Health and Care</b>	Care Standards Tribunal	constituted under s.9 of the Protection of Children Act 1999.
	Family Health Services Appeal Authority <sup>2</sup>	constituted under s.49S of the National Health Service Act 1977.
	Primary Care Trusts Discipline Committees <sup>3</sup>	under reg.3 of the National Health Service (Service Committees and Tribunal) Regulations 1992 (as amended).
	Mental Health Review Tribunals <sup>4</sup>	constituted or having effect as if constituted under s.65 of the Mental Health Act 1983.
<b>Information / Data Protection</b>	Information Commissioner <sup>7</sup>	appointed under s.6 of the Data Protection Act 1998.
	Information Tribunal	constituted under s.6, in respect of its jurisdiction under s.48, of the Data Protection Act 1998.
<b>Intellectual Property</b>	Comptroller General of Patents, Designs and Trade Marks <sup>5</sup>	and any officer authorised to exercise the functions of the Comptroller under s.62(3) of the Patents and Designs Act 1907 (includes Design Right, Licence of Right, matters under Copyright, Designs and Patents Act 1988 and Registered Designs Act 1949).
	Controller of Plant Variety Rights <sup>6</sup>	and any authorised officer under Sch.1 to the Plant Varieties Act 1997.
	Copyright Tribunal	constituted under s.145 of the Copyright, Designs and Patents Act 1988.
	Plant Varieties and Seeds Tribunal <sup>6</sup>	referred to in s.42 of the Plant Varieties Act 1997.
<b>Property / Land / Local Government</b>	Adjudication Panels for England and for Wales	case or interim case tribunals appointed under s.76 of the Local Government Act 2000.
	Adjudicator to HM Land Registry <sup>8</sup>	under s.107 of the Land Registration Act 2002.
	Agricultural Arbitrators	appointed (otherwise than by agreement) under Sch.11 to the Agricultural Holdings Act 1986.
	Agricultural Land Tribunals	established under s.73 of the Agriculture Act 1947.
	Commons Commissioners	appointed under s.17(2) and (3) of the Commons Registration Act 1965.
	Forestry Committees <sup>6</sup>	appointed in England and Wales under s.16, 17B, 20, 21 or 25 of the Forestry Act 1967.
	Lands Tribunal <sup>9</sup>	constituted under s.1(1)(b) of the Lands Tribunal Act 1949.
	Residential Property Tribunal Service	Rent Assessment Committees, Leasehold Valuation Tribunals or Residential Property Tribunals constituted in accordance with Sch.10 to the Rent Act 1977.

<sup>1</sup> 58.6% of Category 1&3 cases were disposed of within 70 weeks and 84.1% of Category 2 cases within 35 weeks.

<sup>2</sup> Success rates: Where appellant was practitioner (36%); where applicant was PCT (100%).

<sup>3</sup> Data not collected centrally and therefore unavailable.

<sup>4</sup> Ave. waiting time before hearing (England): Section 2 (6.2dys); Non-restricted (6.7wks); Restricted (16.5wks). Ave. waiting time before hearing (Wales): Non-restricted (7wks); Restricted (12wks). Waiting time after hearing (Wales): 4dys.

	Judiciary pool / days sat	Cases received	w/drawn	decided	o/standing	success	oral	Waiting Times before after	
	113 / 692	3,508	3,151	763	5,232	–	100%	see note	
	93 / 120	293	112	205	138	34%	93%	22wks	10dys
<i>Eng +Wal &gt;</i>	70 / 91	86	20	70	30	70%	49 %	12wks	20dys
	–	–	–	–	–	–	–	–	–
<i>England &gt;</i>	1,077 / 26,726	18,343	9,905	8,946	503	15%	100%	see note	
<i>Wales &gt;</i>	89 / 1,910	1,226	457	639	248	15%	100%		
	–	7	1	1	–	0%	–	–	–
	51 / 597	101	20	40	74	35%	21%	31wks	39dys
<i>Patents &gt;</i>	8(21) / 21(71)	53	8	51(90)	52	–	15(80) %	10(9)w	36(50)d
<i>Designs &gt;</i>	11(2) / 3(2)	11	7	3(5)	4	–	66(100)%	6(6)w	50(13)d
<i>T. Marks &gt;</i>	10(11) / –(–)	1,255	780	141(1,792)	1,833	–	62(100)%	1(12)w	60(7)d
	–	–	–	–	–	–	–	–	–
<i>Eng+Wal &gt;</i>	4 / 20	3	0	0	18	–	–	–	–
	–	–	–	–	–	–	–	–	–
<i>England &gt;</i>	31 / 38	21	0	37	4	24%	70%	10wks	7dys
<i>Wales &gt;</i>	8 / 9	6	0	8	5	38%	75%	40wks	0dys
	13 / –	1,684	1,110	225	2,340	–	–	see note	
<i>England &gt;</i>	125 / –	120	51	3	45	–	–	4wks	–
<i>Wales &gt;</i>	18 / –	14	6	0	5	–	–	–	–
<i>Eng (Wal) &gt;</i>	138(32) / 43(9)	169(16)	120(5)	68(13)	187(26)	93(100)%	12(24)%	–	10(12)d
<i>Eng (Wal) &gt;</i>	2 / 0(5)	0(7)	1(0)	0(8)	0	– (100)%	– (100)%	26wks	42dys
	–	–	–	–	–	–	–	–	–
	4 / 851	870	379	389	755	–	–	see note	
<i>England &gt;</i>	375 / 255	8,358	1,628	6,677	2,644	–	–	14wks	21dys
<i>Wales &gt;</i>	28 / –	123	8	104	20	–	–	10wks	5dys

<sup>5</sup> *Inter partes* figures shown with *ex parte* figures in parentheses. Waiting times are estimated.

<sup>6</sup> Tribunal rarely convened.

<sup>7</sup> The Council's jurisdiction is confined to the Commissioner's non-executive functions. Figures refer to 'enforcement' cases only.

<sup>8</sup> 54.2% of cases were disposed of within 50 weeks of receipt.

<sup>9</sup> 71.9% of cases were disposed of within 50 weeks of receipt.

## Tribunals overseen by the Council [3 of 4]

### Social Security / Pensions / Criminal Injuries Compensation

**Valuation Tribunals<sup>1</sup>** established by regulations under Sch.11 to the Local Government Finance Act 1988.

**Board of the Pension Protection Fund<sup>2</sup>** established by s.107 of the Pensions Act 2004.

**Criminal Injuries Compensation Appeals Panel** adjudicators appointed under s.5 of the Criminal Injuries Compensation Act 1995.

**Fire Service Pensions Appeal Tribunals<sup>3</sup>** constituted under s.26 of the Fire Services Act 1947.

**Pensions Appeal Tribunals** for England/Wales constituted under s.8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Act 1943.

**Pensions Ombudsman<sup>4</sup>** in respect of his functions under or by virtue of s.146(1)(c) and (d) of the Pensions Schemes Act 1993.

**Pension Protection Fund Ombudsman** in respect of his functions under or by virtue of s.213 of the Pensions Act 2004.

**Pensions Regulator** established by s.1 of the Pensions Act 2004.

**Pensions Regulator Tribunal<sup>5</sup>** established by s.102 of the Pensions Act 2004.

**Police Pensions Appeal Tribunals<sup>3</sup>** appointed under s.1 of the Police Pensions Act 1976.

**Social Security and Child Support Appeals<sup>6</sup>** tribunals constituted under Chapter I of Part I of the Social Security Act 1998.

**Social Security and Child Support Commissioners<sup>7</sup>** appointed under Sch.4 to the Social Security Act 1998 and s.22 of the Child Support Act 1991 and any tribunal presided over by such a Commissioner.

### Traffic / Transport

**Aircraft and Shipbuilding Industries Arbitration Tribunal<sup>3</sup>** established under s.42 of the Aircraft and Shipbuilding Industries Act 1977.

**Civil Aviation Authority<sup>8</sup>** established under s.2 of the Civil Aviation Act 1982.

**Parking Adjudicators<sup>9</sup>** appointed under s.73(3)(a) of the Road Traffic Act 1991.

**Road User Charging Adjudicators** appointed under reg.3 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

**Traffic Commissioners<sup>10</sup>** for any area constituted for the purposes of the Public Passenger Vehicles Act 1981.

**Transport Tribunal<sup>11</sup>** constituted under Sch.4 to the Transport Act 1985.

<sup>1</sup> Estimated waiting times: England – before hearing for council tax (20wks); after hearing for oral decisions (80% within 21dys); Wales – before hearing for non domestic rates (40wks); before hearing for council tax (30wks); after hearing (95% within 21dys).

<sup>2</sup> Cases heard by the Reconsideration Committee of the Board of the Pension Protection Fund.

<sup>3</sup> Tribunal rarely convened.

<sup>4</sup> The Council's jurisdiction is confined to cases involving disputes of fact or law.

<sup>5</sup> 100% of cases disposed of within 50 weeks of receipt.

<sup>6</sup> Wales 'pool' figure is for Wales and South West.



	Judiciary pool / days sat	Cases received	w/drawn	decided	o/standing	success	oral	Waiting Times before after	
<i>England &gt;</i>	911 / 250	<b>176,000</b>	214,000	<b>30,000</b>	124,000	–	8%	see note	
<i>Wales &gt;</i>	209 / 539	<b>11,607</b>	13,518	<b>1,537</b>	8,145	23%	99%		
	3 / 4	7	0	5	2	0%	–	3wks	13dys
	73 / 732	<b>2,136</b>	305	<b>2,968</b>	2,147	53%	91%	15wks	–
	–	–	–	–	–	–	–	–	–
	71 / 558	<b>2,761</b>	308	<b>2,466</b>	1,116	29%	89%	21wks	–
	–	–	95	<b>158</b>	–	–	–	–	–
	8 / 15	<b>24</b>	–	<b>25</b>	–	72%	4%	3wks	4dys
	25 / 2	<b>2</b>	1	<b>4</b>	1	–	100%	see note	
	–	–	–	–	–	–	–	–	–
<i>England &gt;</i>	1,212 / 35,956	<b>165,553</b>	68,441	<b>122,694</b>	30,218	37%	83%	10wks	0dys
<i>Wales &gt;</i>	261 / 6,339	<b>28,254</b>	11,332	<b>20,600</b>	5,078		70%	10wks	1dy
<i>Scotland &gt;</i>	301 / 6,709	<b>29,496</b>	9,611	<b>21,666</b>	6,419		70%	9wks	0dys
<i>Eng+Wal &gt;</i>	26 / 2,595	<b>6,100</b>	141	<b>5,548</b>	1,699	–	–	see note	
<i>Scotland &gt;</i>	2 / –	<b>823</b>	26	<b>848</b>	68	70%	5%	8wks	–
	–	–	–	–	–	–	–	–	–
	4 / 11	<b>17</b>	4	<b>9</b>	5	–	100%	8wks	5dys
<i>NPAS (Wal) &gt;</i>	32 / –	<b>9,854(146)</b>	3,870(64)	<b>5,882(81)</b>	102(1)	53%	33(25)%	7wks	9(6)dys
<i>PTAS &gt;</i>	52 / 294	<b>60,182</b>	20,330	<b>42,461</b>	9,109	52%	28%	12wks	1dy
<i>London &gt;</i>	36 / 294	<b>9,547</b>	3,062	<b>7,923</b>	486	40%	15%	16wks	0dys
<i>England &gt;</i>	17 / –	–	–	<b>1,063</b>	–	–	–	–	–
<i>Wal (Sco) &gt;</i>	6(2) / –	–	–	<b>61(102)</b>	–	–	–	–	–
	10 / 32	<b>388</b>	136	<b>307</b>	70	–	–	see note	

<sup>7</sup> 93% of cases disposed of within 30 weeks of receipt.

<sup>8</sup> Figures relate to three different regulatory jurisdictions.

<sup>9</sup> Administration provided by the Parking and Traffic Appeals Service (PTAS) in Greater London and the National Parking Adjudication Service (NPAS) elsewhere in England and Wales.

<sup>10</sup> Figures refer to the work of the Commissioners and their Deputies on Public Inquiries.

<sup>11</sup> Withdrawn and decided figures include Traffic Commissioner and Driving Standard Agency cases. 86.6% of cases disposed of within 16 weeks of receipt.

## Tribunals overseen by the Council [4 of 4]

### Other

<b>Antarctic Act Tribunal</b> <sup>1</sup>	established under reg.11 of the Antarctic Regulations 1995.
<b>Competition Appeal Tribunal</b>	established under s.12 of the Enterprise Act 2002.
<b>Dairy Produce Quota Tribunal</b> <sup>1</sup>	for England and Wales reconstituted under reg.7(1) of the Dairy Produce Quotas (General Provisions) Regulations 2002.
<b>Gender Recognition Panel</b> <sup>2</sup>	constituted under Sch.1 to the Gender Recognition Act 2004.
<b>Horse Race Betting Levy Appeal Tribunal</b> <sup>1</sup>	for England and Wales established under s.29 of the Betting, Gaming and Lotteries Act 1963.
<b>Justices and Clerks Indemnification</b> <sup>1</sup>	any person appointed under s.54(6) of the Justices of the Peace Act 1997.
<b>London Building Acts Tribunals</b> <sup>1</sup>	constituted in accordance with s.109 of the London Building Acts (Amendment) Act 1939.
<b>Meat Hygiene Appeals Tribunal</b> <sup>1</sup>	constituted in accordance with regulations under Part II of the Food Safety Act 1990.
<b>Misuse of Drugs Tribunal</b> <sup>1</sup>	in England and Wales constituted under Part I of Sch.3 to the Misuse of Drugs Act 1971.
<b>National Lottery Commission</b> <sup>1</sup>	under s.10 and 10A of, and Sch.3 to, the National Lottery etc. Act 1993, or any person likewise authorised under s.2A to that Act to exercise any of these functions.
<b>Office of Fair Trading</b>	in respect of its functions under the Consumer Credit Act 1974 and the Estate Agents Act 1979, and any member of its staff authorised to exercise those functions.
<b>Sea Fish Licence Tribunal</b> <sup>1</sup>	established under s.4AA of the Sea Fish (Conservation) Act 1967.

## Tribunals overseen by the Council's Scottish Committee [1 of 2]

<b>Additional Support Needs Tribunal for Scotland</b>	constituted under s.17(1) of the Education (Additional Support for Learning) (Scotland) Act 2004.
<b>Agricultural Arbiters</b>	appointed otherwise than by agreement under s.61 of or Sch.7 to the Agricultural Holdings (Scotland) Act 1991.
<b>Betting Levy Appeal Tribunal for Scotland</b> <sup>1</sup>	established under s.29 of the Betting, Gaming and Lotteries Act 1963.
<b>Children's Hearings</b> <sup>3</sup>	constituted and arranged in pursuance of the Children (Scotland) Act 1995.

<sup>1</sup> Tribunal rarely convened.

<sup>2</sup> 96.7% of cases disposed of within 24 weeks of receipt.

<sup>3</sup> Waiting times before hearing: 68 days (offence referrals);  
131 days (non-offence referrals).

	<b>Judiciary</b> pool / days sat	<b>Cases</b> received	w/drawn	decided	o/standing	success	oral	<b>Waiting Times</b> before after	
	-	-	-	-	-	-	-	-	-
<i>England &gt;</i> <i>Wal (Sco) &gt;</i>	31 / 63 2(4) / -	20 0	5 -	13 -(1)	16 0	46% -(100)%	100% -(100)%	30wks -	82dys -
	-	-	-	-	-	-	-	-	-
	13 / 58	690	11	582	232	94%	-	see note	
	1 / -	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	4 / 673	109	22	88	35	30%	67%	9wks	78dys
	-	-	-	-	-	-	-	-	-

	<b>Judiciary</b> pool / days sat	<b>Cases</b> received	w/drawn	decided	o/standing	success	oral	<b>Waiting Times</b> before after	
	23 / 96	42	4	28	10	43%	71%	12wks	7dys
	-	0	1	13	12	-	-	-	-
	-	-	-	-	-	-	-	-	-
	2,623 / 11,518	53,883	-	6,255	-	-	100%	see note	

## Tribunals overseen by the Council's Scottish Committee [2 of 2]

<b>Crofters Commission</b>	constituted under s.1 of the Crofters (Scotland) Act 1993.
<b>Discipline Committees</b>	of Health Boards or a Joint Committee of Health Boards being constituted in accordance with regulations made under the National Health Service (Scotland) Act 1978.
<b>Education Appeal Committees<sup>1</sup></b>	set up under s.280 of the Education (Scotland) Act 1980.
<b>Employment Tribunals for Scotland<sup>2</sup></b>	established under s.1(1) of the Employment Tribunals Act 1996.
<b>Forestry Committees (Scotland)<sup>3</sup></b>	appointed in Scotland for the purposes of s.16, 17B, 20, 21 or 25 of the Forestry Act 1967.
<b>General Commissioners<sup>4</sup></b>	(for Scotland) acting under s.2 of the Taxes Management Act 1970.
<b>Lands Tribunal for Scotland</b>	constituted under s.1(1)(a) of the Lands Tribunal Act 1949 and established in Scotland on 1 March 1971. The principal justification for the Scottish Tribunal was sections 1 and 2 of the Conveyancing and Feudal Reforms (Scotland) Act 1970.
<b>Meat Hygiene Appeal Tribunal<sup>3</sup></b>	constituted under s.26 of the Food Safety Act 1990.
<b>Mental Health Tribunal for Scotland</b>	constituted under s.21 of the Mental Health (Care and Treatment) (Scotland) Act 2003.
<b>National Appeal Panel for Entry to the Pharmaceutical Lists</b>	convened in accordance with Part 1 of Sch.4 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995.
<b>National Health Service Tribunal Scotland</b>	constituted under s.29 of the National Health Service (Scotland) Act 1978.
<b>Pensions Appeal Tribunals for Scotland</b>	constituted under s.8 of the War Pensions (Administrative Provisions) Act 1919 or under the Pensions Appeal Tribunal Act 1943.
<b>Police Appeal Tribunal for Scotland</b>	established under s.55 of the Police and Magistrates' Courts Act 1994.
<b>Police Pensions Appeal Tribunal for Scotland<sup>3</sup></b>	appointed under s.1 of the Police Pensions Act 1976.
<b>Rent Assessment Panels (Scotland)</b>	constituted in accordance with Sch.4 to the Rent (Scotland) Act 1984.
<b>Scottish Charity Appeals Panel</b>	under the Charities and Trustee Investment (Scotland) Act 2005.
<b>Scottish Parking Appeals Service</b>	appointed under s.73 of the Road Traffic Act 1991.
<b>Traffic Commissioners (Scotland)<sup>5</sup></b>	appointed under the Public Passenger Vehicles Act 1981 in respect of functions concerning taxi fares under the Transport Act 1985.
<b>Valuation Appeal Committees</b>	constituted in accordance with s.29 of the Local Government (Scotland) Act 1994 and s.81 and 82 of the Local Government Finance Act 1992.
<b>VAT and Duties Tribunals for Scotland<sup>2</sup></b>	established under Sch.12 to the Value Added Tax Act 1994.

<sup>1</sup> Figures refer only to Placing Appeals.

<sup>2</sup> Withdrawn, decided, success and oral figures are taken at jurisdiction, rather than case, level.

<sup>3</sup> Tribunal rarely convened.

<sup>4</sup> Figures refer to the whole of GB.

<sup>5</sup> Figures refer to the work of the Commissioners and their Deputies on Public Inquiries.

	Judiciary pool / days sat	Cases received	w/drawn	decided	o/standing	success	oral	Waiting Times before	after
	6 / 8	8	1	5	4	20%	100%	10wks	40dys
	-	1	6	6	1	50%	100%	33wks	180dys
	-	691	238	449	4	-	-	-	-
	284 / 2,601	28,807	7,096	4,738	33,684	41%	52%	16wks	19dys
	-	-	-	-	-	-	-	-	-
GB >	1,661 / 2,438	41,600	3,074	31,114	8,411	-	-	-	-
	4 / 84	125	21	74	143	69%	54%	19wks	35dys
	-	-	-	-	-	-	-	-	-
	342 / 251	2,798	464	1,968	6	11%	100%	2wks	18dys
	51 / 23	33	2	25	10	49%	88%	10wks	5dys
	4 / 16	2	0	2	2	0%	100%	-	-
	21 / 80	227	26	207	82	41%	88%	12wks	14dys
	9 / -	4	-	5	1	50%	100%	19wks	13dys
	-	-	-	-	-	-	-	-	-
	34 / 36	58	11	65	9	-	41%	9wks	22dys
	24 / -	-	-	-	-	-	-	-	-
	5 / 67	1,638	1,039	1,300	30	20%	17%	4wks	5dys
	2 / -	-	-	102	-	-	-	-	-
	252 / 134	7,261	29,309	758	31,373	2%	90%	45wks	4dys
	16 / 81	172	63	49	278	38%	98%	20wks	20dys

## Some INQUIRIES overseen by the Council and Scottish Committee

### Planning (Eng/Wal)

**Advertisement Appeals** under the Town and Country Planning (Control of Advertisements) Regulations 1992.

**Development Plan Documents** under the Planning and Compulsory Purchase Act 2004.

**Enforcement Notice Appeals** under s.174 of the Town and Country Planning Act 1990.

**Environmental Appeals** under various enactments.

**Local and Unitary Development Plans** under the Town and Country Planning Act 1990.

**Planning Appeals** under s.78 of the Town and Country Planning Act 1990.

**Restriction Notice and High Hedges Appeals** under the Countryside and Rights of Way Act 2000 and the Anti-Social Behaviour Act 2003.

**Rights of Way** under the Wildlife and Countryside Act 1981, the Highways Act 1980 and the Town and Country Planning Act 1990.

**Statements of Community Involvement** under the Planning and Compulsory Purchase Act 2004.

### Planning (Scotland)

**Enforcement Notice Appeals**<sup>3</sup> under s.130 of the Town and Country Planning (Scotland) Act 1997.

**Planning Appeals** under s.47 of the Town and Country Planning (Scotland) Act 1997.

**Local Plans** under s.15 of the Town and Country Planning (Scotland) Act 1997.

### Other

**Fair Trading** Appeals to the Secretary of State from determinations and decisions of the Office of Fair Trading under the Consumer Credit Act 1974 (determinations) and the Estate Agents Act 1979 (decisions).

**National Health Service**<sup>4</sup> Appeals to the Secretary of State under the NHS (Pharmaceutical Services) Regulations 1992 as amended and reg.10 of and Sch.3 to the NHS (Service Committees and Tribunal) Regulations 1992.

<sup>1</sup> Figures refer to the work of the Commissioner and Deputy on Public Inquiries.

<sup>2</sup> Days sat includes hearings occupying more than one day.

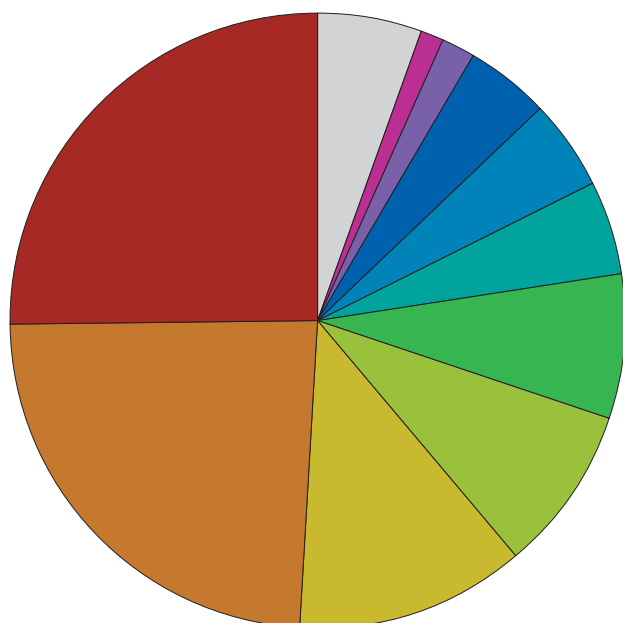
<sup>3</sup> Cases decided by Reporters shown with cases decided by Scottish Ministers or Local Inquiry in parentheses.

<sup>4</sup> Delegated to the Appeal Unit of the National Health Service Litigation Authority (NHSLA).

	Judiciary pool / days sat	Cases received	w/drawn	decided	o/standing	success	oral	Waiting Times before	after
England > Wales >	-	1,071 27	38 2	1,017 33	-	-	-	-	-
England >	-	77	0	14	-	-	-	-	-
England > Wales >	-	4,439 157	886 50	2,881 132	-	-	-	-	-
Eng (Wal) >	-	183 8	341 0	31 5	-	-	-	-	-
England > Wales >	-	7 1	0	19 1	-	-	-	-	-
England > Wales >	-	23,761 1,121	2,276 96	21,709 1,057	-	-	-	-	-
England >	-	289	0	309	-	-	-	-	-
England > Wales >	-	377 36	28 7	430 36	-	-	-	-	-
England >	-	115	0	243	-	-	-	-	-
	-	121	27	61(88)	61	-	-	-	-
	-	1,065	43	930(17)	465	-	-	-	-
	-	5	0	0	52	-	-	-	-
England > Wales > Scotland >	16 / 10 16 / 0 12 / 0	15 0 0	9 0 1	10 0 0	3 - -	40% - -	100% - -	18wks - -	79dys - -
Phar. Serv. Serv. Comms.	52 / 79 28 / 1	307 0	34 0	261 1	92 0	25% 100%	35% 0%	19wks -	26dys -

## Cases decided in 2006/07 in Great Britain

This chart and accompanying table depicts cases decided by the tribunals and inquiries listed previously in this appendix. Figures refer to the 2006 calendar year or 2006/07 financial year unless otherwise specified, and an approximate percentage increase or decrease relative to the previous annual period is provided for comparison.



	Social Security & Child Support Appeals	164,960	- 37 %
	Asylum & Immigration Tribunal <sup>1</sup>	156,496	+ 43 %
	Employment Tribunals	79,084	+ 95 %
	School Admission Appeal Panels <sup>2,3</sup>	57,039	- 4 %
	Parking Adjudicators <sup>3</sup>	48,724	- 6 %
	Valuation Tribunals <sup>3</sup>	32,295	- 33 %
	General Commissioners	31,114	- 1 %
	Planning Inquiries	29,013	+ 8 %
	Mental Health Review Tribunals <sup>3</sup>	11,553	- 19 %
	Road User Charging Adjudicators	7,923	- 60 %
	Other <sup>4</sup>	35,887	- 2 %
	<b>Total</b>	<b>655,430</b>	<b>- 7 %</b>

<sup>1</sup> Figure excludes bail cases and High Court Review (Filter) work and relates to substantive Immigration Judge and Reconsideration hearings only.

<sup>2</sup> Figure refers to the 2005/06 school year.

<sup>3</sup> Figure includes cases decided under equivalent or relevant Scottish jurisdiction.

<sup>4</sup> Non-availability of data from some tribunals means that this figure is an estimate.



# Appendix H |

## Previous Publications\*

### Annual Reports

- 1959 (39-81-1)
- 1960 (39-81-2)
- 1961 (39-81-3)
- 1962 (39-81-4-65)
- 1963 (39-81-5-64)
- 1964 (39-81-6-65)
- 1965 (39-81-7-66)
- 1966 (11-390007-4)
- 1967 (HC 316)
- 1968 (HC 272)
- 1969–70 (HC 72)
- 1970–71 (HC 26)
- 1971–72 (HC 13)
- 1972–73 (HC 82)
- 1973–74 (HC 289)
- 1974–75 (HC 679)
- 1975–76 (HC 236)
- 1976–77 (HC 108)
- 1977–78 (HC 74)
- 1978–79 (HC 359)
- 1979–80 (HC 246)
- 1980–81 (HC 89)
- 1981–82 (HC 64)
- 1982–83 (HC 129)
- 1983–84 (HC 42)
- 1984–85 (HC 54)
- 1985–86 (HC 42)
- 1986–87 (HC 234)
- 1987–88 (HC 102)
- 1988–89 (HC 114)
- 1989–90 (HC 64)
- 1990–91 (HC 97)
- 1991–92 (HC 316)
- 1992–93 (HC 78)
- 1993–94 (HC 22)
- 1994–95 (HC 64)
- 1995–96 (HC 114)
- 1996–97 (HC 376)
- 1997–98 (HC 45)
- 1998–99 (HC 30)
- 1999–2000 (HC 23)
- 2000–2001 (HC 343)
- 2001–2002 (HC 14)
- 2002–2003 (HC 1163)
- 2003–2004 (HC 750)
- 2004–2005 (HC 472)
- 2005–2006 (HC 1210)

### Special Reports

- Recommendations arising from the “Chalkpit” case (handling of new factual evidence after a public inquiry has ended) 1962 (App.D to Annual Report 1961)
- The position of “third parties” at Planning Appeal Inquiries 1962 (Cmnd 1787)
- The Award of Costs at Statutory Inquiries 1964 (Cmnd 2471)
- The Packington Estate, Islington, Public Inquiry 1966 (App.A to Annual Report 1965)
- Stansted Airport 1968 (Cmnd 3559, App.A to Annual Report 1967)
- The Functions of the Council on Tribunals 1980 (Cmnd 7805)
- Social Security – Abolition of independent tribunals under the proposed Social Fund 1986 (Cmnd 9722)
- Model Rules of Procedure for Tribunals 1991 (Cm 1434)
- Tribunals: their Organisation and Independence 1997 (Cm 3744, App.A to Annual Report 1996–97)
- Mental Health Review Tribunals 2000 (Cm 4740)
- School Admission and Exclusion Appeal Panels 2003 (Cm 5788)

### Other

- Framework of Standards for Tribunals (Nov 2002)
- Making Tribunals Accessible to Disabled People – Guidance on Applying the Disability Discrimination Act (Nov 2002)
- Guide to Drafting Tribunal Rules (Nov 2003)
- Feedback from Users Support Workshops (Apr 2006)

\* Reports more than 3 years old are out of print. Recent publications are available at the Council's website ([www.council-on-tribunals.gov.uk](http://www.council-on-tribunals.gov.uk))

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