THE

ANNUAL REPORT OF THE

COUNCIL ON TRIBUNALS

FOR

1996/97

Laid before Parliament by the Lord High Chancellor and
the Lord Advocate pursuant to section 4(7) of the
Tribunals and Inquiries Act 1992

Ordered by the House of Commons to be printed
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The Council on Tribunals 1996-97

Standing (left to right) — *Mr Alexander Hermon*, Mrs Patricia Fairbairn*, Mr John Saunders (Secretary), Mr John Eames, Mr Michael Brown JP, Mr Ian Penman CB, Mr Michael Buckley, Mr Ian Irvine CA, Mr Sam Jones CBE DL, Mr Paul Ralph*, Mrs Marjorie MacRae (Scottish Committee Secretary), Mr Alastair Twort (Secretary designate).*

Seated (left to right) — *Mr Rex Davie CB, Professor Martin Partington, Dr Carole Kaplan, Mr Norman Biggart CBE WS (Chairman of the Scottish Committee), Lord Archer of Sandwell PC QC (Chairman of the Council), Mrs Sally Friend MBE JP, Mr Robert Jones CVO, Mrs Annie Anderson.*

**Members of the Secretariat*

PREFACE

Forty years have passed since the Franks Committee argued the need for a Council on Tribunals.

The intervening period has witnessed an escalation in the number of activities which call for regulation, coinciding with a greater insistence on the accountability of regulators to those affected by their decisions. This is reflected in an expanding range of rights to appeal, and consequently in the tribunal systems which adjudicate. Unhappily, there has been no corresponding expansion in resources.

As the Council's floreat approaches, our response, evolved over years of experience and reflection, has been a three fold one. We continue to see our principal function as advising government departments and policy-makers on the constitution, procedures and user-friendliness of specific tribunal systems. Frequently our advice is sought. Occasionally it is unsolicited, but with rare exceptions we have maintained good relations with those whom we advise, and where discussions have to proceed confidentially, we have acquired a reputation for respecting confidences.

Secondly, we have developed a co-ordinating role, assisting the various members of the tribunal family to discuss ideas and experiences, to pass on best practice, to seek consistency and to share accommodation and other resources.

Thirdly, we believe that legislators, journalists and the general public can make a reality of accountability only if they are aware of the facts, of shortcomings in services and of the options available. The issues which present themselves range from the details of an individual quest for justice to the broadest of policy debates. And one of our functions is to initiate discussion and to distinguish those practices which are pragmatic and transitory from the essential and eternal components of justice.

This Report is the story of those three responses by the Council in the twelve months under review.

Lord Archer of Sandwell PC QC
Chairman

INTRODUCTION AND SUMMARY

1. This, the thirty-eighth Annual Report of the Council on Tribunals, describes many aspects of our work during the year from 1st August 1996 to 31st July 1997. It refers to our advice upon proposals for new tribunals and other appeal procedures, to our work on other initiatives, and to the way in which we have kept under review the working of the tribunals and inquiries subject to our supervision and scrutiny.

2. The report is made to the Lord Chancellor and the Lord Advocate and laid before Parliament by them in accordance with the terms of our governing Act, the Tribunals and Inquiries Act 1992. Our Scottish Committee publish their own Report covering their work in substantial detail. Their Report is not submitted to Parliament, but it has a wider circulation in Scotland than is customary for our Report.

3. **Part I** of this Report describes in some detail a number of issues of both special and general interest that have arisen during the course of the year. The issues are as follows:

   - **Improving decision-making and appeals in Social Security**: we record our concerns about proposals contained in the Government's consultation paper on reform of the social security system and about provisions in a new Social Security Bill (paragraphs 1.2-1.25).

   - **Review of tribunal training**: we report on our review of training currently provided for tribunal chairmen and members of the principal tribunals falling within our supervision (paragraphs 1.26-1.40).

   - **Tribunals: their organisation and independence**: we outline our conclusions following a review of the organisation and management of tribunal systems which we began in 1995 (paragraphs 1.41-1.47).

4. **Part II** contains a selection of other issues which we have considered during the year. This includes our advice on topics as diverse as tax appeals, security guards, firearms appeals, and planning appeals procedures.

5. **Part III** records details of our membership and its changes during the course of the year together with further details of our activities.

PART I: MAJOR ISSUES

1.1 In this Part we review several major issues of importance which have arisen during the year.

Improving Decision-Making and Appeals in Social Security: the Social Security Bill 1997

1.2 **In July 1996 the previous Administration published a Consultation Paper which ventilated proposals, first, for changes to the way in which the initial decisions on claims are made, and secondly, for changes to the appeal arrangements. In general, we welcomed the proposals relating to the initial decision-making but we resisted firmly those for changes to the appeal process, partly because they were likely to weaken the concept of a three person tribunal, and dissipate the expertise which has been built up over a long period of years, and partly because the impact of the changes to the initial decision-making process ought to be assessed before the need for changes to the appeal process is confirmed (see paragraphs 2.176-2.191).**

1.3 The Social Security Bill was published in July 1997. Apart from changes to decision-making, the Bill includes provision for an appeal body whose tribunals would be constituted by selection from a panel of different experts. As a result, some tribunals will be constituted by only one person, not necessarily with legal training. This would in our view be a retrograde step. We uphold firmly the principle of a three person tribunal. We have observed the valuable contribution made at tribunal deliberation stage by the tribunal members having knowledge and experience of other factors relevant to the decision being made. **We fear that the new system might resemble the unsatisfactory system which was abandoned years ago.**

Proposals for change: decision-making and appeals

1.4 We are grateful to have had the opportunity of discussing the proposals in the Consultation Paper, and the provisions in the Bill, with officials from the Department of Social Security. On both occasions, we responded to the Department in the light of these discussions. From the outset we understood that the Department had in hand a Change Programme aimed at achieving the most cost-effective way of delivering benefits. However, we raised the possibility that change should begin by tackling first the unsatisfactory aspects of decision-making. Appeals, we argued, should be left alone; the need for radical change to the appeal system could be assessed in the light of the impact on workload resulting from the changes to be made at the decision-making stage. We took the view that improvements at the first stage, combined with measures to streamline

appeal procedures arising from amendments to the adjudication regulations, and changes introduced by the Independent Tribunal Service, might have a favourable impact on appeal caseload. We considered that since the Independent Tribunal Service was in place and operating effectively (and planning further changes to enhance its effectiveness), longer term decisions about the structure of that organisation should not be taken prematurely. This was the line that we took in discussions and in our final response to the Department on the Consultation Paper.

Supporting evidence *Consultation Paper's proposals*

1.5 One issue raised in the Consultation Paper concerned the practical ways in which claimants' responsibility to support their claims could be reinforced. We responded agreeing the principle that a claimant should be expected to provide what was needed to support a claim, as long as there were safeguards in place to ensure that people knew what was needed. We mentioned among other things a need for simpler claim forms, and clearer rules and guidance. We said that we considered that a claimant should not be penalised as to the starting date for benefit if there had been good cause for delay in making a claim. We discussed this topic with the Department in September 1996. We were informed that there had developed a gradual alteration in the evidence-gathering required for a claim. There was a time when officials would have discussed the requirements with a claimant face to face and the claimant would have taken to the local office the appropriate documentary evidence. The system then changed to a postal system that built in delay in gathering information. The result was that less and less information was sought from claimants at the outset.

The Bill's provisions

1.6 The provisions made in the Bill will enable a claimant to be paid benefit from the date of submitting a claim. Officials explained that the new claim forms being implemented from October 1997 would make clear what information the Department needed to consider a claim. These requirements would include documents such as a birth certificate, evidence of address, and National Insurance number. It might be that the Department would itself wish to obtain further information from third parties, such as doctors. In all our discussions with the Department, we have maintained our stance about ensuring that prospective appellants should receive adequate information about the evidence and time limits which apply in respect of appeals.

Single status decision-maker *Consultation Paper's proposals*

1.7 The Consultation Paper proposed that there be a single status decision-maker. This change would remove the distinction between decisions taken by Adjudication Officers and on behalf of the Secretary of State. We welcomed the proposal so long as rights of appeal were preserved. In our response we said that the legislation would have to include clear definitions as to which decisions were of an administrative, as opposed to an adjudicative, nature.

Standards

1.8 There was also included a proposal to give the Chief Executives of the Agencies full responsibility for monitoring the quality of decision-making. The Department envisaged that the likelihood would be that the monitoring expertise among the staff of the Central Adjudication Service would be dispersed within the Agencies. The Department indicated that moving the responsibility to the Chief Executives would make clear the extent of their responsibilities. The monitoring work would be enhanced by single status decision-makers, covering areas not previously subjected to monitoring. We said that we were not fully persuaded in respect of this change. We considered that the functions which fall currently to the Chief Adjudication (and Child Support) Officer should remain with those independent offices.

The Bill's provisions

1.9 The Bill includes a provision which will ensure single status decision-making on behalf of the Secretary of State. Officials confirmed that this change would mean that the appeal process would be simplified. The present system was confusing because of the range of decisions in respect of which there were rights of appeal. The Department were keen that there should be no loss of appeal rights; there would also be rights of appeal in respect of contribution questions. There would also be provision made in regulations to amend, and to extend, the range of decisions for which there might be a right of appeal. We were informed that there was no intention to change staffing levels wholesale, and the grade of the decision-maker would depend on the complexity of the decision to be made. We have asked the Department to confirm how the level of decision-maker is to be decided.

1.10 The Bill provides that the responsibility for monitoring and reporting on standards will rest with the Agencies' Chief Executives. Officials also informed us that monitoring would be undertaken by Quality Support Teams, who act independently and who are validated by the National Audit Office. The Department envisaged that, under the new arrangements, there would be more checks made during the early stages of decision-making. They expected to use the expertise within the Central Adjudication Service in this respect. Furthermore, the Agencies' Annual Reports would publish information about standards. Indeed, the Annual Report of the new appeal body would be a vehicle in which criticisms about standards could be made. Nevertheless, we have again confirmed to the Department our view that responsibility for maintaining standards should remain with an independent body. We consider that the Agencies are likely to be less critical of the standards reached within their own decision-making teams. However, if the responsibility for monitoring standards is to rest with the Chief Executives of the Agencies, we urge that they be under a statutory obligation to publish details of their findings in similar form to the report made on his monitoring by the Chief Adjudication Officer.

Informal reviews

Consultation Paper's proposals

1.11 In common with many of those who responded to the Consultation Paper, we agreed that there should be opportunity for an informal review of a decision before invoking the process of a formal appeal, with the consequent demand on time and resources. We took the view that in many cases where there were errors, the fault arose at the information gathering stage. We agreed with the proposal for errors to be corrected speedily without the need for a formal appeal, and the possible introduction of arrangements whereby a decision could be revised if fresh evidence was received after an appeal had been lodged. In that event, there would be no need to proceed with any appeal. However, we have in the past considered the possibility that the statutory review system, such as that invoked before an appeal proceeds to hearing before a Disability Appeal Tribunal, could in some cases be merely postponing the appeal hearing of an initially bad decision; and that an informal review should not prejudice a right of appeal, that time-limits for an appeal should not operate until the review process has been completed, and that this should be made clear to appellants.

The Bill's provisions

1.12 During our discussions with officials in July 1997 they confirmed that the intention was to provide for an all-embracing informal review in every case, and that there would indeed be a move away from the formal review system. We welcome this provision.

New appeal body
Consultation Paper's proposals

1.13 **Our principal anxieties related to the proposals in the Consultation Paper for appeal arrangements. As stated above, we would have preferred to await an assessment of the changes on initial decision-making before any major restructuring of appeals.** The Consultation Paper proposed more flexibility in appeal arrangements, with an appeal body deciding how each case should be dealt with against "clear criteria". We were concerned that this might indicate a move away from the three person tribunal, and be a threat to judicial independence. Although we accepted that there might be scope for further improvement and simplification, we made it clear in our response that we did not agree that it would be appropriate to move towards the end of the three person tribunal. There was no reasoned argument to which we could respond in support of this proposal. We were thus concerned about the possible removal of the right of an appellant to a hearing before such a tribunal, chaired as it is by someone with legal qualifications. In addition, our own observations suggested that the wing members of the Independent Tribunal Service offered a valuable contribution at both the hearing and the deliberation stage. We agreed that, in certain cases, there might be a mismatch of members insofar as a particular expertise was concerned, but we considered that there was no justification for the abandonment of the three person tribunal. We agreed that there could be a more unified approach for appeals which handled medical questions, but expressed concern if changes were to make it difficult for people on low incomes to obtain their own medical evidence. We queried whether the Agency concerned might not have a duty to ensure that medical evidence was made available.

1.14 We were also concerned that the reference to "clear criteria" might imply an attempt to remove from the appeal body the judicial independence which is the essential part of its constitution. The Department confirmed that they would prefer a system which first established the type of issue to be resolved. Appellants would be assisted by a booklet showing the range of expertise available to consider the appeal. This would be designed to make clear precisely what was being appealed. The Department had under consideration the possibility of input from the customer at this stage. The Department recognised that some appellants did not want a formal hearing before three people and their needs should be accommodated. The Department were looking at the possibility of ensuring more contact with the claimant at the first tier of decision-making. Some cases could be dealt with at that level, whilst, in respect of others, an appeal stage might still be necessary. Some people wanted simply to "have their day in court".

1.15 We dealt in our response with the type of appeal body model which would best support independence whilst ensuring accountability for the service and efficient use of resources. We said that it would be wrong to use the issue of accountability as a reason for destroying the existing appeal body - the Independent Tribunal Service. It was only in the exercise of their **judicial** functions that tribunals must be independent of, and not accountable to, the Executive. There was no constitutional objection to a tribunal being responsible for any management or budgetary responsibilities that it has, although in practice it is Ministers rather than tribunal heads who are ultimately accountable to Parliament for the use of public resources. We said that one feature of a President-led system like

the Independent Tribunal Service was that the President ensures that there is sufficient manpower of sufficient ability to carry out the tasks required of the system. We supported the proposition that the recruitment and appointment of tribunal membership was an important part of the President's judicial tasks. In short, we urged the Department to leave in place the Independent Tribunal Service as currently constituted. If the Department were not willing to do this, then we urged that no final decision about the future structure of the appeal system should be made until there had been a proper assessment of the impact of the changes to the decision-making process.

The Bill's provisions

1.16 The Bill proposed the replacement of the separate tribunal jurisdictions with a single, unified appeal body. There would be one set of powers to determine all cases, and powers for cases to be allocated to different types of decision-maker, according to the nature and complexity of the case. The characteristics of the appeal body would include -

- the removal of an automatic right for all cases to be heard by a three person tribunal;
- the establishment of a panel of people (from which the tribunals would be constituted) to provide appropriate expertise according to the circumstances of the case (for example, legal, medical or financial); and
- The Lord Chancellor would have the responsibility for appointing the President and appeal panel members for England and Wales; the Lord Advocate would appoint the members for the panel for Scotland.

Membership of the new tribunals

1.17 We asked the Department about the proposals in respect of the lay members of the Independent Tribunal Service, and whether they were to feature in the new system. It seemed to us that the proposals would tend to exclude the experienced lay membership. We were informed that panels would include persons with legal qualifications, or other expertise such as in medical matters, accountancy, and other matters having significance to the subject of the appeal. There would be others with knowledge of disability and with knowledge of local conditions.

1.18 There would be power in regulations to prescribe for the membership of the panels. The Lord Chancellor or the Lord Advocate would constitute the appropriate appeal panel. The President of appeal tribunals would constitute individual appeal tribunals. If an expert's view was needed, one would be selected from the panel. Particular specialists could assist an appeal tribunal in either England and Wales or Scotland. However the expert would not be a tribunal member and would not take part in making a decision.

1.19 In view of these changes we asked specifically what would happen to the medical assessor system which is in place for Incapacity Benefit appeals. Officials confirmed that the Department had concluded that it would be better for the General Practitioner in such cases to be a member of the tribunal. We welcome the intention to include the medical member within the tribunal hearing such appeals. We had argued firmly for Incapacity Benefit appeals to be heard by a tribunal containing a medical member. In

this respect, we had suggested a specially constituted Social Security Appeal Tribunal or a Disability Appeal Tribunal.

1.20 Departmental officials confirmed that the President of appeal tribunals would be involved in settling the criteria to determine the constitution of particular tribunal hearings. The actual selection of the tribunal would be carried out as an administrative task, since the database for the panel membership would indicate for which appeal a tribunal should sit. The selection process would ensure that appropriately qualified persons (including persons with legal qualifications) were available to hear appeals.

1.21 We made it clear to the Department that these proposals presented a most significant and very unwelcome change to the existing arrangements for hearing social security appeals. The previous system for dealing with social security appeals, which had been replaced by the Independent Tribunal Service, had been unsatisfactory, and had led to a need for change. The Departmental officials said that the previous system had used people without sufficient training or expertise. There would be promoted in the new system a cadre of professional people with appeals being handled by a professional body. Officials agreed to consider our special report on "Tribunals: their organisation and independence" (see paragraph 1.41 and Appendix A) before proceeding any further in prescribing for the relationship between the President and the tribunals themselves. Officials indicated that the Department would be very grateful for any help that we might be able to give.

1.22 The officials confirmed that, insofar as the constitution of any tribunal was concerned, there was no provision in the Bill for a right of appeal if an appellant should not agree with the constitution of the tribunal hearing their appeal. Officials explained that currently appellants did not seem to attach any significance to the specific constitution of a tribunal. Indeed one cause for adjournment had been found to be the lack of appropriate expertise within the tribunal.

Some questions and concerns

Members

1.23 We have asked the Department to confirm the level at which responsibility will rest for making the decision as to the selection of, as opposed to the summoning of, the individual members of the tribunals. We have also suggested that a right to challenge the tribunal membership could become an issue if tribunals are to be constituted with differing numbers and qualifications of member. We are not aware if it is anticipated that the Lord Chancellor and the Lord Advocate will absorb all the existing expertise into the two new panels' membership. We have asked for further information about whether members of the new appeals body will be paid a fee for their services.

A retrograde step

1.24 **However our overriding concern is in respect of the significant change whereby some appeals may in future be decided solely by non-legally qualified panel members.** We consider that this is indeed a retrograde step, taking social security appeals back to where they were before the transfer of adjudication functions to adjudication officers and Social Security Appeal Tribunals by the Health and Social Services and Social Security Adjudications Act 1983. In our written comments we have urged

that consideration be given to the need to ensure that appeal decisions are taken by qualified personnel, where necessary trained in the particular skills necessary to chair a tribunal.

Commitment within the Independent Tribunal Service

1.25 **We have pointed out to the Department that there exists within the Independent Tribunal Service a commitment to excellence which the current President has taken all possible steps to achieve. We are concerned that these proposals are an indication of a longer term diminution of the appeal rights of appellants and have asked for further reassurance about the Department's long term plans. We will report the progress of this legislation next year.**

Tribunal training: a survey of current arrangements

1.26 **Towards the end of 1996, we conducted a major survey of training currently provided for chairmen and members of the principal tribunal systems in England and Wales falling within our supervision. We report below on the outcome of that survey which was taken forward at the request of the Tribunals Committee of the Judicial Studies Board.**

Introduction

1.27 The initiative arose out of discussions during 1996 between Judge Kenneth Machin QC, the Chairman of the Tribunals Committee, and our Chairman, when Judge Machin sought the Council's help in establishing the nature and extent of existing training programmes within the tribunals we supervise, in order better to inform the Committee's decisions about future training needs and how best to meet them. It was hoped that a survey along the lines he envisaged could be extended to provide information on the training currently in place for members of education appeal committees administered by the local education authorities in England and Wales, an area of particular concern to the Committee.

1.28 We have drawn attention in previous Annual Reports to our close links with the Tribunals Committee in support of its work on tribunal training; and we regarded it as entirely appropriate that the Committee should approach us for help in conducting a survey of this kind, since our extensive network of contacts with tribunals at all levels meant that we were best placed to take such an exercise forward.

1.29 Moreover, although the information obtained from the survey was intended primarily for use by the Committee, we also had a close interest in the results of the survey because of our concern for the constitution and working of the tribunals we supervise. As we make clear in our recent report on "Tribunals: their organisation and independence", referred to at paragraph 1.41 and found at Appendix A, the effective working of any tribunal system is in part dependent upon the provision of a properly

constituted and funded programme of training for its chairmen and members, and we have sometimes in the course of our visits seen evidence of the need for structured training in the conduct of proceedings. Although we were aware from our occasional discussions with heads of tribunals, and from our visits, of the existence of a number of training programmes, there were substantial gaps in our information about training in a number of tribunal systems and how this was funded. A survey along the lines envisaged by the Committee would provide us with a much better picture of how effective tribunals were in matters of training, and we were glad therefore to assist the Committee in this way.

The survey

1.30 Our Secretariat held early discussions with the Secretariat to the Tribunals Committee to ensure that the form of questionnaire we had devised met their needs, and to agree the range of tribunal systems to be covered by the survey. The questionnaire comprised four main sections seeking information on (i) membership and workload, overall training responsibilities and funding, (ii) the training of tribunal chairmen, (iii) the training of tribunal members, and (iv) the training of hearing clerks - an aspect of training about which little was known but which was of particular interest to us. The respondents were asked to give details of both induction and refresher training.

1.31 The survey covered all tribunal systems falling within our supervision which had a significant membership and caseload. In some cases, the questionnaire was sent out to the tribunal president who was asked to respond on behalf of the tribunal as a whole. For tribunals without a presidential head, the questionnaire was sent to each of the regional chairmen within the tribunal concerned. In some instances, it was necessary to target English and Welsh tribunals separately. In the event, 46 questionnaires were sent out covering 31 principal tribunal systems. In the separate case of education appeal committees, the questionnaire was sent out to each of the 119 Education Authorities in England (using details provided by the Department for Education and Employment) and 22 Authorities in Wales (using information provided by the Welsh Office). The absence of any means for making contact at a local level led to our decision not to target grant-maintained schools appeal committees.

The results

General tribunal systems

1.32 The response rate to the questionnaire was gratifyingly high. Of the 31 general tribunal systems targeted in the survey only two systems failed to respond. It was evident from the replies that the questionnaire had stood up well to adaptation to meet the circumstances of individual tribunal systems. Moreover, the quality and detail of the responses was good, with many being accompanied by copies of the training material being used by tribunals in their training programmes.

1.33 The responses showed, in general, a positive attitude towards the need for training. There were a number of tribunal systems, principally the larger presidential systems, where the training was well structured and competently administered. However, there were rather too many examples elsewhere of tribunal chairmen and members "learning on the job" and of "no need for special training here as they get their training elsewhere as judges". Around a quarter of the tribunal systems surveyed showed evidence of a marked scarcity of tribunal training. This was generally so

for tribunal systems without a presidential or other head, with responses showing some regions with a well-developed training programme and others with no formal training arrangements whatsoever. Of further interest to us was how the questionnaire itself had been seen as defining a certain standard of training, leading a number of tribunals to question whether their training programmes went far enough.

Education Appeal Committees

1.34 To the survey relating to education appeal committees, the response from Local Education Authorities in England and Wales was also very gratifying. Replies were received from 75 Authorities in England and 11 in Wales, giving a response rate of 73%. The information brought to light by the survey was substantial, with many responses again being supported by the training material in use by appeal committees. The responses produced evidence of a range of well-structured training programmes and of good practice, and a strong commitment to training for appeal committee members in many Authorities. Others were cautious about the effect on recruitment of voluntary members of having too formal a training programme; and a few Authorities clearly preferred to get along without any form of training whatsoever. The need to provide specific training for those members chairing appeal committees was not widely recognised. The attitude of Authorities to training for clerks to the appeal committees also varied, and training was less apparent where solicitors and barristers employed by the Authority were used to clerk hearings. But it was evident that the questionnaire had also prompted a number of Authorities to think further about training needs for their appeal committee chairmen, members and hearing clerks.

1.35 The effect of the recent local government reorganisation meant that a number of Authorities, particularly those in Wales, had only been in existence since April 1996. Many were taking the opportunity to introduce new arrangements, and to develop their own training programmes in anticipation of recruiting new members of appeal committees. Others had simply adopted the arrangements in place at the old Authority. A few of the existing Authorities were to be replaced in 1997 by a number of new Unitary Authorities and were already working to pass on their training practices.

1.36 We were particularly encouraged by the fact that many Authorities expressed an interest in the outcome of the survey. Some were keen to know what other Authorities were doing by way of training, and there was an expectation among them that the survey would lead to guidance from ourselves, or from some other quarter, on best training practice. Others made suggestions about the possibility of training being shared among a number of Authorities at a regional level or carried out centrally. Several asked about external training courses for committee members and hearing clerks, and about "training for trainers" courses, and we drew their attention to the work of the Tribunals Committee in this area.

Subsequent action

1.37 Having carefully analysed the responses and the training material which accompanied many of them, we took the step of producing two digests summarising the information we had received. The first outlined the training in place for chairmen and members, as well as hearing clerks, at each of the general tribunals covered by the survey. This was in a common

form which enabled comparison to be made between different tribunal systems, and copies of the digest were sent to each of the tribunals and to their sponsoring Departments. The second described the training provided for education appeal committee members and hearing clerks at each of the local education authorities who had replied to the training questionnaire. Copies of this were sent to the Department for Education and Employment and to the Welsh Office who had been consulted at the start of the survey.

1.38 Because the individual responses and the accompanying training material provide a more detailed picture of where the absence of training or shortcomings in existing programmes arise, we have passed these on to the Secretariat to the Tribunals Committee for further analysis and evaluation. We understand that they will be producing a database from this material to assist the Committee's future decisions about training.

1.39 Copies of the two digests were also forwarded to Judge Machin, the Chairman of the Tribunals Committee, under cover of a letter from our Chairman who expressed the hope that the results of the survey would enable the Tribunals Committee to work towards improving the standard of training where shortcomings were shown to arise. In particular, we thought that there was scope for close liaison between the Tribunals Committee and the Department for Education and Employment and the Welsh Office on the matter of training for education appeal committees. As we report at paragraph 2.22, this is an area in which we hope that some progress will now be made.

Conclusion

1.40 **While this has proved a substantial undertaking on our part, the survey has provided both ourselves and the Tribunals Committee with an important and valuable snapshot of training activity in the tribunal field. We believe that the information we have gathered will prove of immense benefit in furthering our own work, as well as the efforts of the Tribunals Committee to improve the general standard of training among tribunals. The information will also be of value to tribunals and their sponsoring Departments, who we would hope will take early action to improve training where that is shown to be necessary. It would be helpful if the information in the Digests could be updated from time to time and we hope that this is something which the Tribunals Committee will be able to take on in future years. We intend to monitor progress on training in the course of our visits to tribunals, and will use our links with the Tribunals Committee to suggest when it would be timely for the Digests to be updated.**

Tribunals: their organisation and independence - a report

1.41 **This year saw the completion of our detailed review of the organisation and management of tribunal systems first started in 1995. We made reference to the review at paragraph 2.200 of our last Annual Report, where we described the factors which had led us to conclude that a re-examination of the topic would be timely. Our conclusions are set out in a report which we submitted to the Lord Chancellor and the Lord Advocate in July 1997. The report, the text of which is reproduced in full at Appendix A, was subsequently published and presented to Parliament on 20th August 1997 (Cm 3744).**

The report

1.42 The conclusions contained in our report begin, as did our review, with a statement underlining what we believe the fundamental purpose of tribunals to be. The essential point we make here is that tribunals must not only be independent, they must be perceived as such. In other words, they should be enabled, and seen, to reach decisions according to law without pressure either from the body or person whose decision is being appealed, or from anyone else. The report goes on to describe what we regard as the pre-conditions for independence, outlining those attributes which we believe a tribunal system needs to have in place if it is to demonstrate and maintain the required level of independence and integrity.

1.43 It became apparent at an early stage in the review that our consideration of this topic should not be confined to a re-examination of the presidential system of organisation, on which we last commented in our Annual Report for 1982/83. As we point out in the introduction to the report, issues concerned with the independence and integrity of tribunal systems have far wider application, and embrace the variety of tribunal systems falling within our jurisdiction. Accordingly, our detailed conclusions in the remainder of the report concerning the nature of the relationship between tribunals and Departments on matters of funding and administration, and about the tribunal's judicial responsibilities, are intended to be of general application to all tribunal systems and their sponsoring Departments.

1.44 On the subject of tribunal funding and administration, we describe the factors which make it appropriate for such matters to be placed in the hands of skilled administrators, not least among which is the need to secure proper accountability for the use of public funds. But the essential point we make here is that decisions on matters of tribunal funding and administration have a direct bearing on the efficient and effective working of the tribunal itself, and thus on its independence and integrity. For that reason, it is incumbent on Departments to ensure that someone from the judicial side of the tribunal is given a central and effective role in such matters and, moreover, that the role assigned to that person is formally laid down and understood.

1.45 On the subject of judicial management, we describe the specific role which we believe the judicial head should play in a number of other areas in order

to secure the effective and efficient use of the tribunal's judicial resources, and to safeguard its independence. They include a close interest in such matters as the appointment and training of tribunal chairmen and members, the setting of standards in judicial performance with appropriate support and guidance, and full participation in policy decisions affecting the tribunal's constitution, jurisdiction and procedures.

1.46 Finally, the report touches on matters concerned with the appointment and status of those undertaking the role of judicial head, as well as the qualities normally expected of those who would aspire to that role.

Conclusion

1.47 **Our report was distributed, amongst others, to all tribunals falling within our jurisdiction and to their sponsoring Departments in August 1997. It is for them that the report is primarily designed, and we hope, and indeed expect, that Departments will pay close regard to the principles that we have set out whenever consideration is being given to the setting up of new adjudicative structures or to a review of existing ones.**

PART II: A REVIEW OF 1996/97

2.1 We describe in this Part a selection of other events that have occurred, and further matters on which we have advised during the course of the year.

Additions to our jurisdiction

2.2 During 1996/97, a further tribunal was added to our jurisdiction, namely the appeal tribunal established by the Police Act 1997. An account of this new tribunal appears at paragraph 2.130 below. Its jurisdiction is to hear appeals from senior police officers seconded to the National Criminal Intelligence Service and the National Crime Squad.

Devolution: Scotland and Wales

2.3 At the close of our reporting period, the new Government published White Papers on devolution in Scotland and Wales. Prior to the publication of the Scottish White Paper, our Scottish Committee were consulted by the Scottish Courts Administration on a draft proposal for the arrangements for tribunals under Scottish devolution. The Scottish Committee informed Scottish Courts Administration that they regarded an independent oversight of tribunals in Scotland as a necessity. They pointed out that the Scottish Committee already had extensive powers under the Tribunals and Inquiries Act 1992. They considered that the existing arrangements as between the Scottish Committee and ourselves worked very well. They thought that any proposal for two separate Councils would be retrograde, and inimical to the existing two-way flow of ideas. However, they felt that the perception of the Scottish Committee's status would be enhanced by a change of name to "The Scottish Council on Tribunals". They suggested minor changes to the existing legislation, including the introduction of a requirement for the Scottish Committee to make an Annual Report, to be laid before the Scottish Parliament. We expect to deal with the topic of devolution in Scotland and Wales in our next Annual Report.

Education

Exclusion appeals: Education Act 1997

2.4 The Education Bill was concerned with the area of pupil discipline and behaviour. However, its provisions would modify the procedures of appeal committees dealing with exclusion appeals. We thus took a close interest in the intended provisions. In particular, we considered the potential impact of the requirement that appeal committees take account of the interests of other pupils and staff as well as the interests of the excluded child; appeal committees were also to be required to have regard to the relevant school's discipline policy, and would need to decide if the school had made clear to parents the content of the school's Disciplinary Code.

Our previous concerns

2.5 We have for some time had concerns about the handling of appeals in respect of exclusions from school. When responding to a review of the procedures for appeals in 1995, we urged that there be a requirement for appeal committees to be chaired by a legally qualified Chairman. We also said that the Department for Education and Employment should pursue the issue of training for appeal committees. We encouraged the collection of

information on the extent to which appeals concerned pupils with statements of special educational needs. We also suggested that information be collected on the extent to which there were in hand, or there might be a need to consider, arrangements for making an assessment of the child's special educational needs. We note that in 1994-95, a total of 1,287 pupils with statements of special educational needs were permanently excluded from mainstream schools. This apparently represented 12.6% of the exclusions from mainstream schools for the year in question.

The provisions

2.6 Among the other provisions was an intention to allow schools to exclude pupils for up to 45 days in any year, and to allow schools greater representation at exclusion appeal hearings. An appeal committee would be required to decide at the hearing whether the event leading to the exclusion actually occurred (the Bill used the term "guilty" in this context). The appeal committee, having made that decision, would then go on to consider the appropriateness of the school's response to the pupil's actions.

Our experience and views

2.7 We have observed some cases where appeal committees have muddled the two issues. They have decided the appropriateness of the exclusion without first deciding the truth or accuracy of the allegation which had led to the response of a permanent exclusion from school. We thus supported the intended introduction of a two or three stage approach for appeal committees hearing exclusion appeals. Overall, however, we considered that the proposals would place considerable burdens upon appeal committees in the absence of a legally qualified Chairman to guide them. We took a firm view that committees dealing with appeals ought to be wholly independent of the parties to an appeal, and to be seen as such. We felt that hearings should be conducted by a legal Chairman (particularly since the decisions would have to be made in separate stages). We also agreed that the provision of training for appeal committees was even more important in the light of the intended changes.

Our response - a separate appeal body

2.8 We therefore put our views to the Department for Education and Employment. We argued strongly that the time had come to establish arrangements to ensure that exclusion appeals be dealt with by a body separate and independent of the parties to the appeal. We pointed out that a separate body would do much to enhance the perception of independence of the overall process, particularly since there are authorities and schools all over the country each handling appeals in their own way.

2.9 We pointed out to the Department that the adoption of the description of "guilt" in the Bill recognised, indeed underlined, the importance of these hearings and the seriousness of the issues that an appeal committee has to decide and the implications for the individual child. In the light of the new provisions, a committee would have to consider not just the appropriateness of the response made by the school, but also the implications of the response for the child, the other pupils and the staff. We put forward again our view that it was essential for any appeal body to be chaired by someone with legal qualifications (even if appeals continued to be dealt with by the present appeal committees).We acknowledged that there might be problems for authorities and schools if this requirement were introduced but said that, in the absence of a differently constituted appeals system, it was essential for there to be legal input into the operations of an appeal committee.

2.10 We also informed the Department of our firm view that, whether or not changes were to be made to the appellate body, a consistent form of training should be made available to the body set up to deal with exclusion appeals. We said that we considered that the handling of exclusion appeals under the new legislation would make the provision of training essential. We also urged the provision of procedural rules for appeal committees. We refer at paragraph 2.22 to the progress made generally in the area of training for appeal committees.

Green Paper on standards
Independent appeals panel

2.11 The new Government indicated in the Green Paper "Excellence in schools", issued in July 1997, that an independent appeals panel would hear appeals against non-admission to a preferred school. At the same time we were advised that separate consultation would be forthcoming on how best to ensure the independence of such panels. The deadlines for responses to the Department in respect of the consultation, and the proposals in the Green Paper, were to be the same - early October 1997. The Green Paper indicated an intention to consult further about the detailed provision for admission appeals, in addition to ensuring independence in exclusion appeals.

School exclusion appeals research

2.12 We understand that Professor Neville Harris, whose research into the Special Educational Needs Tribunal we report on below, is in the early stages of research into school exclusions appeals being funded by the Nuffield Foundation. We understand that the statistics supplied by some local education authorities who are co-operating with the research provide indications of disparity in the ratio of appeals to exclusions across the authorities involved. We await the report with interest and hope to comment on its findings next year.

Special Educational Needs Tribunal: Professor Harris' research
Delays

2.13 We mentioned this research in last year's Report. The research report has now been published and we have discussed its findings with its author, Professor Neville Harris. As we anticipated, the conclusion reached by the researchers was, overall, in favour of the way the system is being operated. The research indicated that the time taken for an appeal to the Tribunal to reach hearing stage was about four and a half months. When the President of the Tribunal, Mr Trevor Aldridge QC, subsequently confirmed this, he told us that he hoped to reduce further the period taken. But he pointed out that it was not possible to make a confident prediction until the Tribunal's increasing caseload had stabilised, and appropriate resources were provided. However, there are several stages to be followed when a case is appealed to this Tribunal and this limits any substantial improvement in the overall clearance time. Professor Harris pointed out that the regulations are intended to reflect the need for adequate time to prepare documentation and serve papers. The process inevitably added to the time taken. In any event, we consider that there has been a vast improvement compared to the system under which appeals were dealt with before the establishment of the Tribunal.

Accommodation

2.14 We took a particular interest in the comments made about the accommodation in which hearings take place. Professor Harris informed us that, when the research was being carried out, the hearings were almost all held in hotels, many of which were unsuitable. We had ourselves discussed with the President this aspect of the Tribunal's operations, and

were aware of the problems in finding suitable accommodation for an increasing appeals workload. Our own report to the President (see paragraph 2.18 below) mentioned our views about the unsuitability of some of the venues. The President informed us that certain changes had been made following his discussions with Professor Harris during the research. For example, Tribunal clerks now wore name badges so that they could be easily identified in hotel lobbies. The published research report included a reference to the Register of Tribunal Hearing Accommodation. But as we mention elsewhere (see paragraph 2.134), some owners of tribunal suites are not always able to make available their accommodation for any length of time.

Child representation

2.15 We discussed with Professor Harris the issue of separate child representation, being alert to proposals on this point in a Private Peer's Bill, to which we refer below. Professor Harris said that the disadvantage of the absence of representation for children was exacerbated by the absence of legal aid for parents. If the child were a party to the proceedings the Tribunal would be under a more specific obligation to consider the views of the child. However, separate representation would be particularly significant in those cases where a parent might not raise matters before the Tribunal that were in the best interests of a child. Professor Harris suggested that one remedy might be to extend the role of the Named Person who, at present, counsels parents following the production by a local authority of a statement, and whose status is independent of the local authority.

Mediation

2.16 We also discussed with Professor Harris the extent to which we had noted cases settling on the day of the hearing. He felt that it would be more productive to initiate discussions between parents and local authorities weeks in advance of appeal hearings, as many local authorities do. It might be that, at a stage when up-to-date evidence is available, discussions could commence on the possibility of reaching a settlement in a case that is proceeding towards an appeal hearing. So far as the hearings themselves were concerned, he had found the procedure generally to be quite structured, although most Chairmen opted for informality. He considered that one area that could be changed was the procedure whereby local authorities put their case to the Tribunal first. This could take up a disproportionately large part of the time allotted for the hearing. Parents were frequently distressed at these hearings, and some of them needed to have time to explain their case. In discussing his research with us, Professor Harris emphasised that he had received the fullest co-operation from the President of the Tribunal, and the Tribunal staff, throughout his research.

Annual Report

2.17 The Annual Report covering the second year of the Tribunal's operations, was set out in a very readable way. We were pleased to note the improvement in performance during the year. One aspect of the report, which we commend to other systems, was the inclusion in an annex of a list of all the Chairmen and members of the Tribunal.

Feedback report

2.18 In March 1997, we submitted to the President a report providing our observations of early Tribunal hearings (see paragraph 3.25). The report was based on a limited number of visits to tribunals (10 visits between April 1995 and December 1996, compared with 24 venues visited by Professor

Harris' research team). Our report was fairly specific in identifying accommodation that we had considered to be not particularly suitable for the hearing of these appeals. Although we mentioned various other matters, we were pleased to be able to inform the President that our observations of the way in which the tribunals were conducted were mostly complimentary. We had noted with approval that hearings were conducted in the main on case conference lines.

Lord Campbell's Bill

2.19 We were interested in the Education (Special Educational Needs) Bill, introduced as a private measure by Lord Campbell of Alloway, because some of its provisions were discussed in the research referred to in the preceding paragraphs. In particular, the Bill sought to have the child involved as a party to the proceedings before the Tribunal. There were various issues relevant to this aspect of the proposals. Not least was the fact that the United Kingdom is a party to the United Nations Convention on the Rights of the Child under which there is a duty to consult a child involved in legal proceedings, an issue which also has relevance to exclusion appeal hearings. One of the aims of the Bill was to confer on a child with special educational needs the right to make representations, to receive notifications, and to exercise rights of appeal if the child was of sufficient understanding.

Considerations

2.20 In our discussions we considered that the proposed provisions would require taking into account the age of the child concerned, and for there to be independent representation, perhaps by the introduction into proceedings of the Official Solicitor to act for the child. However, we could also envisage a situation developing where a hearing might have to be arranged to decide the very issue of whether the child should be at the hearing. It seemed to us that there were many issues that would require careful handling, such as whether the child would be a witness or an "exhibit" before the Tribunal, the procedure being even more akin to the operations of a case conference. We anticipated that one result might be an increase in the numbers of appeals from the Tribunal.

2.21 Although the Bill completed its passage in the House of Lords it made no headway in the House of Commons before the dissolution of Parliament.

Education Appeal Committees: training

2.22 We have remained in regular contact with the Department for Education and Employment on the question of training. We refer at paragraph 1.34 to the welcome response from Local Education Authorities to our training survey. We have been anxious not to lose the momentum achieved by conducting the survey. It was clear that we had unearthed evidence about the use in some authorities of well-structured training programmes. We provided the Department with the special Digest summarising the results of our survey of Local Education Authorities, and offered to make the full responses available to them for inspection. The Department were themselves considering how best to learn more about training opportunities for those appeal committees which are convened by the categories of admission authorities not covered by our survey, such as grant-maintained school governing bodies. **We have this year urged close liaison between the Department and the Tribunals Committee of the Judicial Studies Board. We hope to hear that they have adopted our suggestion that**

they establish a joint working party which might consider the production of a training module for appeal committees.

Departmental initiative

2.23 In a separate initiative, the Department last February issued to over 5,000 admission authorities the training video produced by the Tribunals Committee. This was accompanied by a newsletter containing news, information and guidance on admission appeals. The newsletter explained that the material could be used as part of a local training session. It also contained information about judicial review decisions that would have to be borne in mind by appeal committees. This we consider to be a useful reminder, emphasising to committees the judicial nature of their function. Although the package was a very welcome development, it was concerned primarily with admission appeal procedures. In the light of the different procedures which apply to exclusion appeals, the Department will be considering the need for separate guidance on procedures for both types of appeal.

Training for Trainers

2.24 Judge Machin, the Chairman of the Tribunals Committee, offered to make available to the Department 10 places on a course covering the skills needed to train members of tribunals. We informed the Department of this offer and the further ideas which have been discussed with Judge Machin. One suggestion was that regionally based trainers (independent of the Local Education Authority) might have responsibility for training appeal committees in all sectors. Another was that local co-ordinators, appointed by Local Education Authorities themselves, be given responsibility for training. A further option would involve the preparation of training modules specifically for appeal committees.

Employment

Employment Tribunals Service Agency

2.25 The Department of Trade and Industry issued a Press Notice in May 1996 to announce that the administrative support to the industrial tribunals (as well as to the Employment Appeal Tribunal which is outside our jurisdiction) was to be established as an executive Next Steps Agency from 1st April 1997. The Agency, which is now in being, is known as the Employment Tribunals Service. It provides administrative support to the tribunals both in England and Wales and in Scotland.

2.26 The prospect of agency status was raised in the Green Paper "Resolving Employment Rights Disputes: Options for Reform" on which we commented in some detail in our Annual Report for 1994/95. Although we had no objection in principle to such a change, we asked to be fully consulted at the appropriate moment on the Framework Document which sets out the respective roles and responsibilities of the new Agency and the Department. We were duly invited by the Department to comment on a draft of the document at the time the announcement was made.

2.27 It was apparent from our close scrutiny of the document that the new arrangements had been well thought through by the Department. Although matters of administration and finance were effectively placed in the hands of the Agency's new Chief Executive, there was sufficient scope for the Presidents of Industrial Tribunals for England and Wales and for Scotland, and the President of the Employment Appeal Tribunal, to express their views at various levels on the quality of support given to the tribunals by the Agency. Moreover, there was nothing to prevent them from raising matters at a higher level if the occasion ever arose.

2.28 There was a commitment that the Agency would assess the quality of its services by seeking the views of the judicial members and users of the tribunals. The Chief Executive was also made responsible for promoting good working relationships with the tribunal judiciary at all levels and for providing them with effective support; he would be answerable directly to the Department for the performance of the Agency in providing that support. The Agency's objectives and targets were broadly as we would have expected, and took care not to encroach on matters of a judicial nature. Finally, advice to the Secretary of State on the Agency's annual Corporate Plan, targets and performance would be given by a Steering Board, meetings of which would be attended by the tribunal Presidents from time to time.

2.29 Although we had no comments to make on the draft document, we were grateful to the Department for consulting us on the matter before final decisions were taken. Now that the Employment Tribunals Service is established, we will be monitoring the Agency's performance in providing support to the industrial tribunals both in the course of our visits and when scrutinising the Annual Report which the Agency is required to publish. We will also take a close interest in how the relationship between the tribunal Presidents and the new Chief Executive develops.

Resolving Employment Rights Disputes - draft legislation

2.30 In July 1996 the Department of Trade and Industry issued a consultation paper entitled "Resolving Employment Rights Disputes: Draft Legislation for Consultation". This consultation stemmed from the earlier Green Paper on "Resolving Employment Rights Disputes: Options for Reform" referred to in paragraph 2.26, which we discussed in our Annual Report for 1994/95, paragraphs 2.38-2.52. In the light of the responses to the Green Paper, the Government decided not to proceed with two proposals that we had opposed. The first was that employees should be required to attempt to resolve disputes with their employers before being able to make an application to an industrial tribunal. The second was that Chairmen should be required to sit alone, without lay members, in certain types of case. The draft Bill in the second consultation paper was intended to give effect to those proposals in the Green Paper that had been widely supported.

Change of name

2.31 We had originally opposed the proposal to rename industrial tribunals "employment tribunals", simply because of the risk of confusion with the Employment Appeal Tribunal. However, we did not press our objection to the incorporation of provision for a change in the draft Bill. We agree that the name "employment tribunal" reflects the tribunals' modern functions more accurately.

Determinations without a full hearing

2.32 The draft Bill contained various regulation-making powers to allow cases to be determined without a full hearing. The first of these powers enabled regulations to be made authorising tribunals to decide cases on the basis of written evidence alone where the parties had given their written consent, whether or not they had subsequently withdrawn it. We saw scope for determinations on the basis of written evidence alone with the parties' written consent, and recognised the need to guard against last-minute changes of mind. However, we maintained our earlier view that it should be a pre-condition of the written procedure that the parties should have received proper advice before agreeing to it.

2.33 We also thought it acceptable to give tribunals discretion to decide cases without a full hearing where the respondent had done nothing to defend the case, since if this had arisen because he had not received notice of proceedings leading to a decision he could apply for a review. We supported a change in the procedure whereby tribunals have a discretion to determine a case without a full hearing where it appears that the applicant is not entitled to the relief claimed (eg. if it is relief of a kind which the tribunal has no power to give), since there would still be a right of appeal to the Employment Appeal Tribunal in the normal way. We were content with the proposal to enable a tribunal to dismiss a complaint before it reaches a hearing if, on the undisputed facts, the case is bound to fail because of a decision of a superior court. This seemed to us to be a distinct improvement on the earlier proposal to allow "weak" cases to be disposed of at a pre-hearing review. Again, there would be a right of appeal to the Employment Appeal Tribunal in the usual way.

Chairmen sitting alone

2.34 As indicated above, the Green Paper proposal to require Chairmen to sit alone in certain types of case was dropped. We welcomed this decision. The draft Bill extended the categories of cases where Chairmen normally sit alone, but provided a discretion to Chairmen to sit as a tribunal of three. The new categories involved cases of a rather technical character, such as disputes over redundancy payments. While strongly reasserting our general preference for three person tribunals for the resolution of employment rights disputes, we considered that the new proposals were acceptable, given that there would still be discretion to sit as a tribunal of three.

2.35 There was a further proposal to allow a Chairman to sit with a single lay member where a party is absent and all other parties are content. This was designed to meet the situation where a member of a three-person tribunal fails to attend, and a party is not present to give consent for a two-person tribunal. Although we had had misgivings about this proposal at the Green Paper stage, we ultimately concluded that it was not unreasonable, provided that a party who had been unable for good reason to attend could apply to have the proceedings set aside.

Legal officers

2.36 In responding to the Green Paper, we had expressed doubts about the need for appointing legal officers to undertake interlocutory work, believing that this was a matter which, with proper training, could and should be done by Chairmen. However the draft Bill contained provision for the appointment of legal officers. We decided not to oppose the proposed piloting and monitoring of the use of legal officers. We thought it might prove efficient and cost-effective. At the same time, we commented that it might be difficult for legal officers doing minor judicial work to give legal advice to litigants.

Arbitration

2.37 At the Green Paper stage, we felt unable to support the proposal for making independent voluntary arbitration available as a binding alternative to a tribunal hearing. However, we were informed that the proposal had attracted wide support on both sides of industry. In these circumstances, we did not think it right to stand in its way.

2.38 The draft Bill provided for the Advisory, Conciliation and Arbitration Service (ACAS) to draw up an arbitration scheme for the resolution of unfair dismissal disputes, with a power for the Secretary of State to extend this to other areas of employment law. We expressed some doubts as to whether ACAS, as a conciliation body, would be the appropriate body to run an arbitration scheme. We wondered whether ACAS could achieve the necessary detachment from the litigation process. We were also firmly of the view that any extension of the scheme beyond unfair dismissal cases should be a matter for primary legislation, or at least for the affirmative resolution procedure. In our view, such an important matter should be decided by Parliament, rather than by Ministers. Finally, we suggested that, in view of our supervisory jurisdiction over industrial tribunals, it would be helpful if our members were able to have informal access to private arbitration hearings, in order to observe the system for resolving disputes in the round. We asked to be kept informed of the terms of the proposed scheme, and suggested that it would be helpful if those responsible for running it were to produce an Annual Report on its working.

Other matters

2.39 We expressed reservations about other aspects of the draft Bill's provisions. For example, the Bill picked up the Green Paper's proposal to extend the qualifying sources of advice in compromise agreements, to permit an independent person who is not a lawyer to give the independent advice that is a precondition to such an agreement. The Bill sought to meet concerns about consumer protection by stipulating that the advice must be covered by a policy of insurance against the risk of negligent advice. We had doubts about the practicalities of this solution in terms of the affordability of cover and the assessment of its adequacy. We also had concerns about a provision enabling tribunals determining unfair dismissal cases to take into account, when awarding compensation, whether an employee had attempted to use an existing "in house" appeals procedure, and to enable account to be taken of whether an employer had facilitated the use of such a procedure. While we welcomed the fact that the suggestion in the Green Paper, to the effect that there should be a statutory requirement for employees to pursue grievances with their employer before a tribunal complaint could be made, had been dropped, we thought that the narrower proposal enshrined in the draft Bill could well lead to inconsistency in practice. On the other hand, there were other provisions in the draft Bill with which we were content, such as the extension of the powers of conciliation officers to conciliate in statutory redundancy payment cases.

Conclusion

2.40 Although there were aspects of the draft legislation about which we had concerns, we thought that on balance it represented a constructive response to a widely perceived need to introduce changes to help industrial tribunals to cope with the increasing volume and complexity of cases and reduce delays, while containing demands on public expenditure. On the matter of delays, we understand from Judge Lawrence, the President of the Industrial Tribunals for England and Wales, that considerable progress has been made. Although the situation in the London North Region remains unsatisfactory, and there is room for further improvement in London South, we were pleased to learn that in the rest of the country delays have been dissipated entirely. However, there will undoubtedly be continuing pressures on the system and constraints on resources.

2.41 At the close of our reporting period, our Chairman learnt that the Employment Rights (Dispute Resolution) Bill would not be introduced by the Government in this Parliamentary session, but that they were prepared to make the text available to him. He was keen to see it implemented and so offered to introduce it into the House of Lords. The Bill introduced in July 1997 differed noticeably from that published for consultation in July 1996, reflecting the comments made during the consultation exercise and the priorities of the new Government. The most significant change made to the previous draft of the Bill is the proposal that only arbitration approved by the Secretary of State (under the Bill's proposals, the ACAS scheme) will remove an individual's right to make a claim to an industrial tribunal. Our Chairman has also announced his intention to propose an amendment to the Bill at Committee to provide that any decision by the Secretary of State to extend ACAS's power to provide a scheme to other jurisdictions will be subject to the affirmative procedure. We hope that the Bill can be improved during its passage, and that some of the concerns we have expressed can be addressed in the course of implementation.

Unfair dismissal - small firms exemption

2.42 The Department of Trade and Industry sought our views on a proposal by the Deregulation Task Force that small firms should be exempted from the unfair dismissal jurisdiction of industrials tribunals in relation to new employees. The Task Force, an independent non-statutory advisory body set up in 1994 to help the Government promote deregulation, said that in thousands of cases brought before industrial tribunals the employer agreed to a settlement even where he believed he was right. The Task Force maintained that, for many employers, paying out compensation even of thousands of pounds was less expensive than the cost of lawyers, management time and potentially adverse publicity that fighting a case could entail. The Task Force considered that the uncertainty and cost which accompanied industrial tribunal cases acted as a serious barrier to the creation of more jobs. They said that this was particularly true of small firms, and described the case for a small firms exemption as overwhelming.

2.43 We noted that no evidence was put forward in support of the Task Force's point of view. We ourselves are not in a position to assess the extent to which the unfair dismissal legislation acts as a barrier to the creation of new jobs, and we expressed no view on the matter. However, we thought the then Government were right, in their response to the Task Force's proposal, to say that the industrial tribunals system is intended to provide a cheap and simple way of resolving disputes. The Government's response properly drew attention to measures that have already been taken to make the system operate more effectively, and to the consultation on the draft Employment Rights (Dispute Resolution) Bill, referred to earlier in this Report.

Our views

2.44 We emphasised that it is not incumbent on parties before industrial tribunals to use solicitors and Counsel. We have observed hearings at which neither the employer nor the employee have been represented, and matters have proceeded in an entirely satisfactory fashion. Such cases will often involve small employers.

2.45 Leaving aside the question of job creation, we would not be happy about introducing a small firms exemption as proposed by the Task Force, nor

about an alternative suggestion to extend the qualifying period of service for protection against unfair dismissal for new employees in small firms. In our experience, employees in small firms are sometimes in greater need of protection than those in large firms, in that small firms tend to be less mindful of the legal requirements, and employees are less likely to enjoy the benefits of trade union representation. There is also the danger that, once the principle of special provision for small firms were conceded, there might be pressure to extend it further, for example by including medium-sized firms within the exemption or further extending the qualifying period of service.

2.46 We commented, as we have done before in other contexts, that any tribunal is liable from time to come under pressure from sheer volume of work and from lack of resources, and at any one time there will always be cases in the system which are unlikely to be successful. However, to seek to deal with such problems by removing well-established rights in respect of matters which may be of great importance to those concerned seems to us to be the wrong approach. Efforts should instead be concentrated on making improvements to the system and, if necessary, finding additional resources. In the case of industrial tribunals, we thought that this could include enhanced support for ACAS, and the exploration of alternative methods of dispute resolution.

Firearms Appeals

2.47 One of the recommendations made by Lord Cullen following his public inquiry into the shootings at Dunblane Primary School in 1996 concerned firearms appeals. He recommended that consideration should be given to reform of the scope of appeals against firearm decisions made by the police, in particular to ensure so far as possible that the appeal arrangements did not undermine the quality and effectiveness of the original police decision.

2.48 As a result of Lord Cullen's recommendation, the Government issued a short consultation document in December 1996 inviting views about appeals against refusal and revocation of firearm certificates. The consultation paper explained that, under the existing law, police decisions on firearms matters can be appealed to the Crown Court in England and Wales and to the Sheriff Court in Scotland. Appeals are by way of re-hearing so that, if the appeal is successful, the appeal court can in effect substitute its own decision for that of senior police officers. This approach had caused Lord Cullen some concern because of its tendency, in some cases, to undermine the basis on which firearms decisions are taken, including the ability of the police to use information that would not normally be admissible in a court of law.

2.49 Most of the issues raised in the consultation paper were concerned with policy matters which fell firmly outside our jurisdiction. However, the paper raised for consideration the issue of whether appeals from police firearms decisions should go not to the courts but instead to a specialist tribunal. This question of which forum should hear firearms appeals had been considered by us as recently as 1992 when the Home Office issued a consultation paper proposing new arrangements for the certification of firearms. Our advice at the time, as recorded in our Annual Report for 1991/92, was to make no change to the existing appeal arrangements. We

felt that appeals should continue to be heard by the Crown Court and by the Sheriff Court. Factors which influenced us in giving this advice included the relative accessibility of these courts and the relatively small appeals caseload involved.

2.50 In responding to the present consultation paper, we felt that the 1992 reasons for maintaining the status quo remained persuasive. Moreover it did not seem likely to us that a specialist tribunal would be any more likely than a court to preserve and protect the discretion of senior police officers in deciding firearms issues. Accordingly our advice remained that firearms appeals should continue to be heard by the courts. We informed the Home Office of our views whilst pointing out that if the Government did decide to establish new tribunals to hear these appeals we would certainly expect to be given supervisory jurisdiction over them.

2.51 The Government announced their post-consultation proposals during Lords Third Reading of the Firearms (Amendment) Bill. Firearms appeals would indeed continue to be heard by the Crown Court in England and Wales (and by the Sheriff Court in Scotland) rather than by a specialist tribunal. The Government also accepted the need for amendments to clarify the existing jurisdiction of the courts. These amendments were duly incorporated in the Firearms (Amendment) Act 1997.

Immigration

Special Immigration Appeals Commission

2.52 In May 1997, in response to an adverse judgment of the European Court of Human Rights in the case of *Chahal*, the Government introduced a Bill to establish a Special Immigration Appeals Commission, to hear appeals in certain cases where ordinary rights of appeal are currently precluded because of national security and foreign policy considerations. Hitherto, cases of this kind have been reviewed by a non-statutory Advisory Panel, headed by a senior judge, who report to the Secretary of State. In the *Chahal* case, the Court held that current procedures did not meet the requirements of the European Convention on Human Rights in cases where a deportation order had been made on national security grounds, since they did not entitle a detained person to have the basis of his detention reviewed by a court and there was no effective domestic remedy for refusal of an asylum application.

2.53 Under the Bill, members of the Commission will be appointed by the Lord Chancellor, who will also appoint one of them as chairman. The Commission may sit in two or more divisions. It will be duly constituted if it consists of three members, of whom at least one holds or has held "high judicial office" (i.e. High Court or above) and at least one is or has been a legal member of the Immigration Appeal Tribunal or the Chief Adjudicator. The chairman or, in his absence, such other member of the Commission as he may nominate, will preside at sittings of the Commission and report its decisions. Those decisions will be binding on the Secretary of State. The Commission will have power to grant bail.

2.54 The Bill empowers the Lord Chancellor to make procedural rules for the Commission. Among other matters, the rules may make provision enabling proceedings to take place without the appellant being given full particulars of the reasons for the decision under appeal, and enabling the Commission to hold proceedings in the absence of the appellant or his legal

representative. The Lord Chancellor is required, in making the rules, to have regard to the need for cases to be properly reviewed and the need to secure that information is not disclosed contrary to the public interest. Rules will be made by the affirmative procedure, that is, they cannot be made unless a draft of them has been laid before and approved by resolution of both Houses of Parliament. The Bill provides for the Attorney General, Lord Advocate or Attorney General for Northern Ireland to appoint a person to represent the interests of an appellant in any proceedings before the Commission from which the appellant and any legal representative of his are excluded.

2.55 We welcomed the Bill and the new rights of appeal which it would confer. We carefully considered whether the Commission was a body over which we should be given supervision. We concluded that we would not wish to claim a supervisory role. The main factors leading to our decision were, first, that the Commission would be operating in a very sensitive field where national security issues would be to the fore, and secondly, that the Commission when constituted to hear an appeal would include a senior judge; indeed, it seemed likely that the Commission would be chaired by such a judge. However, we welcomed the opportunity to comment on the Lord Chancellor's proposed procedural rules for the Commission before a draft was laid before Parliament for approval, and offered some suggestions for improvements. We were pleased that the statutory instrument would be subject to the affirmative resolution procedure. In the present instance, this seemed to be appropriate.

Liability of tribunals for costs

2.56 In August 1996 the Lord Chancellor's Department issued a consultation paper on "Liability of Judicial Officers and Others for Costs in Court Proceedings". The paper arose from concerns expressed by magistrates about their vulnerability to costs orders against them when their decisions are successfully challenged in the High Court on judicial review or by way of case stated. The paper looked at possible changes to the immunity given to magistrates in the context of the protection available to the judiciary as a whole.

2.57 The paper was primarily concerned with the position of magistrates, but it referred also to General Commissioners of Income Tax and other tribunals. We take the view that, so far as tribunals under our supervision are concerned, there is no relevant distinction between tribunals and magistrates, and in principle the same rules as apply to magistrates ought to apply to tribunals. We would draw no distinction between paid and unpaid tribunal members in this regard. We also have some difficulty in perceiving any justifiable basis for the distinction habitually drawn by the courts regarding the respective liability of superior and inferior courts and tribunals.

2.58 We have always taken the view that it is generally preferable for a tribunal not to appear on an appeal against or application for judicial review of its decision, unless the tribunal's character or good faith is questioned, or other special circumstances are present, for example, when the court wishes the tribunal to be represented to assist the court. However, even when a tribunal does not appear and is not represented it seems that it will not necessarily escape liability for costs.

Some broader issues

2.59 Although the consultation paper was focused mainly on the liability of magistrates for costs in court proceedings, we thought that the issues it raised were part of a broader picture. We noted that the Nolan Committee in its Second Report on public spending bodies addressed the question of the personal liability of members of such bodies and the indemnification arrangements available to individual board members of non-departmental public bodies who have acted honestly, reasonably, in good faith and without negligence. The Nolan Committee understood that the terms of the usual indemnity would in practice extend to cover reasonable legal costs incurred. They thought that at the very least the relevant sponsoring or regulatory bodies should ensure that there were the necessary powers at local level to take out insurance for board members and that insurance charges were classed as legitimate expenditure for funding purposes. The Nolan Committee noted that Government did not generally take out insurance and tended to fall back on indemnity arrangements. The Committee thought that there was a case for examining the law in this area as it affected public bodies, and recommended that a study be undertaken of the availability and scope of insurance cover. We understand that the Committee itself has commissioned such a study and that a first report on this is likely to be published in Autumn 1997.

2.60 We suggest that consideration should be given to insurance for members of tribunals, and that this should be regarded as legitimate expenditure for funding purposes. We await with interest the Nolan Committee's investigation of the availability and scope of insurance cover, and express the hope that the investigation will cover members of tribunals, to see whether insurance might provide a satisfactory solution for tribunals.

Specific issues

2.61 We addressed some of the specific issues raised in the consultation paper. It seemed to us that in principle a successful appellant or applicant ought to be entitled to an order for costs in their favour. Normally, such an order would be made against the party contesting the proceedings, but we would not wish to preclude the possibility of an order being made against the tribunal whose decision was being overturned. Accordingly, we would not favour removing the power of the High Court and Divisional Court to award costs against lower courts and tribunals.

2.62 However, we are concerned that, in the absence of provision for indemnification, it might be difficult to obtain suitable people to sit on tribunals. In any event, we consider that, as a matter of principle, members of tribunals should enjoy a wide indemnity, including the cost of obtaining their own legal advice. The indemnity should apply even if a tribunal is held to have acted negligently or unreasonably, provided they have acted in good faith. Such an indemnity would be similar to that enjoyed by magistrates in criminal matters.

2.63 So far as an allegation of bad faith is concerned, we consider that this raises difficult questions. On the face of it, it is difficult to have sympathy with a tribunal, or a tribunal member, who has not acted in good faith (as opposed to merely acting negligently or unreasonably). But there is the question as to who should judge whether there has been bad faith, and at what stage. One member of a tribunal may have acted in bad faith, while the other tribunal members might have acted in good faith. It might be possible for

an allegation of bad faith to be investigated and dealt with by a tribunal President or regional chairman, who could then decide whether a particular member should have the benefit of indemnity. However, such a summary form of determination seems to us to be inappropriate (and will in any event not be available in some tribunal systems) for what will always be a serious matter, and may well be a difficult one. We have reached the conclusion that the question whether or not there has been bad faith should be determined by a court on appeal or judicial review. Until that point is reached, and assuming there is no admission of bad faith, the tribunal member concerned should enjoy the benefit of indemnification in respect of legal advice and representation.

2.64 The consultation paper did not address the question of the indemnification arrangements that might be devised for tribunals. In general terms, we would suppose that indemnification would be a matter for the relevant sponsoring Department, but this would clearly require further examination.

2.65 We conveyed our comments on these various matters to the Department.

Local Taxation

Valuation Tribunals

2.66 We mentioned in last year's Annual Report our discussions with Mr William Kennard, the outgoing President of the National Committee of Valuation Tribunals, and his views on the working of the valuation tribunals in England. Mr Kennard retired in November 1996 and was succeeded as President by Mr Paul Wood. As outlined below, a further opportunity arose during the course of this year to pursue our interest in the organisation and general working of valuation tribunals.

Financial Management and Policy Review

2.67 The Department of the Environment informed us in December 1996 of their intention to undertake a Financial Management and Policy Review of the Valuation Tribunal Service in England. We were aware that reviews of this kind are detailed and radical in nature - examining closely whether there is a continuing need for the body in question and, if so, whether changes are needed to its structure and administration. Accordingly, we confirmed to the Department our close interest in the review, and asked to be consulted as matters progressed. Our separate enquiries of the Welsh Office, who administer the valuation tribunals in Wales, revealed that they intended to await the outcome of the review in England before commencing a separate review in Wales, possibly towards the end of 1997.

2.68 The Department invited us to set out our views and comments on the Valuation Tribunal Service at an early stage. But without a clear understanding about the scope and detail of the review, we found it difficult to contribute to the debate in any detail, at least in that way. In our initial response to the Department, therefore, we reminded them of our principal concerns about the working of the Service, all of which we have touched on in our recent Annual Reports. We further suggested an early meeting between officials and our Secretariat in order to learn more about the format and timing of the review and the range of matters to be covered by it. Given the advisory nature of our functions, we thought that the more constructive role would be for us to place our experience of the working of tribunals at the Department's disposal and to offer advice and assistance to officials as the review progressed.

2.69 We very much welcome the Department's decision to approach matters in this way. Officials have already held several constructive meetings with our Secretariat to work through a range of technical and procedural issues as thinking on the review has progressed, and we hope that this close working contact will continue. It is understood that the Department have it in mind to issue a consultation paper in due course, setting out their proposals on the way forward. We await those proposals with interest.

Mental Health Review Tribunals

2.70 We reported in some detail last year on the functioning of the Mental Health Review Tribunals Secretariat, and expressed our concern about the pressures on resources and how this was serving to increase delays and undermine the proper functioning of the tribunals themselves. The Paterson Report, which examined the administration and funding of the MHRT Secretariat, addressed many of our concerns and we expressed the hope that early action would be taken to implement the principal recommendations.

Funding and staffing of the MHRT Secretariat

2.71 The Department informed us in October 1996 that the main recommendations of the Paterson Report had been agreed in principle, and that they were looking at the timing of the changes. In their letter, the Department drew our attention to an announcement made by the Secretary of State in September that action was being taken to improve the administrative support to Mental Health Review Tribunals so as to avoid delays. We welcomed that announcement which, as mentioned below, also confirmed the Government's intention to abolish the power of hospital managers to discharge detained patients.

Discussion with the Department

2.72 We have closely monitored developments since then, and met with officials from the Department of Health in April 1997 to discuss progress on the main Paterson recommendations, namely:

- the development of a strategy for introducing information and communications technology within the MHRT Regional Offices, to enable the staff to process cases more quickly and to arrange hearings more easily, to standardise and automate written correspondence, and to improve management information on performance and delays;
- the recruitment of additional staff within the MHRT Regional Offices, to cope with the growth in workload in handling the processing of patients' cases through to a hearing;
- the recruitment of additional hearing clerks and the development of a proper strategy for training and using part-time hearing clerks; and
- the appointment of a senior Tribunal Administrator for the MHRT Secretariat, accountable to the Department for the overall use of resources and to the Regional Chairmen for the administrative support given to the tribunals.

2.73 At our meeting, officials informed us that the Department had appointed a senior manager to the MHRT Service who would have overall charge of operational issues within the administration of the MHRT Service, and be responsible for its day-to-day working. The appointment would take effect

from April 1997, and a key task for the senior manager in her first year would be to make as much progress as possible in improving the performance of the Service. She would also be addressing other issues in the Paterson Report.

2.74 We welcomed the appointment. But we expressed our concern that, because the judicial functions of MHRTs remain fragmented and regionally based, there is no one senior judicial figure, whether it be a senior tribunal chairman or president, with whom the new senior manager can work in partnership and hold discussions. We asked whether any thought was being given to a restructuring of the judicial side to make that possible. Officials informed us that the Department would certainly support such a move but regarded the issue as one for the Lord Chancellor's Department to take forward. For the reasons set out in our Report on "Tribunals: their organisation and independence", referred to at paragraph 1.41and at Appendix A, it is a matter on which we hope some early progress can be made.

2.75 The news on resources was less encouraging. Officials explained that the NHS Executive had been required to make a 21% reduction in its staff in 1996/97, and a further budget reduction was required in 1997/98. In both years they had managed to protect the MHRT Service from the same cuts. Although it had taken some effort on their part to resist the pressure, there would be no staff reductions this year within the MHRT Service. But it meant that the Service would not be given the staff increases recommended in the Paterson Report. The Secretary of State's announcement in September 1996 that he wished to see improvements in the efficient working and performance of the MHRT Service, would necessarily have had staffing and cost implications for the Service. An immediate task for the new senior manager would be to examine staffing levels at the four Regional Offices, to take account of the pressures they were under, and to report back within three months on how improvements could be made to the operation of the Service. A particular issue was whether immediate benefits could arise from the rapid introduction of information technology. Officials would then consider whether the report justified them making further representations to the powers that be. That was not to suggest that there was a real prospect of additional resources, but there might be a case for adjusting the mix of staff to improve performance.

2.76 As for the introduction of information technology, officials assured us that this was expected to provide significant opportunities for improving working practices within the four Regional Offices. They were already connected by E-Mail and a feasibility study would begin shortly to determine the appropriate software packages for the Offices. The Department expected that improvements would start to be seen in the Autumn of 1997.

2.77 We had expressed our concern in last year's Annual Report about the incidence of tribunal hearings conducted without the assistance of a hearing clerk, and asked what action the Department were taking to address the problem in the absence of additional resources. Officials agreed that it was wrong in principle that hearings should take place without a hearing clerk. The majority of cases arose in the London North Regional Office,

and they were seeking to resolve the problem by making more use of part-time clerks. It was a problem which the senior manager would be looking at, but training and operational matters meant that there would be no early resolution of the problem.

2.78 Given the optimism generated by the Secretary of State's announcement in September 1996, it was disappointing to us to learn that the main thrust of the Paterson recommendations had been diluted by an absence of the resources needed to carry them though. But it was very evident from our discussions that those officials within the Department responsible for the MHRT Service are fully committed to bringing about the necessary improvements in performance for which we have been pressing. We have made clear that we share their aims, and welcome their efforts to protect the Service from the cuts being imposed elsewhere within the Department.

2.79 As we said last year, we have been particularly impressed by the commitment of staff at all levels within the Regional Offices whom we have often seen working under intolerable pressure. The effect on morale has been evident from our visits, and we fervently hope that the appointment of the senior manager and the leadership that this will bring, as well as tangible evidence of the early improvement in performance promised by the Department, will demonstrate to staff that positive progress is resulting from the process of change. We will, of course, maintain our close interest as matters develop.

Managers' reviews

2.80 We welcomed the decision, announced by the Secretary of State for Health in September 1996, that managers' reviews would be abolished as soon as a legislative opportunity permitted. The announcement was made in the light of recommendations set out in the report of a Working Group set up to consider hospital managers' powers to review the detention of patients. The Working Group was established by the Department in 1995 as a direct consequence of the concerns we had expressed to officials at the time about the working of managers' reviews and their relationship with Mental Health Review Tribunals. Those concerns were set out in some detail at paragraphs 2.66-2.71 of our Annual Report for 1994/95.

2.81 The Working Group's report to officials, of which we were shown a copy, reinforced our view, and that of other commentators, that the existence of the two parallel systems of review, by hospital managers and by the tribunals, caused much confusion to patients and others and led to considerable duplication of effort. We were encouraged to learn from the Secretary of State's announcement that the Government were clearly persuaded, for this and no doubt other reasons, that the power to review detention and to discharge a patient should in future lie solely with the tribunals.

2.82 In our discussion with officials in April 1997, we asked about progress in this area. We were disappointed to learn that further action would not be taken until such time as there was the prospect of legislation.

National Health Service

Health Authorities Discipline Committees

2.83 The new arrangements for handling disciplinary issues that arise in the family health service have been in place since 1 April 1996. We have jurisdiction in respect of the hearings undertaken by the Health Authorities Discipline Committees. In the case of complaints made by patients where Health Authorities themselves are not involved, the arrangements are now dealt with in the first instance on a local basis. For example, a complaint against a family doctor would be handled in the first instance within a practice-based procedure. If the matter is not resolved to the complainant's satisfaction, there may be further recourse to an Independent Review Panel. These arrangements fall outside our jurisdiction.

2.84 Health Authorities may proceed against a practitioner if satisfied that there might be grounds for believing that the practitioner is in breach of his or her terms of service. Thus, disciplinary proceedings may follow the consideration by the Health Authority of a single event or series of events concerning a practitioner, or a report submitted to the Authority by an Independent Review Panel in connection with a patient's complaint. In the case of the latter, the patient might be needed at the hearing as a witness. Health Authorities may operate in consortia in respect of disciplinary proceedings. However, once a Health Authority has decided that disciplinary action should be taken, it must pass the case to another Health Authority which will conduct the hearing.

2.85 We mentioned in last year's report that we were concerned that the consortia arrangements might become a source of practical difficulty. We wondered if Health Authorities might be reluctant to proceed if they needed to liaise with another Authority or consortia some distance away. Our experience of such hearings is limited, but our anxieties remain about the need for the members of a committee to have to travel long distances to hearings. We will continue to monitor this aspect of the new arrangements.

Training

2.86 The training for the chairmen and members of the Discipline Committees was undertaken by the Family Health Service Appeal Authority. One of our members attended one of the training sessions and reported very favourably on its format. The programme included the use of the video "A Fair Hearing?" produced by the Tribunals Committee of the Judicial Studies Board. When we raised the question with them the Department of Health said that there would be practical difficulties if the Department were to make attendance on training a condition of appointment as we had suggested. They explained that the professional local representative committees nominate the professional members of the Discipline Committees and the Health Authorities are obliged to appoint the persons so nominated. However, the Department understood that there was keenness among the Health Authorities and the Committee members to take up the opportunity for training, the Family Health Service Appeal Authority being prepared to offer training in-house.

2.87 The guidance for Discipline Committees that has been issued by the Department contains a merged text of the principal and amending procedural rules under which the Health Authorities Discipline Committees operate. As we said last year, the regulations ought to be consolidated as soon as possible.

Pensions Appeal Tribunals
Delays

2.88 We mentioned in last year's Annual Report that the Lord Chancellor's Department Court Service had made it their priority to address the problem of delay in the hearing of war pension appeals. We report the current position regarding this long-standing problem and the measures that have been introduced in the War Pensions Agency, which has also given priority to remedying the problem. We also refer to the Department's intended amendments to the Tribunals' procedural rules, which we have been urging for some time.

2.89 In August 1996, preceding our discussions with Departmental officials, the average waiting time for an appeal hearing was approximately 45 weeks from the receipt of an appeal. However, this varied in different parts of the country. For example, in Leeds and Cardiff the average waiting time was a year, whereas in London the delay was only about three months. Another factor contributing to delay can be the time taken to prepare a case for hearing. The War Pensions Agency has to consider the reasons for the appeal, review the case, and obtain any further relevant evidence. The Agency presents a Statement of Case to the Pensions Appeal Tribunals. This contains details of evidence which in many cases relates to a medical condition attributed to service in the Second World War. Indeed, we understand that 60% of the Tribunals' workload is constituted of appeals made by appellants aged over 68 years. We understand that last year about 10% of cases were adjourned by the tribunal to obtain further evidence. One of the proposed rule changes will enable the President or member of the tribunal to request the provision of further evidence, or to obtain expert evidence, in advance of the hearing.

The Lord Chancellor's Department *Court Service targets*

2.90 The Department informed us of its plan to target Newcastle, which had an increasing backlog of up to eighteen months. Additional accommodation would enable two tribunal hearings to be listed simultaneously. There were also plans to increase sittings in Manchester and Chester, to extend sittings in Leeds, and to provide permanent accommodation for both entitlement and assessment appeals in Cardiff by September 1996.

2.91 We understand that the Court Service target for reducing waiting times to three months throughout the country over the following eighteen months has been achieved in Newcastle with the input of extra resources. However, the overall position at the end of March 1997 was that waiting times were fluctuating at around 50 weeks. We understand that plans in progress to target all pre-1996 appeals in the system by the end of 1997/98 will improve matters. The Department also anticipate that the forecasting by the War Pensions Agency of a lower flow of appeals, should make an impact on the outstanding appeals which, at the end of June 1997, amounted to 11,270.

Bulk assessment cases

2.92 When we met officials from the Lord Chancellor's Department, we were informed that in cases where the appeal concerned hearing loss, a streamlined system had been introduced. This involved the listing of ten such cases a day in each centre. As a result, large numbers of cases were being cleared without any overall increase in the length of the hearing day.

Feedback report

2.93 We decided this year to provide a summary of our observations at hearings to the Pensions Appeal Tribunals President, Mr Richard Holt. As

mentioned at paragraph 3.25, the provision of such reports is a recent innovation on our part, intended primarily to assist the head of the tribunal system concerned. Mr Holt was receptive to the suggestions contained in the report and advice and, in his response, outlined where steps had been taken administratively to make certain changes. We also mentioned in the report that it might be helpful for there to be a Pensions Appeal Tribunals office in Newcastle to assist with the backlog. We had noted the benefits gained from such an arrangement when a regional clerk was based in Birmingham. We were pleased to hear from Mr Holt that regional clerks had been installed at Newcastle and at Leeds. We also informed Mr Holt that we encounter much enthusiasm among his chairmen and members for the work undertaken by the Tribunals.

Accommodation

2.94 We mentioned in our report the unsuitability of some of the tribunal accommodation for people attending who are suffering disabilities. One venue of concern was Leeds where it was difficult to locate the tribunal suite. Arrangements have now been made for a security guard to be positioned on the ground floor of the building to make the tribunal suite easier to locate. We also mentioned the unsuitability of this accommodation to the Director of Tribunal Operations, whom we met in September 1996, pointing out the difficulties of access to the building. We were informed that the landlords of this shared accommodation were making some expensive demands on the Department. There was a backlog of appeals in Leeds and we were informed that the Tribunals' Secretary was seeking to borrow accommodation from a local county court in order to increase the number of hearings. As we say at paragraph 2.133, we have ourselves made efforts to encourage the use of the Register of Tribunal Accommodation. However, the reduction in hearing accommodation for the Independent Tribunal Service, the main contributor to the Register, has had consequences for other tribunal systems. The Pensions Appeal Tribunals find that the tribunal suites used by the Medical Appeal Tribunals are, generally, in full time use.

The War Pensions Agency

Proposals for improvement

2.95 The War Pensions Agency informed us in late 1996 that a new method of presentation for assessment appeals was expected to be introduced following successful trials. In future, evidence would be photocopied, rather than typed, for appeals involving a single condition. We understand that closer liaison between the Pensions Appeal Tribunals and the War Pensions Agency has assisted in projecting workload and in anticipating where best to target Pensions Appeal Tribunals' resources. The Agency exceeded its target of 12,000 for 1996/97 by more than 1,000 and the cases outstanding at July 1997 were 8,500.

2.96 The Department of Social Security and the Lord Chancellor's Department have submitted a package of proposals to the Central Advisory Committee on war pensions for their consideration and comment. These include a proposal to ensure that appellants are enabled to make an informed decision about whether or not to appeal by providing to them a proper explanation of the reasons for the decision on their claim, and the opportunity to make an informed counter argument at an earlier stage. We welcome this intended change.

2.97 Further proposals affecting the War Pensions Agency, which are under discussion, would ensure that the Statement of Case includes only the relevant evidence, as required by the legislation. This would include a summary of the service history, law and issues under appeal. The statement could be accompanied by photocopies of the relevant evidence and the decision.

Tribunal Amendment Rules

2.98 One of the amending rules to be made by the Lord Chancellor's Department would also ensure the easier amendment of appeal forms so that they can be periodically updated. The appellant would be able to give reasons for the appeal and nominate a representative.

2.99 Another amending rule change will enable the tribunals to ask an appellant if he wishes to attend the hearing, have a representative attend on his behalf, or have the case heard on the papers. We have suggested the additional safeguard of including a provision to reinstate an appeal in certain circumstances if it has been heard in the absence of an appellant.

Representation

2.100 We have reported previously on the difficulties for the Tribunals when appeals are withdrawn on the day of the hearing. Applications for withdrawal frequently arise on the advice of the appellant's representative who, in our experience, often meets the appellant for the first time on the day of the hearing. We have previously reported our suggestion that the Department of Social Security might make funds available so that appellants could meet their representatives beforehand.

2.101 The Royal British Legion, which represents many appellants, offers an "open door" service to any pensioner who is able to visit its offices in London. With the advantage of earlier advice, an appellant might make an earlier decision, for instance, to withdraw an appeal, or to request an adjournment for further evidence. We pointed out to officials from the Lord Chancellor's Department the potential for impact on the Pensions Appeal Tribunals' workload if travelling costs were met to enable appellants to meet their representatives before the appeal hearing. We urged that any initiative to finance such arrangements should originate from the Court Service.

2.102 The amending rules will provide for appellants' expenses to be paid in appropriate cases and the Court Service have confirmed that they are to initiate a pilot scheme to pay appellants' expenses for a pre-hearing conference with their representative. The arrangements for the scheme have to be finalised. We have asked to be kept informed as to its progress and the details of how it will be organised.

Training

2.103 We have heard from Tribunal members how helpful they found the newsletters sent to them on a monthly basis by the President. We have also noted that the Tribunals' Deputy President has undertaken to assess Tribunal performance with a view to consistency. Furthermore there is in place a system for training Tribunal members. One of our members attended a training session and considered it to be very well conducted and informative. We welcome the introduction of these measures.

2.104 We will report next year on the result of the initiative that will enable appellants taking part in the pilot scheme to receive pre-hearing advice. We

will also report on the impact of the other changes which we describe above. We consider that there is much care and concern among those involved in the handling of these important appeals. We share their hopes that the changes will have had a beneficial effect by the time we report next year.

Planning

Local authority development plans

2.105 Section 54A of the Town and Country Planning Act 1990, which was inserted by the Planning and Compensation Act 1991, requires development control decisions to accord with development plans unless material considerations indicate otherwise. Development plans, prepared by local planning authorities to guide development in their area, were thereby given an enhanced status, in effect creating a "plan-led" system.

2.106 Development plans set out the main considerations on which planning applications are decided. They comprise structure plans, in which county councils set out key, strategic policies as a framework for local planning by the district councils, and local plans, in which district councils set out more detailed policies to guide developments in their areas. There are also unitary development plans (UDPs), which combine the function of structure and local plans in London boroughs, metropolitan districts and some non-metropolitan unitary areas.

2.107 The Planning and Compensation Act 1991 introduced a requirement for all non-metropolitan local planning authorities to prepare area-wide local plans. The Government wished to see all areas covered by an up-to-date local plan or UDP by the end of 1996. However, it has long been apparent that this target would not be achieved. For some time the Department of the Environment have been seeking ways of speeding the process along. We have referred to various initiatives in our recent Annual Reports. In January 1997 the Department issued a further consultation paper on speeding up the delivery of local plans and UDPs.

The consultation paper

2.108 The consultation paper followed a review of local plan and UDP procedures conducted in 1996 in order to ascertain what further changes might be desired by users of the system. Discussions were held with a wide variety of interested bodies, including the local authority associations, bodies representing the planning profession, other professional organisations, development interests, and environmental groups. The consultation paper did not put forward firm proposals for change, but identified particular issues arising from the review on which Ministers sought views. If particular ideas received support, they would be translated into specific proposals on which detailed consultation would take place. The paper covered the whole local plan process from consultation to adoption. It probably came too late to affect the current programme of plan preparation. Essentially it looked to the future, and was as much concerned with the future review of existing local plans as the making of replacement ones. Needless to say, development plans need to be as up-to-date as possible if they are to serve the purpose for which they are intended. We record here our response to some of the ideas put forward in the paper.

Our views

2.109 The paper suggested improved guidance to local planning authorities and the public, with a view to removing excessive detail from the plans. While we supported any attempt to make improvements to the guidance provided,

we had doubts as to whether this would have any great effect on the number of objections, since there would always be scope for argument as to whether a plan was too rigid or too flexible. We also had doubts about the practicability of imposing a timetable for plan preparation, given the great pressures on local authority resources and the difficulty in devising effective sanctions for non-compliance with the timetable.

2.110 The paper outlined a new scheme for a two-stage deposit process. We thought that this suggestion merited further examination, though the question of resources had to be considered. The production of a plan for consultation takes a long time, and a two-stage deposit might simply prolong the process. However, the idea has attracted some support, and we do not believe that it would prejudice objectors. We think that it might be helpful to encourage the development of a two-stage process on a non-statutory basis, provided that this does not conflict with existing statutory rights.

2.111 The paper put forward various ideas relating to local plan inquiries. We opposed the suggestion that the right for objections to be heard should be replaced by a right for objections to be considered. While we recognise that the hearing of objections at inquiry can be expensive and time-consuming, we regard the right to be heard as very important. In any event, since an increasing number of objections are now dealt with by written representations (a practice that we would not seek to discourage), it is arguable that the suggested change would not make a great deal of difference. We were pleased to learn that the new Government is not intending to pursue this suggestion.

2.112 The paper suggested that the inquiry might be replaced, in whole or in part, by a procedure akin to the examination in public (EIP) that is used in connection with structure plans. We do not believe that it would be appropriate for local plans to be dealt with solely by EIP, but we think there may well be scope for greater use of EIP-type hearings to deal with some objections. The "round-table" approach has been proving increasingly popular in the local plan context. However, in our view there would need to be the fall-back of a public inquiry to dispose of outstanding objections. We also believe that the inspector, as well as the local planning authority, should have a say as to the matters appropriate for consideration at an EIP-type hearing and the matters that should go to inquiry.

2.113 We strongly supported a suggestion that there should be procedural rules governing the conduct of the inquiry. Indeed, we have urged this point for a long time. We recognise that there are difficulties in devising appropriate sanctions for non-compliance with the rules, for example by imposing costs penalties, but we believe that procedural rules would prove helpful even if there were no sanctions. We would like to see procedural rules introduced without delay, if necessary leaving the question of sanctions for later consideration.

2.114 We also commented on suggestions relating to the modification and adoption of plans. We agreed that the report of the inspector should be made available for public inspection as early as possible, and thought that ideas for simplifying the modification and adoption procedure, putting

greater emphasis on the inspector's report and deferring consideration of new matters to an early review of the plan, merited further examination. We opposed the idea of giving authorities greater powers to limit the scope of plan reviews.

Pipelines procedures

2.115 In February 1997 the Department of Trade and Industry conducted a preliminary consultation under the Deregulation and Contracting Out Act 1994 on proposals to deregulate the Pipe-lines Act 1962. The 1962 Act provides for public inquiries or hearings in connection with applications for cross-country pipeline authorisations and pipeline diversion authorisations, and compulsory purchase orders and compulsory rights orders. Some of the proposals put forward in the consultation paper would have the effect of limiting the circumstances in which a public inquiry or hearing must be held.

2.116 The first proposal was to introduce a written representations procedure to deal with objections. Written representations procedures have shown their value in other contexts, such as planning appeals, and we supported the introduction of such a procedure in the context of pipelines. We welcomed the indication that the right for objections to be heard at a public inquiry or hearing would remain.

2.117 Two further proposals would modify the pipelines legislation in ways that would take certain types of works outside the authorisation procedure. Broadly speaking, the works concerned would involve a lesser degree of impact on the public. However, local authority planning permission would be required. We thought that this would provide adequate protection to those affected, since they would be able to make their views known when planning permission for the proposed development was applied for.

2.118 There were also proposals in connection with compulsory purchase orders and compulsory rights orders. We opposed a proposal to drop the requirement for notices of applications for compulsory acquisition orders to be published in newspapers. Although there is a requirement to serve notices on all owners, lessees and occupiers, we thought that there was a possibility that persons with a real interest in the proposed order might be overlooked. Compulsory acquisition is not a purely private matter, and we would regret the loss of openness which the dropping of the requirement for published notices would entail. There is a requirement for published notices in the Acquisition of Land Act 1981, which governs many other forms of compulsory purchase, and we see no compelling reason for regarding the pipelines legislation differently in this respect. In any event, we do not regard the requirement to publish notices as being unduly burdensome when set against the interests of openness.

2.119 On the other hand, we had no objection to a proposal to align the Pipe-lines Act 1962 with the Acquisition of Land Act 1981 in respect of the special Parliamentary procedure for confirming orders. Under the 1962 Act, if the Secretary of State decides (following an inquiry or hearing) to make an order, it must be laid before Parliament and confirmed. Under the new proposal, the special Parliamentary procedure will only apply in the cases currently specified in the 1981 Act.

Planning appeals procedures	2.120	In January 1997 the Department of the Environment issued a consultation paper on "Planning Appeals", containing proposals for changes to the way in which planning appeals are dealt with in England and Wales. Foremost among the proposed changes was the proposal that the Secretary of State should decide whether an appeal should be dealt with by inquiry, hearing or written representations. Other proposals concerned the written representations procedure itself, the scope for mediation in planning disputes, reducing the length and scope of public inquiries, costs, and the timing of decisions.
Method of resolution	2.121	We strongly opposed the proposal that the Secretary of State should choose whether an appeal should be dealt with by the written method on the one hand or by inquiry or hearing on the other. This would involve removing from the appellant and the local planning authority the longstanding right to be heard on a planning appeal if they wish. When this proposal was last put forward, we set out our views in some detail in our Annual Report for 1989-90, paragraphs 1.51-1.58. We firmly adhere to what we said on that occasion. While we would certainly not want to discourage people from using the written method, we can see no justification for denying them the right to be heard if they wish. We were unimpressed by the argument put forward in the consultation paper in this regard. The argument appeared to be based on the efficient use of resources, but we noted that there had been no increase in the number of appeals or inquiries, rather the reverse. Instead, reliance was placed on the difficulties faced by the Planning Inspectorate in relation to local plan inquiries. This seemed to us to be a very poor argument for removing a longstanding right from appellants and authorities in ordinary planning appeals.
Written represent-ations	2.122	We had more sympathy with proposed changes to the written representations procedure itself. However, we felt hesitant about supporting the proposal for an abridged exchange of written representations without there being some kind of experiment to see whether such a procedure, involving a simultaneous exchange of written representations at the outset and a single opportunity for further observations, would work satisfactorily. We thought that there might be scope for experimenting with an abridged procedure, though we recognised that there might be difficulties in conducting an experiment without statutory backing.
	2.123	The other proposal for written representations cases was that there should be a short form of determination in "householder appeals". In principle, we would support a move to short decisions in such cases. However, we consider that it would be wrong for a party to be required at the outset to indicate whether he wanted a full decision. In our view, it should be open to a party to require a full decision for a limited period after receipt of the short decision.
Alternative dispute resolution	2.124	We were interested in a suggestion that there might be scope for some form of mediation in planning disputes. We would be inclined to lend our support to any initiatives in this area. It might be profitable to look at other cases where mediation has been applied successfully. In relation to planning appeals, it seems likely that there are cases where, by the time an appeal has reached the stage of an inquiry or hearing, the parties' positions

have become polarised. An inspector might well feel that some dialogue beforehand could have helped the parties to sort out the difficulties.

2.125 We are clear that mediation would have to be voluntary, and it may well be that parties would have to bear the costs. There would have to be the fallback of an inspector's decision on the appeal if mediation failed. There are difficulties with regard to the point at which mediation should take place, how it would fit into the statutory appeal process, and how third party interests would be dealt with. A mediation process involving third parties would be a complex one, but it is clear that mediation could not be used to bypass the legitimate interests of, for example, neighbours. We suspect that mediation would be unlikely to work in the case of large and controversial developments, but in the case of smaller developments we think that it is an option worth exploring.

Public local inquiries

2.126 Two proposals were put forward for reducing the length and scope of public inquiries. We had serious misgivings about confining the scope of an inquiry into a called-in application to the particular issue necessitating call-in. While we see no objection to cooperation between the local planning authority and the developer in identifying the non-contentious aspects of the proposed development, we are concerned about the position of third parties. It seems to us that where the Secretary of State has seen fit to displace the local planning authority as the person who decides whether or not permission should be granted, it would be illogical and wrong to adopt a procedure that might result in a diminution of third party rights.

2.127 On the other hand, we saw no objection to extending the practice of specifying those matters of particular concern to the Secretary of State (now only done for applications which are called in) to all appeals recovered for Ministerial decision.

Costs

2.128 The paper suggested the introduction of a costs sanction for non-compliance with the time limits in the procedural rules. We are aware of the current difficulties in getting parties to adhere to the time limits, but we are also conscious of the difficulty in devising an effective form of sanction that would not offend against natural justice, militate against the Inspector's ability to make a fully informed decision, or jeopardise cooperation between the parties. We thought that the idea of a costs sanction, whether by way of ordinary costs orders between the parties or by way of a discretionary fine payable to the Secretary of State, merited further consideration.

Decisions

2.129 We strongly endorsed the practice of inspectors, at the close of an inquiry or hearing, giving an indication of when they aim to produce the decision letter or the report to the Secretary of State. We would encourage this to be done wherever possible.

Police Appeals Tribunals

2.130 Three years ago the Home Office established a new system of police appeals tribunals. Under the new arrangements the tribunals can hear appeals against disciplinary decisions that result in the dismissal, or compulsory resignation, of a police officer from the police force. We were given supervisory jurisdiction over the new tribunals, as we recorded in our Annual Report for 1993/94.

2.131 In October 1996 the Government introduced a Bill to place on a statutory footing the National Criminal Intelligence Service (NCIS) and to create a National Crime Squad (NCS). The Bill contained little or nothing of direct interest to our work. However, as drafted, the Bill did not permit senior police officers who were permanently appointed to the NCIS or the NCS to invoke the appeal arrangements available to other senior officers. In other words they would not have access to the recently-established police appeals tribunals. During the passage of the Bill, the Government tabled amendments to provide the permanent police officers with access to police appeals machinery. However, the amendments themselves raised a number of issues. In particular, the amendments had the effect of establishing new tribunals rather than providing for these appeals to be directed to the existing tribunals. Whilst we welcomed the fact that we were being given supervisory jurisdiction over the new tribunals, we were concerned to avoid any unnecessary proliferation of appeal processes. We also queried the power being given to the Home Secretary to establish the new tribunals along different lines to the existing tribunals.

2.132 In their response the Home Office explained that the permanent police members of the NCIS and the NCS would not be members of police forces and they could not therefore have access to the machinery established for the police service. Moreover, it would not be appropriate for their appeals to be handled by the existing tribunals which were set up exclusively for members of police forces. The Home Secretary's power to make modifications was necessary in order for proper account to be taken of the membership of the oversight bodies for NCIS and NCS (Service Authorities) which had a different structure to the police authorities which maintain police forces. Nevertheless the Home Office intention was for the appeal arrangements for the new tribunals to mirror as closely as possible the arrangements for the existing tribunals.

Register of Tribunal Hearing Accommodation 1997

2.133 The Property Advisers to the Civil Estate (PACE) produced and distributed to tribunals the fourth edition of the Register of Tribunal Hearing Accommodation in July 1997. It is four years since we began this initiative with help from what was then Property Holdings (now PACE), and we are encouraged to see evidence of a greater awareness among tribunal administrators of the existence of the Register and of its value in encouraging the better utilisation of tribunal hearing accommodation through sharing arrangements.

Use made of the third edition

2.134 With help from PACE, we have continued to monitor the use being made of the Register throughout the year. Of those tribunals who provided feedback on the use they had made of the third edition of the Register, 13 tribunals said they had successfully booked hearing accommodation owned by another tribunal on 40 occasions. A wider picture emerged from those tribunals who advertised their hearing accommodation in the Register, where 13 reported the successful booking of their accommodation by another tribunal on 56 occasions. Most bookings were made on a one-off basis but there was evidence of further long-term sharing arrangements being entered into. Although it is apparent that occasional difficulties continue to arise, often because a tribunal venue is found unsuitable for use by another tribunal or because it is unavailable when needed, we regard the evidence from these responses as very encouraging.

2.135 We will again be doing what we can to promote the use of the Register during the coming year. As the Foreword to the new Register points out, some tribunal administrators looking for hearing venues have been discouraged in the past by the length of advance notice required - sometimes as long as six months. This was a problem which PACE addressed last year, by encouraging those advertising their accommodation in the Register to examine whether there was scope for a more flexible regime. A close examination of the new Register shows that this advice has been acted upon by many administrators. The longest period of notice is three months, and many tribunals are now willing to offer their hearing venues at 14 days or even 48 hours notice. We regard this as a very welcome development and hope that it will encourage more tribunals to take advantage of the Register.

Fees for hiring venues

2.136 Many of the hearing venues advertised in the Register are available for hire, subject to a modest hourly or daily charge. Following the transfer of responsibility for the Government's Common User Estate to Departments, to which we referred last year, we had expected that tribunals would be encouraged by their sponsoring Departments to secure a proper financial return by levying a fee for hiring out their hearing accommodation. However, we were concerned to learn in discussion with the President and Chief Executive of the Independent Tribunal Service in May 1997, that any fees recouped by tribunals in this way must, under current rules, be surrendered to HM Treasury. We very much regret this development which, in our view, can only serve to act as a disincentive to tribunals with spare hearing accommodation to make this available to others. The implications of this rule for the Independent Tribunal Service, a major contributor to the Register, are already apparent, since we were informed that some hearing venues at risk of closure could be made viable if they were shared with other tribunals to produce a source of additional income for the Service. We understand that the matter has already been raised with the sponsoring Department and hope that the problem will be looked at sympathetically.

Registered Homes Tribunals

2.137 We regret having to report that we have not been able to obtain any further information from the Department of Health about their apparent intention to amend the procedural rules under which these tribunals operate. As recorded in our recent Annual Reports, we have discussed the need for change both with officials and with tribunal Chairmen and members. Indeed, we understood last year that one of the tribunal Chairmen had himself prepared draft rules that had been discussed with the Department and other Chairmen. In the spring of 1997 we were informed that a submission was being put to Ministers on the changes; we have heard nothing since. **We are disappointed to note the continuing delay in amending the rules for these tribunals. The need for change, especially with regard to filing evidence, has been present for years. The tribunals undertake work of considerable importance, even though their caseload is modest by comparison with other jurisdictions.** In addition to the need for rule changes, we hope that consideration will also be given to the benefits for this tribunal system of appointing a judicial head for the reasons set out in our Report on "Tribunals: their organisation and independence" referred to at paragraph 1.41 and Appendix A.

2.138 In May 1997 we were somewhat surprised to be sent a new guide for homeowners and registration authorities. We had mentioned the need to

revise this guidance as long ago as our Annual Report for 1990/1991. We informed the Department that, although we welcomed the issue of the new guidance, we considered it regrettable that we were not given the opportunity to comment on the document whilst in draft. Tribunal systems often ask for our comments on guidance that they propose to issue and many of them value our observations (even if the suggestions are not accepted). We were informed that the Department did not consult more widely on the document because the substance of the advice was unchanged. The guidance does not refer to our statutory role as laid down in the Tribunals and Inquiries Act 1992.

2.139 One aspect about these hearings that continues to be of concern to us is the unsuitability of the accommodation in which hearings take place. Very often hearings are listed in local authority accommodation. This is no doubt because such accommodation is more readily available and there is an expectation that a hearing might last for several days. Ideally, however, tribunal hearings ought not to take place in premises identifiable with one of the parties to an appeal. We have sent the Tribunals' Secretariat a copy of the Register of Tribunal Hearing Accommodation mentioned at paragraph 2.133 in case the opportunity arises to share tribunal accommodation loaned from another system.

Rents
Leasehold Valuation Tribunals: Fees

2.140 We recorded in last year's Annual Report our strong opposition to provisions in the Housing Act 1996 which conferred on the Secretary of State for the Environment power to make orders providing for fees, not exceeding £500, to be charged in respect of certain proceedings before Leasehold Valuation Tribunals. The Department of the Environment subsequently issued a consultation paper in October 1996, setting out their proposals for a fees structure for service charge disputes and appointment of manager cases in line with those provisions.

Consultation paper on fees

2.141 The consultation paper gave effect to an undertaking by Ministers during the passage of the Housing Bill to consult widely on the new fees structure, taking account of certain factors. These were that the scale of charges should offer a degree of certainty to the applicant before the case started; that the possibility of a sliding scale of fees would be considered; and that fees would be waived in full or in part for those on low incomes - the suggestion having been made that those in receipt of means-tested benefits should qualify for remission of the fee. These were the principal matters covered by the consultation paper, on which we were invited to comment.

The new fees structure

2.142 It was apparent from the paper that the Government had considered but largely discounted the idea of introducing a sliding scale of fees. In the interests of simplicity, the paper favoured a straightforward two-stage fee structure which would comprise in all cases (i) a flat-rate fee of £150 payable on the application, and (ii) a flat-rate pre-hearing fee of £350 to be paid if and when the case was set down for hearing. Taken together, the fees would achieve the maximum of £500 provided for under the Act. Two or more tenants would be entitled to make a joint application and thus to share the fees.

2.143 In our response, we supported the introduction of a two-stage fee structure in principle. However, we could see no justification for the high level of

fees which the Government had it in mind to introduce at the outset when, as the Department's covering letter had pointed out, the very purpose in transferring service charge disputes and appointment of manager cases to Leasehold Valuation Tribunals was to meet concerns about the cost and complexity of court action. We pointed out that added to the liability for such fees would often be the cost to the tenant of appointing a surveyor to provide expert evidence, and the costs of representation either by a solicitor or, as the Government had suggested, by the surveyor. Notwithstanding the more straightforward procedures to which the parties would now have access, the prospect of having to meet such substantial fees, as well as these additional costs, would only operate to deter tenants from exercising their rights before the tribunal. Accordingly, we urged the Department to introduce a more modest level of fees in the first instance which would not serve to undermine the very purpose for which such cases had been transferred to the tribunals.

Remission of fees

2.144 The consultation paper also made straightforward proposals for the fees to be remitted in full where an applicant was in receipt of certain specified benefits which were strictly means-tested, and for a pro rata reduction where two or more joint applicants qualified for a remission of fees. We welcomed the proposal, but noticed that Housing Benefit was excluded from the list of specified benefits on the grounds that, although means-tested, it was calculated according to the property in question. It was certainly true that, because entitlement to Housing Benefit was dependent on the level of rent, certain people on higher incomes were entitled to Housing Benefit but not other benefits because of the level of their rent. However, it seemed to us that, in terms of the requirement to pay a fee to the tribunal, such people would have no more "free income" than those on, say, Income Support. For that reason, we urged the Department to examine the matter further and to include Housing Benefit in the list of specified benefits.

2.145 We also suggested that relating remission solely to specified benefits could prove too inflexible, and that power would be needed to enable Leasehold Valuation Tribunals to exercise a discretion to remit or reduce the fee where it appeared that payment of it would involve undue hardship because of the exceptional circumstances of the particular case. As with the county courts, we saw this applying to cases where the applicant was not in receipt of benefits but where, perhaps in the case of a student, his or her income and outgoings clearly warranted it.

Reimbursement of fees

2.146 A matter not covered in the consultation paper was when or how Leasehold Valuation Tribunals might be expected to exercise their discretion to require a party to the proceedings to reimburse the whole or part of any fees paid for by another party. The paper did no more than suggest that tenants could be ordered to reimburse the landlord where they had behaved unreasonably. We reminded the Department of our view in relation to costs - namely, that these should only be awarded where the tribunal was of the opinion that a party had acted frivolously or vexatiously, or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable. We could see no reason to depart from those criteria in relation to the proposed fee provisions.

The draft Order

2.147 In due course we were consulted on a draft Fees Order. The proposed fee structure entailed a two-part fee, comprising a fee of £150 payable on application and a further fee payable on allocation of a hearing date, based on a sliding scale varying between £150 and £350. The sliding scale would be determined according to the number of relevant dwellings or flats. The maximum total fee of £500 would only be payable where the number of dwellings or flats was more than ten. There were provisions enabling a single fee to cover several related matters, and for the apportionment of a single fee between different applicants in some circumstances. Fees for certain types of application were set well below the £500 maximum. There was provision for the full remission of the fee where the applicant was in receipt of various benefits, but these did not include Housing Benefit. There was provision for proportional reduction of fees on a joint application where some of the applicants qualified for remission.

2.148 The Department took the opportunity to respond to our comments on the consultation paper. On the level of fees, they emphasised the need to ensure that the costs of the procedures should not place an undue burden on the public purse. However, they thought that the proposals now put forward went a long way towards meeting our concerns. They pointed out that under the sliding scale the maximum fee for blocks of flats of no more than five dwellings would be only £300. The provisions for dividing a single fee between several applicants, and for remission of fees, meant that there was likely to be a high proportion of cases where the full fee would not be payable by individual tenants. The power of a Tribunal to require a party to reimburse another party's fees could, in appropriate cases, result in tenants being fully reimbursed by the landlord. Moreover, the provision of additional funding to the Leasehold Advisory Service to give free initial advice to tenants contemplating taking their case to a Tribunal ought to help minimise tenants' overall costs in many cases. In short, Ministers believed that the proposed fee structure was a fair one for tenants, and would offer a cheaper route than going to the county courts.

2.149 On the matter of remission of fees, Housing Benefit was eventually included as a qualifying benefit when the Fees Order came to be made. We warmly welcomed this change. However, the Department said that Ministers thought it inappropriate to give the Tribunals a general discretion to waive fees in exceptional circumstances. Such a provision would militate against operational simplicity, since pressure would be placed on the Tribunals to exercise the discretion, inevitably giving rise to the need to check applicants' personal circumstances and guard against the risk of fraudulent claims.

2.150 On the matter of reimbursement of fees, the Department said that in the view of Ministers the only restriction that should be placed on the Tribunals' discretion was that the Tribunal should not order the reimbursement of fees where the respondent would qualify for remission of fees. Each case should be judged on its merits, and the Tribunals should require reimbursement or partial reimbursement as they saw fit. Ministers did not share our view that reimbursement should only be ordered in cases where a party had acted frivolously or vexatiously or wholly unreasonably.

Conclusion

2.151 We appreciated the careful consideration that had been given to our comments. We welcomed the degree of flexibility incorporated into the

fee structure, and were particularly pleased that Housing Benefit was eventually included as a benefit qualifying for remission of fees. We did not feel able to press our other points further. **Nonetheless, we strongly adhere to the general views we have expressed on the matter of fees in tribunals, and trust that these will be heeded in the future.**

Review of Public Inquiry Procedures

2.152 Last year we reported the Lord Chancellor's request to us for advice on the procedural issues arising in the conduct of public inquiries set up by Ministers. A copy of the advice that we submitted to the Lord Chancellor was annexed to our Annual Report for last year.

2.153 The Government have since responded to our advice. On 21st November 1996, in a Parliamentary Written Answer, the Lord Chancellor thanked us for our advice and confirmed that the Government were adopting it as their response to Sir Richard Scott's recommendations about inquiry procedures. Copies of our advice were placed in the libraries of the House of Lords and the House of Commons, and the Lord Chancellor's Department has made additional copies available to organisations and individuals with an interest in this topic.

Road Traffic
Improving safety for learner motorcyclists

2.154 In October 1996 the Driving Standards Agency ("the Agency") included us in a consultation on proposals to improve the statutory training scheme for learner motorcyclists and moped riders. Our interest was in the proposed appeal arrangements in respect of enforcement action taken against Approved Training Bodies and instructors.

2.155 The current statutory scheme for learner motorcyclists, commonly known as Compulsory Basic Training, was introduced in December 1990. It appears to have had a positive impact on casualty rates. The Agency proposed improvements in three main areas, namely, the nature and content of the statutory training course, the arrangements for appointing and supervising the training providers, and enforcement and appeal procedures.

2.156 Compulsory Basic Training courses can only be provided by Approved Training Bodies. There are two basic requirements to be an Approved Training Body, namely, to have an off-road training site approved by the Agency, and to employ at least one Agency-assessed motorcycle instructor. Failure by Approved Training Bodies and instructors to comply with the relevant regulations and conditions of appointment can lead to enforcement action by the Agency. This may involve the revocation of authorisation to conduct training. The Agency proposed to introduce provision requiring enforcement officers to explain suggested remedial action or the reason for taking immediate enforcement action, requiring them to give the person enforced against a right to make representations, and requiring them to explain rights of appeal. We supported these proposals.

2.157 At present, there is no provision for appeals against enforcement action. The Agency proposed that there should be. Two possible options were put forward. The first was the adoption of the model appeals mechanism under the Deregulation and Contracting Out Act 1994, which we discussed in last year's Annual Report. The second was to adopt procedures similar to those applying to the statutory register of car driving instructors. Under

provisions now contained in the Road Traffic Act 1988, a person who is aggrieved by a decision of the Registrar of Approved Driving Instructors (an Agency official) to exclude his name from the register may appeal to the Secretary of State. The Secretary of State must then cause an inquiry to be held. These inquiries fall within our remit. Inquiries are conducted by one, two or three persons appointed by the Secretary of State, none of whom may be an officer of the Secretary of State. The appointed persons report to the Secretary of State, who then decides the appeal.

2.158 We saw disadvantages in both options. One of our concerns about the model appeals mechanism is that it might lead to the proliferation of small appeal bodies operating in isolation from each other, albeit under standard procedures. This could result in inefficiencies. On the other hand, we do favour giving to appeal tribunals the power to reach binding decisions, as under the model appeals mechanism, in preference to a statutory inquiry before appointed persons who then report to the Secretary of State with recommendations, as under the Road Traffic Act 1988. The latter arrangement does not seem so conducive to independence.

2.159 Our own preference was to establish by primary legislation a new, purpose-built tribunal under our supervision, consisting of a lawyer chairman and two other members, to hear appeals relating to both car driving and motorcycling instruction. Such a tribunal would have its own procedural rules, drawing as appropriate on the model appeals mechanism and on our own Model Rules of Procedure for Tribunals (Cm 1434). We thought that in any event there was a strong case for amalgamating the appeal arrangements for car driving and motorcycling instruction.

2.160 We understand that the Agency, having considered the responses to their consultation, are now inclined to devise an appeal mechanism for motorcycling instruction cases based on that already in place under the Road Traffic Act 1988 for approved driving instructors. This would have the advantage that the same panel of Chairmen could be used for both types of appeal. We expect to be involved in the working out of these arrangements.

Parking Adjudicators

2.161 Parking adjudicators constitute the adjudication machinery provided by the Road Traffic Act 1991 to implement the new parking regime established by that Act for London. The parking regime operates by means of designated parking areas which are patrolled by parking attendants who issue Penalty Charge Notices to offending motorists. Motorists have a right of appeal to a parking adjudicator. Each adjudicator constitutes a tribunal falling within our supervisory jurisdiction.

2.162 Although the provisions in the Road Traffic Act 1991 establishing the parking adjudicators apply only to London, it was always intended that the new parking arrangements should be capable of being extended elsewhere in Great Britain. Indeed the 1991 Act enables county councils, metropolitan district councils and (in Scotland) councils constituted under section 2 of the Local Government etc (Scotland) Act 1994 to apply to the Secretary of State to make an order designating the whole or any part of the area to which the application relates as an area to which the 1991 Act parking regime should apply. Parking adjudicators operating outside

London would be under our supervision in the same way as parking adjudicators within London, although there is power for the Secretary of State to vary the arrangements so that the adjudication can be carried out in different ways and using different procedures.

2.163 Since 1994 the Department has consulted us on various occasions about the issues involved in extending the 1991 Act parking regime outside London. Our principal interest throughout has been to ensure that the parking adjudication functions are at all times kept separate from the enforcement functions of local authorities. In London, the necessary element of independence is secured by the Parking Committee for London, which represents the London Boroughs as a whole but not individual enforcement authorities. One option for securing the independence of adjudicators outside London would be to establish a series of Regional Parking Committees operating along the lines of the Parking Committee for London.

2.164 To date no Regional Parking Committees have been established. Instead parking adjudication outside London has been achieved by the Parking Committee for London providing adjudication services in areas such as Winchester, Oxford and High Wycombe. Adjudicators from London visit each area regularly to hear appeals. As far as we can tell from our own visits, these arrangements seem to be working very well. However, the use of London adjudicators can be no more than a transitional arrangement pending the establishment of Regional Parking Committees, and we note with interest that local authorities around Britain are considering how best they can adopt the new parking arrangements for their own areas. In particular, we have held talks this year with Kent County Council over their outline proposals for establishing a parking committee comprising District Councils in Kent along the lines of the Parking Committee for London.

2.165 A particular problem for parking adjudication outside London is that the revenue available from Penalty Charge Notices in any area is certain to be much smaller than in London. The London adjudicators disposed of 18,000 appeals in 1996, 5,000 of which involved actual hearings. The calculations made by Kent County Council in their discussions with us suggest that there would be only 700 appeals arising each year in Kent and surrounding areas. Given that the aim is to make the parking regime under the 1991 Act self-financing, it is clear that the amount of revenue available to finance an elaborate adjudication system outside London is limited. One suggestion put forward by Kent County Council was that the premises and support staff needed to service parking appeals should be provided by one or more firms of solicitors practising in the locality. The adjudicators hearing the cases would of course have no connection with the firm of solicitors involved. Nonetheless, it seemed to us that there were possible disadvantages in using solicitors' offices and their staff for administrative purposes.

2.166 Our advice to the Department and, where requested, to local authorities has been that whilst the arrangements for parking adjudication in London may in many respects present an ideal model, there is scope for different practices and different arrangements outside London because of the much

smaller scale of the adjudication work there. For example, it may be impractical to provide premises and support staff dedicated to parking appeals where these are not justified by the number of appeals coming forward. A realistic and flexible approach will be needed if effect is to be given to Parliament's intention that the parking adjudication system should be capable of applying throughout Great Britain.

2.167 Nevertheless, our advice has been that all steps taken to implement the parking adjudication arrangements outside London must be such as to maintain the integrity of the judicial process. There are three areas of particular concern here. First, the adjudicators must be able to exercise their judicial functions free from improper influences. Particularly important here will be the arrangements for appointing adjudicators and their terms of service. Secondly, there is the need to maintain public confidence in the independence of the judicial process. Thirdly, the adjudicators will need proper support to develop their judicial functions. Under this heading comes training and guidance. Of particular concern here is whether there will be any senior adjudicator to assist individual adjudicators in these areas and represent their interests when necessary.

2.168 We look forward to giving further advice on these matters to the Department and local authorities over the coming year.

Security Guards - Registration and appeals

2.169 In December 1996 the Home Office issued a consultation paper on "Regulation of the Contract Guarding Sector of the Private Security Industry". It proposed that there should be a new licensing body to reach a view on the suitability of individuals to work as security guards, based on an assessment of any previous criminal record. The licensing body would utilise the increased access to criminal records proposed in the White Paper "On the Record". The body would operate within guidelines set by a Managing Board, and would maintain a register of those licensed. The Managing Board would be required to produce and publish guidelines on the criteria for granting or withholding licences. There would be new criminal offences in connection with working as an unlicensed security guard or employing an unlicensed security guard.

2.170 Our interest lay in the questions raised concerning appeals. We took the view that there should indeed be an avenue of appeal for persons refused a licence enabling them to take up employment as a private security guard. We believe that where a decision of a public authority affects a person's livelihood, there should be a right to challenge the decision before an independent body able to bring an adjudicative approach to the matter at issue. We considered that the appeal should be against the decision to refuse a licence, rather than against the guidelines on which such a decision would be based.

2.171 On the assumption that the guidelines would establish fairly straightforward criteria such as the seriousness of the criminal offence or offences, their number, and the extent to which they might be spent, we thought that magistrates' courts would be well-fitted by their general background and experience to deal with the relevant issues. It did not seem to us that any specialist expertise, such as a tribunal might be able to provide, would be called for. What would be needed was a commonsense

application of the guidelines to the facts of each case. Magistrates' courts also have the advantage of being an established system, locally based and readily accessible. We suspected that the additional workload would not be substantial.

2.172 We did consider whether there might be an existing tribunal capable of taking on the new jurisdiction, but concluded that there was no candidate that would have obvious advantages over the magistrates' courts. We noted a suggestion that a new tribunal might be established, and that the Deregulation (Model Appeal Provisions) Order 1996 (which we discussed in last year's Annual Report) and our own Model Rules of Procedure for Tribunals (Cm 1434) could be looked at in this connection. However, as indicated above, we doubted that appeals by aspiring security guards would demand the kind of specialist expertise that tribunals provide. Moreover, if the whole licensing scheme were to be self-financing, as was intended, there might be pressure to make the tribunal self-financing through the charging of fees. That is something that we generally discourage. However, we said that we would wish to be consulted further if it were decided to go down the tribunal route. It is likely that we would wish to be given supervision over any new tribunal, and to advise on its constitution and procedures.

Sex Offenders - Working with Children

2.173 During the year, we were consulted by the Home Office on proposals for banning sex offenders from working with children. The consultation paper entitled "Sex Offenders: A Ban on Working with Children" was issued jointly with The Scottish Office who also consulted our Scottish Committee on the same set of proposals. The principal proposal was the introduction of a new criminal offence prohibiting sex offenders from seeking or accepting work or training or offering services involving unsupervised contact with children. Most of the issues raised by the consultation paper fell outside our remit. However, we did have an interest in questions concerning appeals against the ban.

2.174 The first issue raised was whether the proposed ban on working with children should arise automatically upon conviction or whether the convicting court should be able to disapply the ban if it found that there were exceptional circumstances. We recommended that the court should have power to disapply the ban in exceptional circumstances. The next issue followed on from the first and concerned whether there should be an appeal against a court's decision not to disapply the ban. Moreover, if the ban were to have retrospective effect, should an offender have a right of appeal against the ban? In both cases we advised that there should be a right of appeal, and that the appeal should go to the courts rather than to any other body such as a tribunal. Often an appeal would follow from a decision of the court and it seemed to us right that the appeal should itself be decided by a court. Appeals against sentence or conviction are always handled within the criminal courts system.

2.175 We also considered whether an offender should have a right to have a ban reviewed once it had come into force. This would provide a means whereby an offender could seek a review of a ban on the grounds that its continuation was no longer appropriate. This might be because of a change in circumstances since his conviction or because there were exceptional

circumstances rendering the ban inappropriate. We recommended that there should indeed be a review process established, with a right of appeal by the offender against the decision once reviewed. We suggested that such a review might be conducted by or on behalf of the Home Secretary. A review of this sort could have the advantage of clarifying the issues and collating the evidence before any appeal against the Home Secretary's decision was heard. However, careful consideration would have to be given to the review procedures to clarify issues such as the frequency with which an offender could seek a review and the possibility of a ban being lifted partially in certain circumstances.

Social Security

Changes to procedural regulations

2.176 At the commencement of the reporting year we were consulted by the Department of Social Security in respect of proposed amendments to the Adjudication Regulations 1995. We were able to discuss some of the changes in September 1996 with the Departmental official with whom we discussed the proposals in the Consultation Paper referred to in paragraph 1.2. The changes came into force in October 1996. **In the light of the proposals overall, we were concerned that appellants should be given easily understandable explanations about the options that are open to them, and the steps that they must take in order to take forward an appeal. We stressed to the Department that some appellants to the Independent Tribunal Service are among the most vulnerable in society and, if they were not particularly literate, might have some difficulty in completing forms correctly and in complying with time limits.** We describe below the main changes and our response to them.

2.177 We considered these proposed changes in the climate of the wide-ranging review of decision-making and appeals in social security. We also had in mind the Independent Tribunal Service's Programme for Change, which we discuss further at paragraph 2.192. The Independent Tribunal Service changes were intended to bring overall improvements, and to streamline as far as possible some of the procedures within their jurisdiction. One problem for the Independent Tribunal Service had been to ensure that the organisation was clear about an appellant's intentions in respect of attending a hearing; about one third of appellants were failing to attend, despite receiving formal notification. As a result, the tribunal would have either to adjourn the hearing if uncertain about whether the appellant had intended to be present or deal with the appeal on the papers alone. However, we were aware that research had shown that an appellant tends to have a far greater chance of succeeding on appeal if he or she attends the hearing. Indeed, in respect of these, and other procedural changes made with regard to social security issues during the year, we have urged that the Department makes this point in the information that is given to prospective appellants.

The main changes

2.178 The overall aim of the procedural changes was to speed up the appeal process. We were consulted during the period when the amendments themselves were being drafted. The most significant proposals were the following:

- a reduction in the period of notice given before a hearing;
- new arrangements which would require the appellant, effectively, to "opt in" if he or she wished to have an oral hearing of their appeal;
- a change in the method of providing the appellant with the decision of the tribunal;

- requiring the appellant, where possible, to take a more active role in the appeal process by providing the right information at the right time. The Chairmen and clerks to the tribunals would be given wider powers to issue directions; and

- allowing more flexibility for the withdrawal of appeals.

We say more below about these proposals, and outline the views that we provided in our response to the consultation.

Notice of hearing

2.179 The intention was that, save in child support cases, the period of notice be reduced from ten to five days. There would be provision for a Chairman to arrange a hearing quickly if the appellant had failed to deal with a direction concerning his availability, provide information, or if the appeal was considered to have no reasonable prospect of success.

2.180 We opposed the reduction to five days. We pointed out that we would normally advise that the period of notice be twenty-one days. We said that the proposed period was wholly inadequate. An appellant could be placed in extreme difficulty if given such short notice of a hearing, particularly if living in a remote area. We urged no change. The amended regulations now provide for seven days notice of hearing.

Opting in for an oral hearing

2.181 This proposal was seen in some quarters as extremely controversial, made against the history of an automatic entitlement to an oral hearing. The intention was that the tribunal clerk would direct a party to an appeal to notify him within ten days if the party concerned wanted to have an oral hearing. If an appellant did not give notification the hearing would be on the papers. Tribunal Chairmen were to have discretion to direct an oral hearing in any event. The Department explained that the facility should allow the Independent Tribunal Service to slot into vacancies in tribunal lists a case that was to be decided on paper.

2.182 We accepted the argument that the change could make for greater expedition in dealing with tribunal caseloads. We were only too aware of the problems for the Independent Tribunal Service in planning efficiently for each hearing session. However, we urged that the right of appeal should be explained very carefully to appellants, that the procedure for seeking an oral hearing should be set out very clearly, and that there should be emphasis in the explanation on the importance of seeking an oral hearing. The Departmental information leaflet now highlights the fact that claimants who attend the hearing of their appeal usually do better than those who do not. We also urged strongly the need to train adequately the clerks to the tribunals who were to be charged with new duties, some of which were previously handled by the judiciary (such as agreeing the postponement of a hearing).

Impact on Independent Tribunal Service

2.183 This was the most significant proposal and we understand that it is having some impact on the tribunals' hearing lists, at least within the South East Region of the Independent Tribunal Service. Apparently, some cases which formerly would have been struck out by a tribunal Chairman without holding a formal hearing, are now processed for a "paper" hearing before a tribunal. We understand that some tribunal sittings are now comprised solely of hearings on paper.

2.184 We also understand that, in some areas, the adjudication officer who made the original decision and is thus a party to an appeal, is "opting in" for an oral hearing. The Independent Tribunal Service are piloting in one Region a version of the enquiry form that is sent to appellants which provides for them to indicate not just whether they wish to have an oral hearing, but whether they would wish to attend if the adjudication officer does so.

Appeal forms

2.185 The intention was that an appeal would be submitted on a specified form. This would have to include details of the date of the decision being appealed, the claim or question under appeal and a summary of the arguments in support of the contention that the decision was wrong.

2.186 We asked about how accessible the form would be. We were concerned that there could be cases where an appellant might not have used an "approved" form so that a tribunal clerk would need to demand further particulars. The Department informed us that the appeal form would be attached to the current leaflet which explained how to appeal. It would be held in all offices of the Benefits and Child Support Agencies and the Employment Service. The leaflet would be supplied free of charge on request. The leaflet would continue to be available in Post Offices and various Advice Centres.

Short decisions

2.187 The proposal was that appellants would have two choices. A short decision could be given on the day of the hearing. Alternatively, a full decision could be given either at the discretion of the Chairman or on the application of the appellant if made within twenty one days. The Department considered that this proposal would increase the listing of cases by one per tribunal session and that clearance times for the promulgation of decisions would reduce by a week or so.

2.188 We were concerned about this change and, in particular, to ensure that the tribunal would still be required to give its reasons for appeal decisions. We sought a further explanation about the intended change since it was not clear that reasons for decisions would be available to appellants in every case in line with the requirements of section 10 (1) of the Tribunals and Inquiries Act 1992. Judge Bassingthwaighte, the President of the Independent Tribunal Service, informed us that the intention was that a tribunal would provide an appellant, at the hearing, with an abbreviated or short hand-written decision. This would confirm the oral decision and give brief reasons. If a fully reasoned decision was required, one could be applied for within twenty-one days. Furthermore, there was nothing to prevent a tribunal from providing a fully reasoned decision at its own discretion. Judge Bassingthwaighte pointed out that 96-97% of decisions were not appealed further. He considered that the shorter decision, with reasons, would satisfy most appellants and would relieve the Chairmen of the time-consuming task of preparing decisions that went beyond those required by the parties. The Department also confirmed that the difference would be in the amount of detail that would be supplied.

Effect of changes on appeals to Commissioners

2.189 Following the implementation of the changes, it transpired that a problem would arise where an appellant wished to appeal further to the Social Security or Child Support Commissioners. During Summer 1996, we were consulted about the options by which this might be resolved. The problem arose because the Commissioners require a full decision to consider an

application for leave to appeal. The provision in the adjudication regulations allows for leave to appeal to the Commissioners to be sought from a tribunal Chairman within three months of receipt of the tribunal decision. If not successful, the application could be made to a Commissioner within forty-two days. However, the procedural changes described above would require that a full decision be sought within twenty-one days of the giving of the shorter version to the appellant. The full decision, therefore, might not be available within the three-month period.

2.190 When the Department approached us about the problem, they suggested that one solution would be to reduce to twenty-one days the time limit for making an application for leave to appeal to the tribunal Chairman. We suggested that the time limit for making an application for leave should run from when the full decision is **available** to an appellant (this provision was incorporated into the amending regulations in relation to applications for leave made either to a Social Security or Child Support Commissioner).

2.191 However, we said that there might be a real difficulty that prospective appellants would be misled into thinking that they had three months grace before they needed to act. In reality, a prospective appellant would have only twenty-one days because without a full decision an application could not be made. **Again, we urged safeguards so that clear information was given to appellants about the requirements.** These amending regulations came into force in April 1997. The Independent Tribunal Service now provides to appellants information that makes clear the requirements for applying to the Commissioners for leave to appeal. Indeed, the form also informs appellants that, in certain circumstances, they can write to the organisation within three months of the date when a decision notice is given to them, to have a decision set aside. However, the form advises appellants that, should they be considering an appeal to the Commissioners, they should protect their position by applying for the full statement of reasons.

Independent Tribunal Service

2.192 This year we had the opportunity of discussing a wide range of issues with Judge Bassingthwaighte, the President of the Independent Tribunal Service. These issues included the Independent Tribunal Service Change Programme and the changes to the procedural rules that we have outlined at paragraph 2.176. Further Change Programme initiatives resulted in a streamlining of the senior management structure, the development of an accommodation strategy, advances in the use of Information Technology, allocation of relevant interlocutory work to administrative staff, and a successful pilot where the Independent Tribunal Service, following the decision of the tribunal, arranged to obtain medical reports directly rather than through a third party.

Change Programme

Accommodation

2.193 We reported last year that the Independent Tribunal Service needed to rationalise its accommodation. We sometimes receive complaints about the closure of tribunal premises. Notwithstanding the provision for the Independent Tribunal Service to pay travelling expenses to appellants, we have been concerned in particular about the problems for some appellants with disabilities in having to travel further to their hearings. We wondered if the changes that the Independent Tribunal Service had in mind would prove to be cost effective. We discussed the issue with Judge Bassingthwaighte, and Mr Steve Williams, the Chief Executive of the

Independent Tribunal Service, when they attended our meeting in May 1997.

2.194 Judge Bassingthwaighte explained that the Independent Tribunal Service system had developed haphazardly and, to an extent, by reference to the local offices of the Benefits Agency. Since there were clear indications of under-use of some of the accommodation used for hearings, the organisation had to move to a more effective way of utilising resources. Mr Williams explained that 50% of the Independent Tribunal Service hearing venues were leased, the remainder being casual lettings. Furthermore, some accommodation now in use is unsatisfactory. There was an arbitrary pattern that might involve an appellant to a Medical Appeal Tribunal travelling a further distance than an appellant to a Social Security Appeal Tribunal. Against a significant reduction in overall funding, the Independent Tribunal Service had to ensure value for money. Mr Williams outlined the possibility of closing venues at Blythe, South Shields and Torquay. If these plans proceeded, appellants would be asked to attend hearings at Newcastle and Exeter. There might be additional closures of leased venues such as that in Bolton, where a lease on a portakabin was due to expire in October 1997. If a suitable alternative venue could not be secured, appeals would transfer temporarily to Manchester. The Independent Tribunal Service was intending to consult user groups about the possibility of replacing with casual hirings leased venues at Aberystwyth, Inverness, and Newport, Isle of Wight. Mr Williams confirmed that the earlier consultation about venue changes had not always operated satisfactorily. However, increasingly, the Operations Managers were dealing with such matters locally, and the Independent Tribunal Service had built up a dialogue with the user groups so that they could work together to solve problems. We welcome this development and commend to other tribunal systems the benefits of initiating close working relationships with representative organisations and user groups.

2.195 As mentioned at paragraph 2.136, the Independent Tribunal Service is one of the main contributors to the Register of Tribunal Hearing Accommodation. The reduction in hearing venues will ultimately have an effect on the availability of accommodation for loan to other systems. Mr Williams informed us that the organisation was precluded by Treasury rules from retaining any fee that it might charge for the loan of a hearing suite. We regret that this possible avenue for ensuring the viability of a venue under threat of closure is blocked by Treasury rules. The potential for saving costs by sharing hearing accommodation between tribunals is important and should be encouraged.

Members' selection - use of IT

2.196 Judge Bassingthwaighte explained that the Independent Tribunal Service's new computer system would enable the organisation to allocate work to members more satisfactorily than at present. Although some members might have cause to feel that their services were under-used, in most regions there were difficulties in getting existing members to cover for the increased level of sittings. Mr Williams informed us that the rate of members' cancellations could be as high as 25%. Some members were selective and would opt to sit on a Disability Appeal Tribunal, for which they would be paid, rather than sit on a Social Security Appeal Tribunal.

Regulation changes

Oral hearings

2.197 Judge Bassingthwaighte had previously confirmed that for a trial period of six months, the papers for cases for disposal on the papers alone would be sent to the chairmen only. However, he stressed that no lay member would be under pressure to decide any issue without such consideration of the papers as he or she considered appropriate.

2.198 Judge Bassingthwaighte made it clear during our discussions that, however many cases might be listed for hearing on the papers alone, the tribunal did not have to deal with them all in that particular session. It was for the tribunal to ensure that they gave the necessary attention to a case that it required in order to reach a fair and proper determination. The rationale for the distribution of papers was based on the judicial experience of "floating" cases. The paperwork involved was very large and the logistics of actually delivering the material to members had to be considered. Initially, the full-time chairmen were receiving papers in advance of hearings but many of them had since taken the view that they did not need papers in advance. This was especially the case where Incapacity Benefit appeals were concerned. Chairmen and members would normally divide the paperwork and work through the appeals together so that they could actively discuss the content. By the time of our discussion, the paper hearings were also being listed before part-time as well as the full-time chairmen. Judge Bassingthwaighte planned that the trial of the system would be considered at the Independent Tribunal Service Advisory Board meeting at the end of June 1997. He was encouraged by how matters had developed. The Social Security Appeal Tribunals were disposing of between nine and twelve cases per session; they were referring back any case in which it was considered that an oral hearing would be appropriate. However, as we mentioned in paragraph 2.183, the new arrangements had had the effect of precluding the Independent Tribunal Service from invoking striking out procedures with the result that all appellants were having their cases considered by a tribunal. Although at the time of our meeting with Judge Bassingthwaighte the proportion of cases being referred for a hearing on the papers was estimated to be about 5% of the appeals, we understand that the rate is increasing.

Tribunal decisions: guidelines and information

2.199 We refer at paragraph 2.187 to the changed arrangements whereby appellants have to apply within twenty-one days of the issue of the standard short decision to obtain a fully reasoned decision. Judge Bassingthwaighte told us that he had put in hand guidelines to assist any Chairman who was asked to provide a full decision. In discussing the new arrangements, Judge Bassingthwaighte confirmed that the Independent Tribunal Service was to amend the enquiry letter that it sends to appellants so that they were aware of the new arrangements introduced by the amending regulations. He explained that the Chairmen of the Social Security Appeal Tribunals were usually dealing with an average of eight cases a day, and sitting four days a week. With this size of caseload, the longer the period of time following a decision hearing, the more difficult it was to keep sufficient detail of the hearing in mind to produce a full decision. He considered that the new arrangements were working out well.

Notice of hearing

2.200 We raised with Judge Bassingthwaighte our concerns about the new arrangements for giving notice of hearing to appellants. We had been given to understand that some appellants were receiving the case papers at the same time as the notification. We were concerned, among other things,

about the apparent disparity between the position of an appellant and that of the Benefits Agency which inevitably takes some time to produce its evidence. Judge Bassingthwaighte explained that he had no control over the Benefits Agency's response, but the Independent Tribunal Service, as a matter of policy, would not use the facility of only giving seven days notice of a hearing. Although the odd instance might arise, the organisation were aiming to allow three to four weeks notice, recognising that the giving of reasonable notice helped to alleviate the risk of application for an adjournment. Mr Williams confirmed that generally all offices were seeking to list three to four weeks ahead. A trial in the Midlands involving the sending out of the submission with the notice had operated without any adverse affect. We understand that in one Region (the South East) the administrative staff are, so far as they are able, liaising with local representative bodies. They ask about the representatives' availability up to four months ahead of the hearings in which they might be involved so that, if possible, their cases can be listed for the same day. The office concerned are also routinely reminding the Benefits Agency about cases where submissions are outstanding. We were advised that specific liaison arrangements would differ according to local factors but that, wherever possible, the Independent Tribunal Service sought to develop relationships with representatives which encouraged a level and pattern of availability that was commensurate with the timeous disposal of the current caseload.

Presenting Officers
Annual Report

2.201 As we mentioned last year we welcomed the initiative of the first report issued by the Independent Tribunal Service. The report had mentioned the issue of absent Presenting Officers and the Independent Tribunal Service's wish to ensure that cases should not be adjourned or postponed because of the problem. The explanation for the absence of Presenting Officers was attributed to the increase in the tribunals' workload. Earlier this year, Judge Bassingthwaighte confirmed that as a result of Independent Tribunal Service heightened activity following their Change Programme, the Benefits Agency and Disability Benefits' Directorate were experiencing a shortage of funds and personnel. He did not however consider that there was a need to have a Presenting Officer in every case, but would prefer to see a careful Agency assessment about those cases where attendance was necessary. However, this would require time and expertise. The Independent Tribunal Service remained in contact with the Agency and would continue to seek solutions to the difficult problem. When we discussed the problem with him, Judge Bassingthwaighte said that discussions with the Agency had only had limited success. It was difficult to persuade the Agency to agree a logical allocation of Presenting Officers instead of one dictated by pressures at the time. Judge Bassingthwaighte considered that the cases where a Presenting Officer was necessary were those involving disputes about overpayments where access to the file was often needed. However, in cases such as Incapacity Benefit, the Presenting Officer could contribute very little and the chairmen were becoming used to their absence. We suggested that it might be that the absence of the Presenting Officer was not in the best interests of the Benefits Agency if their case was not being put fully to a tribunal.

Social Security and Child Support Commissioners

2.202 We report in paragraph 2.176 on the background leading to the issue of the Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997. The amendments related to applications for leave to appeal and were necessitated by the changes made to the social security adjudication regulations. These changes mean that a full tribunal decision will not be issued automatically by the tribunal. However, one may be applied for within twenty-one days of issue of the tribunal's shortened decision.

2.203 The Amendment Regulations came into force in April 1997. They require that applications for leave to appeal be accompanied by a copy of the tribunal's reasons for its decision, and of its findings of fact. The time limit for making such an application begins with the date on which the statement is given or sent to the applicant.

Departures and confidentiality in child support appeals

2.204 Amendments were also made to the Child Support Commissioners (Procedure) Regulations 1992 in March 1997. These changes were in line with amendments made to the procedural regulations for child support appeal tribunals. The effect of the changes is that appeal papers will no longer be edited automatically to remove information that could reasonably be expected to lead to a person being located, although parties will still have the right to ask for details to be edited. In future, it will be necessary for the person concerned to notify the Commissioners in writing that he or she does not consent to such disclosure, and a period of twenty-one days is allowed for this purpose. The parties who appeal to the Child Support Commissioners will of course have had the opportunity to opt-in for confidentiality when their case was at the earlier appeal stage. We agreed the need to ensure that appellants are fully informed as to the various requirements when wishing to appeal. Other amendments related to the implementation of a scheme, with rights of appeal, which would allow parents in certain cases to apply for a departure from the standard formula for the assessment of maintenance.

Workload

2.205 Earlier this year our Secretariat were informed by the Secretary to the Commissioners' Office that there had been a general increase in the work received by the Commissioners since August 1994 following the introduction of Disability Living Allowance. The increase showed no real signs of slowing down. The introduction of Incapacity Benefit was expected to lead to an increase in workload, followed fairly quickly by appeals in respect of Jobseekers Allowance. About 2% of all cases appealed to the Independent Tribunal Service were appealed further to the Commissioners although the figure was higher, at 7%, for appeals from the Disability Appeals Tribunal. It was sometimes difficult for the Office to forecast workload, being dependent on the Independent Tribunal Service for information in this connection. The intake of work for 1996 totalled 8215 cases, compared with 4117 in 1993. Clearance rates were affected to an extent by the time allowed by the regulations to lodge submissions and appeal papers. Furthermore, as we reported last year, the overall rate is affected by the cases that proceed to a higher court, or if there has been a reference to Europe. Although oral hearings could be listed in 8 to 10 weeks, overall determinations were taking on average 54 weeks. The Office have set themselves a target of 45 weeks. We are pleased to note that there has been an increase both in judicial resources, and in administrative staff resources.

Taxation
Tax Appeals - Report by the Tax Law Review Committee

2.206 In last year's Annual Report, we referred to a forthcoming Report by the Tax Law Review Committee of the Institute for Fiscal Studies on the Tax Appeals System. That Report was published in November 1996. It was described as an "Interim Report", and was in the nature of a discussion document.

2.207 The Tax Law Review Committee of the Institute for Fiscal Studies is a non-Governmental organisation under the Presidency of Lord Howe of Aberavon. It was set up in 1994, and since then has been engaged on a review of tax law. The Committee's Secretariat have been in contact with our Secretariat over the past two years about the Committee's work, and in particular about its examination of the tax appeals system. This was reflected in the Interim Report, which made frequent reference to our views as expressed over many years in our Annual Reports.

2.208 The Report discussed the scope for rationalising the tax appeals system as a whole, and paid detailed attention to the existing tax tribunals, notably the General and Special Commissioners of Income Tax and the VAT and Duties Tribunals. The Report distinguished between proposals suitable for rapid implementation (including proposals in relation to the existing tax tribunals), and proposals for implementation in the medium term. One of the main medium-term proposals was that there should be a unified tax appeals system, dealing with both direct and indirect tax appeals. It was proposed that there should be a "general tax tribunal" dealing with the more straightforward cases, and a "special tax tribunal" dealing with the more complex cases. This proposal was, of course, closely related to the introduction of self-assessment, which will have a major impact on the work at present undertaken by General Commissioners. Instead of dealing mostly with "delay" cases, General Commissioners will for the future be dealing mainly with "contentious" cases and penalty appeals.

2.209 The ideas put forward by the Committee in this regard were not entirely new. In 1989 we considered a report on tax appeals by a Sub-Committee of the Revenue Law Committee of the Law Society, which made suggestions along similar lines. There have also been contributions from eminent tax specialists, including Mr Stephen Oliver QC, the Presiding Special Commissioner and President of the VAT and Duties Tribunals. However, the Committee's Report was perhaps the most comprehensive and authoritative statement of the case for changes to the appeal structure that had appeared since the Keith Committee's Report in 1983.

2.210 We much admired the breadth and thoroughness of the Report as a whole. More particularly, we welcomed the fact that the Report addressed concerns raised by us in our Annual Reports over a long period. We would wish to give encouragement to the Committee's further work in this area. We agree that the time is right for a review of the tax appeals system, not only on account of the impact of self-assessment on the work of General Commissioners but also because of Mr Stephen Oliver's advocacy of change in relation to Special Commissioners and VAT and Duties Tribunals. We have of course long pressed for improvement in the system for General Commissioners, and that pressure has already resulted in some welcome changes. It remains to be seen just what the effect of self-assessment on General Commissioners' work will be, but this should

become apparent in the reasonably near future. We strongly support the proposal for a coherent and integrated appeals policy, and would suggest that, as part of the exercise of formulating a coherent policy, appeals decisions should be analysed to see if there are general lessons to be learned in respect of first-instance decision making. We also support the proposal for a rational legislative code for appeals, and believe that this should be given a high priority.

Internal review and dispute resolution

2.211 The Report discussed the scope for pre-adjudication procedures to help ensure that only cases founded on real disputes reach the tax tribunals, and to facilitate settlement by agreement. It contrasted the informal reviews currently undertaken by the Inland Revenue when an appeal is lodged with them with the formal review procedures for certain Customs and Excise taxes (but not VAT). It concluded that both systems have disadvantages.

2.212 We would not wish to be dogmatic on the subject of internal reviews. In a wide range of contexts we have supported an internal review stage tailored to meet the particular needs of the system. At the same time, we have been concerned that the additional stage should not lead to additional cost and delay; that it should not act as a deterrent to the exercise of the right of appeal; and that it should not restrict the grounds on which an appeal may be made.

2.213 We agree that a common approach in tax matters seems in principle desirable. The degree of formality required would depend on the view taken on the quality of the initial decision taking. Where first decisions are taken by staff of good quality, the need for formal reviews is questionable. In the tax field, there seems to be greater scope for informal negotiation, compromise and settlement than in other fields, such as social security. Indeed, at present the great majority of tax appeals are made to prevent assessments becoming final, and in the small proportion of cases that raise substantial points, negotiations and a reconsideration of the case will inevitably take place prior to any formal hearing before a tribunal. In general terms, we would say that a review should not be so formal as to lead to expense and delay, nor should it leave the appellant with the feeling that no purpose would be served in pursuing an appeal. At the same time, it should be sufficiently formal to ensure consideration of a case at a senior level. The Committee suggested some form of piloting. That would certainly assist in ensuring that the right balance was found.

2.214 We were interested in the suggestion that there might be a role for mediation, as a means of preventing the tribunals being swamped by cases that might be resolved at an earlier stage. There are obvious questions as to who would conduct the mediation and whether there would be a sufficient number of suitable people available. We have some difficulty in seeing how mediation would fit in to the present tax appeals system, and what could be done by mediators that is not already done by tax tribunals. We look forward to seeing further details of what the Committee have in mind in this regard.

A unified tax appeals system - the role of the tax tribunals

2.215 We would endorse the Committee's general approach as regards a unified system dealing with direct and indirect tax appeals, with a lower and higher tier of adjudication. In principle it seems desirable that the simpler, more factual cases should go to the lower tier and the heavier,

legally complex cases should go to the higher tier. However we are not drawn to the suggestion that appeals should go from the lower tier to the higher tier, since this would create yet another tier of appeal. What is needed, in our view, is a mechanism whereby cases should be assigned to the appropriate tier at the outset. At present, leaving aside those cases where Special Commissioners have exclusive jurisdiction, the taxpayer generally has the right of election as between General and Special Commissioners. Taxpayers with a good case tend to opt for the Special Commissioners. The decisions of Special Commissioners command the respect of the Revenue in a way that those of the General Commissioners do not. It is sometimes difficult for advisers having to decide where their clients' best interests lie. Under a unified system, the question would arise as to who should decide which level was appropriate, the taxpayer or the system itself.

2.216 In this connection, we would be interested to know if the Committee have any evidence that the present right of election leads to Special Commissioners having to deal with trivial cases. Similar considerations would arise with VAT cases if they were divided between the higher and lower tier according to weight and legal content, and the taxpayer were to retain the choice of forum. As at present advised, we are disinclined to argue for the taxpayer retaining the choice of forum, particularly if the lower tier is to become more professionalised, possibly with a legal chairman. Our feeling is that jurisdictional questions need to be sorted out at the start, but this could only be done in the context of the search for a coherent appeals policy and a clear legislative framework.

2.217 On the matter of nomenclature for the two tiers, we are content with the suggestion put forward by the Committee. We have considered a suggestion that the higher tier should be described as a "court". In one sense, it may not matter greatly if a judicial body is described as a court or a tribunal, provided it is performing its function properly. On the other hand, it would be regrettable if the only way of emphasising the status of the higher tier would be to call it a court. We attach importance to the preservation of the tribunal "ethos" and the authority of tribunals generally. The word "court" is perhaps better kept for the ordinary courts of law. After all, industrial tribunals and the Employment Appeal Tribunal are described as tribunals, even though they have many of the characteristics of courts. Moreover, in the present context, it would seem particularly unfortunate if the higher tier were described as a court and the lower tier not, since this might lead to the perception that the lower tier was offering an inferior sort of justice.

2.218 We also considered the matter of national insurance contributions, and whether appeals in respect of them should go to the unified tax appeals system. At present, there is an entirely separate inquiry system under the Office for the Determination of Contribution Questions. We thought it strongly arguable that national insurance should be regarded as part of the tax system, and that the determination of contribution questions should be brought within the jurisdiction of the tax tribunals. However, as noted in paragraph 1.9 above, the Government have now decided that appeals on contribution questions should be brought within the new social security appeals system. We are content with this solution.

General Commissioners and General Tax Tribunals

2.219 The Report contained a chapter on General Commissioners and General Tax Tribunals which was of great importance from our viewpoint, and contained a large number of proposals which we supported. Rather than commenting on each and every proposal, we offered some general observations on aspects of the present system which seemed to present particular difficulties, and made some suggestions as to how the difficulties might best be overcome.

2.220 We have pressed over many years for improvements to the system of General Commissioners. The special feature on General Commissioners in our Annual Report for 1987/88 reflected concerns arising from our visits to meetings up to that time. Those concerns included problems of accommodation, domination of proceedings by inspectors, absence of sufficient experience through inadequate number of sittings attended, absence of training, chairmen sometimes lacking the requisite qualities, and variable quality of membership generally.

2.221 Since that time, there have been several important improvements which were duly noted in the Committee's Report, and which have been reflected to some extent in our more recent visits to tribunal hearings and training events. The introduction of procedural rules and the issue of guidance notes by the Lord Chancellor's Department seem to have had a beneficial effect. Some General Commissioners have recognised the pressure on them to become more professional, and this has led to the establishment of the National Association and various regional associations, which we have supported. There seems to be a greater awareness of the need to show independence from the Inland Revenue, and a greater recognition of the value of training. On the other hand, the quantity and quality of training seem to vary greatly from region to region. On some more recent visits by our members, some of our old concerns have re-emerged. In particular, there have been doubts about General Commissioners' ability to handle contentious cases, and even in delay cases Commissioners have sometimes seemed excessively dependent on help from inspectors. Much also seems to depend on the quality of the clerk. Moreover, there still seems to be a need for a better balance of age, gender, and social and ethnic background among General Commissioners.

2.222 On the assumption that any new arrangements for tax appeals will build on the existing system, we would strongly support the proposals made by the Committee for a more organised training programme and for improved selection procedures. We believe that the current organisation of General Commissioners into small local divisions is at the heart of problems relating to efficient use of resources, and we support the growing practice of appointing Commissioners to more than one division. We would also urge that the whole concept of the divisional structure be closely looked at. It is possible that the new self-assessment system could lead to a dramatic fall in workload. That could give scope for a complete overhaul of the present geographical divisions, with larger divisions served by a full-time legally qualified clerk. We also feel that the present target of six sittings a year for General Commissioners is unduly modest. Even for unpaid volunteers, twelve sittings a year would seem to be a reasonable requirement. With larger geographical areas, and Commissioners always sitting as a tribunal of three, that should be a realistic target. It would also achieve a more appropriate balance of training and sittings.

2.223 On the matter of clerks, we believe that full-time professionally qualified clerks could have an important role in securing improvements to the system. A pro-active clerk working in a larger area could have a positive impact in relation to training, appointments and a general commitment to improving standards. This can be difficult for part-time clerks serving small divisions. While recognising that many part-time clerks are hard-working, efficient and conscientious, we have noticed a tendency for small divisions served by part-time clerks to develop their own procedures and practices, resulting in inconsistency between divisions. We would support attempts to find a mechanism whereby procedural innovation could be encouraged and good practice disseminated to all areas. We see this as a matter of training and good communication between clerks.

2.224 We consider that a sensible and sensitive clerk, capable of giving legal advice, might reduce the need for a legally qualified chairman. Indeed, there could be difficulties in having both a heavyweight clerk giving legal advice and a legally qualified chairman, since this might lead to conflict. However, we feel that the maintenance of a lay tribunal and a part-time clerk would make it very difficult to move towards a more professionalised system. We have concluded that what is needed is *either* legally qualified chairmen *or* full-time clerks operating in larger divisions. If the latter option were to find favour, the example of the valuation tribunal system might be worth examining more closely.

Special Commissioners and VAT and Duties Tribunals

2.225 The Report included a chapter on Special Commissioners and VAT and Duties Tribunals. The chapter also developed the concept of a "special tax tribunal". The proposals put forward by the Committee for changes to Special Commissioners and VAT and Duties Tribunals were comparatively modest, and we had less to say about them, since in recent years neither of the tribunals concerned have given us cause for criticism. We supported in principle the idea that Special Commissioners should move towards being a three-person tribunal, but we thought that it would be necessary to see how that worked. With regard to a proposal for more full-time members, that seemed likely to depend to a great extent on the volume of work that was likely to fall to a higher-tier tribunal. At present, we understand that there is difficulty in keeping those Special Commissioners who do not do VAT work fully employed. We reiterated that we had some difficulty with the concept of a special tax tribunal both as a first-instance tribunal dealing with the more complex cases and as an appellate tribunal hearing appeals from the lower tier.

Procedural rules

2.226 The Report drew attention to discrepancies between the existing rules for General Commissioners, Special Commissioners and VAT and Duties Tribunals. This is ground that we traversed some three years ago when consulted on the new procedural rules for General and Special Commissioners. We dealt with the matter in our Annual Report for 1993/94, paragraphs 2.183 - 2.189. Although we have in the past taken the view that the procedural rules for VAT and Duties Tribunals are unduly complex and legalistic, this is not a view that has been shared by successive Presidents. We told the Committee that we would prefer to leave detailed consideration of the important matters raised in the Report on the content of the procedural rules to a later stage.

Appeals to the court

2.227 The Report examined the current structure of appeals to the courts from tax tribunals, and examined the scope for reducing the tiers of appeal. Although this part of the Report lay somewhat outside our remit, in general terms we were sympathetic to the idea that there are currently too many tiers of appeal in England and Wales. That is one of the reasons why we do not favour the special tax tribunal being given an appellate role. We normally favour appeals from tribunals going direct to the High Court on questions of law. However, in the case of tax appeals in England and Wales, there might be a case for appeals to go direct to the Court of Appeal (as happens in the case of appellate tribunals such as the Social Security Commissioners, the Transport Tribunal, the Employment Appeal Tribunal and the Immigration Appeal Tribunal, and also in the case of the Lands Tribunal). This would bring appeals in England and Wales into line with those in Scotland and Northern Ireland. We believe that this idea merits further consideration. If appeals were to continue to go to the High Court, we have already expressed the view that VAT appeals, like direct tax appeals, should go to the Chancery Division.

Conclusion

2.228 As already indicated, we consider that the Committee has produced a most important Report. We much look forward to the publication of the Final Report.

Tribunals Association

2.229 In last year's Annual Report we set out our plans to establish an Association - to be known as the Tribunals Association - to represent the interests of tribunals. This followed discussions with the heads of the major tribunal systems that fall within our supervisory jurisdiction. Most agreed that there was scope for greater co-ordination and co-operation between tribunals and that an association of tribunal heads could provide a representative and authoritative body to facilitate discussions between tribunals and government. Moreover the Association could provide a forum for the exchange of views and the promotion of good practice amongst tribunals.

2.230 The Association was duly launched at the beginning of 1997. 19 tribunals have agreed to be founder members, to be represented in most cases by their judicial head. Most of the work of the Association is likely to be conducted in correspondence, with the assistance of a secretariat which for the time being at least will be drawn from our own secretariat. Matters so far considered by the Association include the International Conference on Administrative Justice, and the effect on tribunals of the European Convention on Human Rights.

Tribunal Training

Tribunals Committee of the Judicial Studies Board

Training video

2.231 The use of videos as an aid in the training of tribunal chairmen and other members is well established. A number of tribunals have already produced their own videos or are considering doing so. The Tribunals Committee of the Judicial Studies Board has commissioned a new video which we saw during the course of the year. Entitled "A Fair Hearing?" the film is intended for general tribunal training purposes and is not targeted at any particular type of tribunal. It concentrates upon the judicial function in a fictitious tribunal hearing students' appeals against the withdrawal of educational support grants. It focuses on seven key issues ranging from appellants' pre-hearing anxieties to appellants' post-hearing perceptions.

2.232 We felt that this video provided for tribunal members a good general introduction to the standards of fairness which they must observe when performing their tribunal functions. There was a clear message that tribunal members must approach each case without preconceptions, and must reach their decision by applying the law to the facts that have been established and without being influenced by irrelevant considerations. The film provided examples of good and bad practice in relation to key aspects of the judicial function. We welcomed the commissioning of this new film which replaces an earlier training video produced by the Tribunals Committee. We feel that it will provide a good introductory training on general principles of fairness. Intended as it is for general tribunal training, it is not a substitute for training in the law and practice that individual tribunals have to address. Other training videos exist to provide advice on the law and practice relating to specific appeal processes.

PART III: THE COUNCIL

Membership 3.1 There have been a number of changes to our membership during the past year.

Retirements 3.2 *Sir William Reid KCB*: his seven year term of office as Parliamentary Commissioner for Administration ended in January 1997 and, with it, his ex officio membership of the Council. His experience of public administration and his insight into the workings of the Government machine brought a valuable perspective in the shaping of the Council's policy and advice.

Professor Michael Hill: retired in June 1997 after six years with the Council. Michael Hill was a Professor of Social Policy at the University of Newcastle, and brought to his work for the Council an exceptional range of experience in social administration which has assisted substantially in formulating the Council's policy. His contributions to the Education Tribunals Committee and the Health and Social Security Committee (the latter of which he chaired) were greatly valued by his colleagues.

Resignation 3.3 *Christopher Heaps:* resigned from the Council when he took up an appointment as Traffic Commissioner for the Western Traffic Area in January 1997. He joined the Council in November 1991. A member of the Council of the Law Society and a partner in Eversheds (formerly Jaques and Lewis), he brought to his work with the Council the perspective of the practising solicitor and experience in a wide range of legal issues.

Appointments 3.4 Sir William Reid's successor as Parliamentary Commissioner for Administration is Mr Michael Buckley who took up office on 3rd January 1997. By virtue of this appointment, he is a member of the Council and also of the Council's Scottish Committee.

Christopher Heaps' place on the Council was taken by Mr Douglas Readings with effect from 1st September 1997. A barrister practising in Birmingham, Douglas Readings has been an Assistant Recorder since 1991.

Michael Hill's place on the Council was taken by Mrs Anne Galbraith with effect from the 1st September 1997. Anne Galbraith has experience in the voluntary advisory sector and is a former lecturer in welfare and employment law.

Current membership 3.5 Our full membership, which includes changes that have occurred since the end of our reporting year, 31st July 1997, is recorded below. As shown on page ii of this Report some are members of both the Council and the Scottish Committee.

The Lord Archer of Sandwell PC, QC: Chairman of the Council since 1992. Member of Parliament 1966-1992 and Solicitor General 1974-1979.

Mr T Norman Biggart CBE, WS: Retired solicitor. Trustee of the Scottish Civic Trust. Director of Clydesdale Bank plc, the Independent Insurance Group plc and other companies. Former President of the Law Society of Scotland and of the Business Archives Council, Scotland. Former member of the Executive Committee, Scottish Council (Development and Industry), of the Scottish Tertiary Education Advisory Council, and of the Scottish Records Advisory Council. Chairman of the Scottish Committee and a member of the Council since 1990.

Mrs Annie Anderson: Member of the Board of Visitors for Pentonville Prison. Freelance writer. Member of the Mental Health Act Commission and of the Middlesex area Advisory Committee on Justices of the Peace. Member of the Council since 1992.

Mr Michael Brown JP: Partner in Clifford Chance 1978-95, and Justice of the Peace since 1996. Chairman of Community Housing Association of London and Vice-Chairman of the Paddington Law Centre. Member of the Council since 1996.

Mr Rex Davie CB: Former civil servant in the Cabinet Office. Head of the Security Division 1983-1989. Principal Establishment and Finance Officer 1989-1993. Member of the Council since 1996.

Mr John Eames: Specialist practitioner in social security law at Wiltshire Law Centre, Swindon since 1989. Trainer and lecturer in social security law. Visiting lecturer at the Universities of Bristol, West of England and Southampton. Part-time member of the Disability Appeal Tribunals 1992-96. Member of the Council since 1996.

Mrs Sally Friend MBE, JP: Manager of the Charter Nightingale Hospital, and member of the Compliance and Supervision Committee of the Office of the Supervision of Solicitors. Member of the Ethics Committee for Worldwide/International Clinical Trials. Lay member of Mental Health Review Tribunals and the London Rent Assessment Panel. Member of the Council since 1991.

Mrs Anne Galbraith: Volunteer worker and latterly Chairman, Newcastle Citizens' Advice Bureau 1967-87. Founder of Newcastle CAB Tribunal Assistance Scheme. Adviser to the Prime Minister on the Citizen's Charter Panel 1994-97. Chairman of the Royal Victoria Hospital NHS Trust, Newcastle-upon-Tyne. Until recently, lecturer in the School of Law at the University of Northumbria. Member of the Council since September 1997.

Mr Ian Irvine CA: Chartered Accountant. Former Managing Director of George Outram and Co Ltd. Non-Executive Director of the Glasgow Development Agency, Scottish Opera Ltd and of West Glasgow Hospitals University NHS Trust. Member of the Council since 1996.

Mr Robert Jones CVO: Assistant Master Whitgift School 1957; HM Inspector of Schools (Wales) 1963; Welsh Office 1967 (as Secretary to

Prince of Wales Investiture Committee); Under Secretary and Head of Welsh Office Education Department 1980-92. Member of the Council since 1993.

Mr Sam Jones CBE, DL: Town Clerk of the Corporation of London 1991-96. Chief Executive of Leicestershire County Council 1976-91. Chairman of the Heathrow Airport Consultative Committee. Chairman of the North Devon Marketing Bureau. Chairman of the Westcountry Ambulance Service NHS Trust. Member of the Council since 1996.

Dr Carole Kaplan: Senior lecturer and Consultant in Child and Adolescent Psychiatry, Fleming Nuffield Unit, Newcastle-upon-Tyne. Member of university, regional and national committees dealing with undergraduate and postgraduate education and training. Member of the Lord Chancellor's Advisory Board on Family Law since April 1997. Member of the Council since 1993.

Professor Martin Partington: Professor of Law and Pro-Vice-Chancellor at the University of Bristol. A law teacher since 1966, he has served as a member of the Lord Chancellor's Advisory Committee on Legal Aid, as Vice-Chairman of the Legal Action Group, as a part-time Social Security Appeal Tribunal Chairman and as advisor on training to the President of the Independent Tribunal Service. He served as a member of the Tribunals Committee of the Judicial Studies Board 1988-1994. Member of the Council since 1994.

Mr Ian Penman CB: Former civil servant. Held various posts in the Scottish Office, including Deputy Secretary in charge of Central Services 1984-1991. Seconded in 1991 to Scottish Homes as interim Chief Executive. Conducted minor public inquiries in Scotland 1992-1994. Chairman of Viewpoint Housing Association 1991-1995. Member of the Council since 1994.

Mr Douglas Readings: A barrister practising in Birmingham, Douglas Readings has regularly conducted cases before a variety of tribunals and planning inquiries. Member of the Council since September 1997.

Mr Michael Buckley: Parliamentary Commissioner for Administration (the principal Ombudsman in the UK) and Health Service Commissioner, ex officio a member of the Council since his appointment in January 1997.

The Scottish Membership

3.6 In addition to the Council members noted at page ii, the Scottish Committee has the following membership:

Current membership

Ms Margaret Burns: Member of the Scottish Consumer Council and its Legal Advisory Group. Member of the Scottish Conveyancing and Executry Board. Tutor in the Department of Law, University of Aberdeen. Member of the Scottish Committee since 1992.

Mrs Pek Yeong Berry MBE, JP: Retired Director of Central Scotland Racial Equality Council. Justice of the Peace in Stirling since 1988. Member of the Stirling Justices Committee and of the Faculty of Advocates' Disciplinary Tribunal. Formerly a lecturer in Zoology at the University of

Malaya and a court interpreter in Cantonese. Member of the Scottish Committee since 1995.

Mrs Anne Middleton: Deputy Scottish Secretary of UNISON, the Public Service Union. Vice-President of the General Council of the Scottish TUC and chairman of its Public Services Committee. Member of the Scottish Council for Voluntary Organisations. British Administrative Council Representative on the European Network of the Unemployed. Member of the Scottish Committee since 1994.

Mrs Heather B Sheerin OBE: Member of the Boards of Inverness and Nairn Enterprise Company and Inverness College. Former Board member of Scottish Homes. Director of Moray Firth Radio and of Inverness Chamber of Commerce. Member of the Scottish Committee since 1994.

The Council's staff
(standing, left to right) Marjorie MacRae (Scottish Committee Secretary), Rajesh Gohil, Lisa Allen, Purnima Mehta, Lisa Chilver, Patricia Fairbairn, Paul Ralph, Alexander Hermon, Helen Wiltshire
(sitting) John Saunders (Secretary to the Council)

The Council's staff

3.7 At the end of our reporting year, our Secretariat comprised the following: Mr J D Saunders (Secretary), Mr A Hermon, Mr G P Ralph, Mrs P J Fairbairn, Miss H J Wiltshire, Mrs P Mehta, Mrs L Allen, Mr R Gohil, Mr D Barnes and Mrs L A Chilver. The Secretariat of the Scottish Committee comprised Mrs E M MacRae (Secretary), Mr G Quinn and Mrs J Hewitt.

3.8 We wish to record our thanks and appreciation to Mr J D Saunders who served as our Secretary from August 1993 to July 1997. His wisdom and unfailing good humour contributed greatly to our deliberations. John Saunders has transferred to the Law Commission where he is head of Statute Law Revision. We wish him well in his new position.

3.9 In his place, we welcome Mr A C Twort who took up post as the new Secretary in September 1997.

The Council's finances

3.10 The cost of financing the Council and the Scottish Committee during the past year is summarised at **Appendix B.**

The Council's work 1996/97

3.11 In addition to the topics which we and our Committees considered during the year and which are referred to specifically in the text of this Report, we list at **Appendix C** the Statutory Instruments considered by us and made during 1996/97. Matters dealt with separately by our Scottish Committee are covered by their Annual Report.

Meetings and papers

3.12 We considered 75 papers at 11 meetings of the full Council during the past year. Our Committees listed at **Appendix D** dealt with 19 papers, and the Scottish Committee considered 51 papers at four meetings.

3.13 We held discussions during the course of the year with Mrs Sally Field (Department of Social Security); Mr Paul Stockton (Director of Tribunal Operations at the Court Service), Mrs Leanne Hedden (then Secretary to the Immigration Appellate Authorities) and Mr Winston Thomas (Secretary to the Pensions Appeal Tribunals); Professor Neville Harris (Professor of Law, Liverpool John Moores University); Mr Martin Brown (Head of the Mental Health Branch at the Department of Health); His Honour Judge Bassingthwaighte (President of the Independent Tribunal Service) and Mr Steve Williams (Chief Executive of the Independent Tribunal Service); Mrs Ruth Siemaszko, Ms Julie Stewart and Mrs Sally Field (Department of Social Security).

A summary of our activities

3.14 A small selection of the work undertaken by our Secretariat during the past year is referred to below. In addition to preparing papers for us dealing with the topics covered by this Report and on the statutory instruments referred to in **Appendix C**, our Secretariat are in close contact with Departments, tribunals and public and other bodies, both to take forward our decisions and to deal with a wide range of policy matters with which we are concerned relating to tribunals and inquiries.

Computer strategy

3.15 During this Council year our Secretariat upgraded the hardware and software of our networked computer system. Although this involved retraining and upheaval, the benefits have been significant in terms of reliability and efficiency. The continuing computer strategy will consider a link to the Internet for research purposes, the setting up of a CD Rom library, the value and practicality of greater computer communications with Council members, and an upgrade of the database which handles our visits.

Members' terms and conditions

3.16 In consultation with the Lord Chancellor's Department our Secretariat are defining in more detail the terms and conditions of appointment of members to the Council. It is hoped that the final document will be helpful to new members.

Revised visit packs

3.17 Our Secretariat, after consultation with the Visits Committee, are also undertaking a major review of information provided to Council members on individual tribunal systems used during our visits. The objective of this exercise is to provide us with a more manageable and focused document.

Publicity leaflet in Welsh

3.18 Published this year was the Welsh version of our widely distributed publicity leaflet *A brief introduction to the Council on Tribunals*. We are grateful for the work done by Mr Robert Jones, our member who represents Welsh interests, and the Welsh Language Board, in its translation and proof reading.

Complaints

3.19 Most of the complaints we receive about tribunals are handled by our Secretariat. But our governing Act does not give us the authority to adjudicate on complaints, and we have to make it clear to many of those who complain that we have no power to change a tribunal decision or to interfere with the conduct of a case. Since most complainants seek that form of remedy from us we are unable to offer them any effective redress. To suggest that we can, for example by pursuing the complaint with the tribunal concerned, raises false expectations in the minds of complainants who then feel let down. It is also a source of annoyance to tribunal members. Accordingly, when our Secretariat acknowledge a complaint the letter is accompanied by a leaflet which explains what our functions are, why we cannot take action and where to turn for advice. This includes reference to the Parliamentary Commissioner for Administration within whose jurisdiction complaints about the actions of the administrative staff of the tribunals now generally fall.

3.20 Sometimes the information adds to our understanding of the difficulties arising at a particular tribunal and we are able to acknowledge this in the reply which is sent, even though we cannot take action on the complaint itself. On a few occasions the allegation may suggest that proper procedures are not being followed. Our Secretariat will then forward the correspondence to the head of the tribunal who has a direct interest in remedying shortcomings of this kind. But we look more closely at complaints which reveal evidence of unreasonable delay in holding a hearing, or indicate that the procedures of a particular tribunal or inquiry may be defective or inadequate. These may point to administrative or procedural shortcomings on which the tribunal or Department need to take action and, in some cases, we may ask our Secretariat to make further enquiries about the nature and extent of the problem. But this takes time and, regrettably, any recommendations we may make at the end of the day are unlikely to benefit the person who made the original complaint.

Visits and conferences

Our visits policy

3.21 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 assisted in the same way. We never visit unannounced but make an appointment in advance. The visit is always preceded by a letter which refers to our independence and to the fact that our purpose is solely to observe, and which emphasises that we will take no part in the proceedings or be involved in the decisions taken. It is accompanied by a leaflet summarising our role and explaining how we operate. We are anxious that those whom we are likely to visit should know something about us and about our work, and we have asked the heads of tribunals this year to make the leaflet available in future to all new members soon after their appointment.

3.22 It is important to our advisory function for members to develop through their visits a practical knowledge of the tribunals that we supervise. That

is one of their main purposes. We particularly value the opportunity which visits give us to see how the procedures we have helped to create or on which we have advised are operating; and we welcome the opportunity to talk to those who are closely involved in the day-to-day operation of the tribunal, and to hear what they have to say about any procedural or other problems they may be experiencing. We are also glad to accept invitations to visit training seminars and conferences. These more informal occasions provide us with a further opportunity to meet people working in tribunals and to develop our knowledge and understanding of their problems, as well as to tell them something about the Council and our work.

3.23 Members provide a written report to the Council following each visit. The purpose is to inform other members about the visit and to draw attention to any points arising from it. The Council as a whole are then able to consider any procedural or other issues which come to light either from what was seen or from the member's discussion with the tribunal. We amass considerable information about the workings of a particular tribunal over a period of time. Occasionally this provides evidence of a need for change, requiring action to be taken by the tribunal or the Department. If, after substantial experience of the practical workings of a tribunal, we see features in it which fall short of the standards we expect, we will pass our concerns to the appropriate tribunal authority or the Department and suggest action to remedy the defect.

3.24 We visit approximately 100 hearings conducted by a variety of tribunals and inquiries in England and Wales each year (our Scottish Committee visit around 50 tribunal hearings in Scotland over the same period and we have the opportunity of seeing their visit reports). We take care in preparing our annual programme to ensure that it covers a representative sample of tribunals in various parts of the country so that we have a good picture of how a particular tribunal and its procedures are operating. High in the programme are those tribunals which we have decided should be subject to a detailed review (we usually select one tribunal for close scrutiny each year) and those which, from our earlier visits, suggest there is cause for concern. Subsequent visits enable us to test the validity of earlier observations or to establish how widespread the features are which cause us concern. But our visits are not confined to the major tribunals. We also look for the opportunity each year to visit hearings conducted by the smaller tribunals under our supervision, many of which sit only rarely. The number of visits we are able to make to any particular major tribunal system each year covers only a small segment of its total activity. But significant patterns do emerge from our visits over a period of time. We have occasionally used this evidence, in anonymised form, to support the case for change which we put to the relevant Department. We have found this practice useful: the cumulative effect of comments taken from our visit reports over time has a telling impact, bringing home through description of events observed the need for change.

Feedback to tribunals

3.25 We know that many tribunals would welcome something more by way of information about what we have found in the course of our visits and, in line with our policy, we have provided feedback reports to two further tribunal systems this year. Reports were compiled and sent to the President of the tribunal concerned and to the relevant sponsoring Department. The tribunal systems selected were the Special Educational Needs Tribunal

and the Pensions Appeal Tribunals. Each report drew attention to issues of good practice and to any perceived shortcomings in the procedures or working of the local tribunals we had observed, on which comments were invited.

3.26 The reports were well received by the two Presidents and the sponsoring Departments who found our observations helpful and informative. We have been greatly encouraged by their responses which showed that positive action was being taken to address many of the issues which our reports had highlighted. We will be issuing feedback reports on other tribunal systems in due course.

Visits in 1996/97

3.27 During the year, members of the Council and of the Scottish Committee (and, in a few instances, our Secretariat) made a total of 147 visits to the tribunals and inquiries listed in **Appendix C**.

3.28 Our members also attended and in some cases addressed 25 conferences and training seminars. These are further listed in **Appendix C**.

Overseas visitors

3.29 We are always glad to receive visitors from overseas who are interested in our work, both to share our experience and to gain insight into how different legal and administrative systems tackle the problems with which we are concerned. Our Secretariat had useful discussions this year with Mr Taro Kageyama, judge of the Osaka District Court in Japan, with Ms Mamocha Moruthare, senior adjudicator in the Public Service Commission at Lesotho and with M. Jean-Marie Woehrling, President of the Administrative Tribunal of Strasbourg.

Appendices

3.30 The Report contains the following Appendices, including those not mentioned elsewhere in the text:

Appendix A: Text of the Council's report on Tribunals: their organisation and independence

Appendix B: The cost of the Council and of the Scottish Committee

Appendix C: The Council's work 1996/97

Appendix D: The Committees of the Council

Appendix E: A note on the constitution and functions of the Council

Appendix F: Tribunal and Inquiry statistics

Appendix G: The Council's previous Annual and Special Reports

Appendix A: Tribunals: their organisation and independence - a report

(paragraph 1.41)

Part 1: Introduction

Background

1.1 The 1957 Report of the Franks Committee on "Administrative Tribunals and Enquiries" (Cmnd.218), which led to our establishment, made no recommendations about the ideal system of organisation for tribunals. The Committee simply observed: "Perhaps the most striking feature of tribunals is their variety, not only of function but also of procedure and constitution. It is no doubt right that bodies established to adjudicate on particular classes of case should be specially designed to fulfil their particular functions and should therefore vary widely in character. But the wide variations in procedure and constitution which now exist are much more the result of ad hoc decisions, political circumstance and historical accident than of the application of general and consistent principles" (paragraph 128).

1.2 The Committee went on to recommend that one of our functions should be "to keep under review the constitution and procedure of existing tribunals", and that we should, when established, suggest how the general principles of constitution, organisation and procedure enunciated in the Franks Report might be applied in detail to the various tribunals. Having first decided the application of those principles to all existing tribunals, we should thereafter keep them under review and advise on the constitution, organisation and procedure of any proposed new type of tribunal. That recommendation was given effect to in what is now section 1 of the Tribunals and Inquiries Act 1992, which requires us to keep under review the constitution and working of the tribunals falling within our jurisdiction and to report on such matters from time to time.

1.3 Our earliest views on the constitution and organisation of tribunals did not emerge until our Annual Report for 1968 when we concluded that, in certain cases, there was a need for improved channels of communication between tribunals and the department responsible for them as well as between tribunals and the Council. We said that the different ways in which tribunals were organised had some bearing on this, and noted that satisfactory channels of communication existed in the case of tribunals which had as their head a President with administrative responsibility for the whole country. In 1981, we went on to say: "The Council see considerable advantages in a presidential system, at least for most of those tribunals which have a large case-load, employ a considerable number of panel-members and meet locally in different places throughout the country. This is a topic currently under consideration by the Council and it may be possible to establish some criteria defining the types of tribunal for which the appointment of a national president or senior regional chairman, or both, are most suitable; and to review existing forms of tribunal in the light of those criteria".

1.4 That review led to our formulating certain criteria for the establishment of a presidential system of organisation, or a looser structure of quasi-autonomous regional chairmen. Those criteria, as set out in our Annual Report for 1982/83, have continued to form the basis of our approach to questions relating to the structure and organisation of those tribunals falling within our jurisdiction.

Our remit

1.5 We retain a unique overview of how the variety of tribunal systems within the United Kingdom are operating and of their relative strengths and weaknesses. Our extensive knowledge is developed from the regular contact which our members have with individual tribunals at a national and local level through our annual programme of visits up and down the country, both to observe the tribunals in action and to attend their conferences and training seminars. It is also derived from our periodic discussions with tribunal heads, and from our contacts and regular dialogue with Departmental officials and with other bodies. We regard it as entirely appropriate to our function, therefore, that we should continue to use our collective experience of the working of tribunal systems to highlight best practice and to offer our views from time-to-time on matters of importance for the benefit of tribunals and Departments generally. As part of that function, it has been our practice to revisit major issues of principle whenever our experience shows that this is necessary in the light of new developments.

The review

1.6 In paragraphs 2.200-2.204 of our Annual Report for 1995/96 we outlined the significant organisational and structural changes that have been taking place since 1983 which caused us to conclude in late 1995 that a new and detailed examination of the fundamental principles relating to the organisation and management of tribunal systems would be timely. As we said then, while the general thrust of those changes has been towards improved performance in the day-to-day operation of many of the tribunal systems we supervise, it is apparent that they have also led to a fundamental shift in the relationship which Departments have with the tribunal systems they sponsor, particularly on matters concerned with administration and funding.

1.7 We have been generally supportive of those Departmental initiatives designed to bring about structural and organisational changes which are capable of delivering benefits in terms of value for money for the taxpayer and for tribunal users. We regard these as desirable developments so long as their effect is not to undermine the independence and integrity of the tribunal systems themselves or to interfere in the exercise of the judicial function. However, there are signs that Departments are not adhering to these principles, and paragraphs 2.2-2.6 of our Annual Report for 1995/96 draw attention to examples of where the overall drive by Departments to reduce costs and to secure additional savings is being achieved at the expense of increased hearing delays, inadequate administration, and an absence of effective support to the tribunals.

Our aims

1.8 We said last year that the aim of our review would be to examine the place of the tribunal President in the context of those changes and to reach some conclusions about the nature and value of the contribution which the President could be expected to make to the effective working of the tribunal system and to the proper exercise of the tribunal's judicial functions. As the review has developed, however, it has become clear to us that the issues which we were seeking to address are not confined to the presidential model, whatever form that might take. Concepts relating to the independence and integrity of tribunal systems have far wider application and embrace the variety of those systems falling within our jurisdiction. To that extent, our conclusions set out below depart from the more narrow principles last enunciated in our Annual Report for 1982/83 to which we refer at paragraph 1.4 above.

1.9 Because of the importance we attach to this issue, we have formulated our views in a way which we hope will provide Departments with a framework to which we would expect them to have regard whenever consideration is given to the setting up of new adjudicative structures or to a review of existing ones.

Part 2: Our conclusions

2.1 Our conclusions begin with a statement of general principles which are intended to underline what we believe the fundamental purpose of tribunals to be.

The purpose of tribunals

2.2 It is clear to us that, since tribunals are established to offer a form of redress, mostly in disputes between the citizen and the State, the principal hallmark of any tribunal is that it must be independent. Equally importantly, it must be perceived as such. That means that the tribunal should be enabled to reach decisions according to law without pressure either from the body or person whose decision is being appealed, or from anyone else.

Conditions for independence

2.3 For tribunal systems to achieve and maintain that state of independence and integrity, they must be able to demonstrate that they have in place:

proper rules of procedure;

high quality appointments of chairmen and members;

proper training for chairmen and members;

appropriate standards of judicial performance, with guidance and support for chairmen and members (including the means for monitoring performance, particularly of newly appointed chairmen and members);

the freedom to take judicial decisions uninfluenced by resource or other external considerations;

proper administrative support in terms of hearing clerks and support staff, legal and other text books, etc;

adequate and appropriate hearing accommodation in premises which are not connected with one or other of the parties; and

sufficient resources properly allocated to meet those needs.

2.4 We believe that significant consequences flow from this, and that it is incumbent upon Departments to ensure that the responsibility for ensuring that these pre-conditions for independence are in place is properly assigned and understood. In this connection, we have examined in some considerable detail the relationship between Government Departments and tribunal systems on matters of funding and administration, and on matters concerned with the effective and efficient performance of the tribunal's judicial functions. **Our conclusion, on which we expand below, is that the independence and integrity of a tribunal system is best served if someone from the judicial side of the tribunal is given a specific role in meeting some or all of those pre-conditions.**

Matters of administration and funding

2.5 Tribunals are classified as a form of Non-Departmental Public Body (NDPB). They are described in the guidance given to Departments by the Cabinet Office as "those bodies whose

functions, like those of courts of law, are essentially judicial. Independently of the Executive, they decide the rights and obligations of private citizens towards each other and towards a government department or public authority". Although the guidance recognises that tribunals exercise their functions entirely independently, it makes clear that the relevant sponsoring departments will normally be responsible for providing them with administrative support and funding. Administrative support normally means the provision of hearing and other accommodation, of hearing clerks and clerical staff, and of all support services, as well as a budget to assist the tribunal to carry out its judicial tasks. We would add that administrative support to tribunals must also mean "effective support" in terms of the standard of support services, the quality and availability of hearing accommodation which is not connected to one or other of the parties, the numbers and training of support staff, the provision of properly trained hearing clerks, and the level of performance standards and customer services, including adequate and effective guidance literature for those using the tribunal.

2.6 The amount of monies granted to a tribunal in any given year will first be settled in discussion with the Department to whom the tribunal is required to submit its bid. The tribunal's bid may not survive in its entirety and may well be subject to adjustment when the expenditure for the Department as a whole has been Voted by Parliament. The final decision will be for the Department to make in the light of wider political and financial considerations, and will be subject to other competing priorities within the Department concerned. It is then necessary for the tribunal to operate within any constraints which the budget may impose.

2.7 The amount finally allocated to a tribunal system, and the way it can be used, is subject to strict controls and rules of government accounting. The Treasury is statutorily required to appoint an Accounting Officer for every Vote, and it is a long-standing practice that the Permanent Secretary of the Department should be appointed as its principal Accounting Officer. He has responsibility for the overall organisation, management and staffing of the Department and for Departmental procedures in financial and other matters, and must ensure, among other things, that there is a high degree of financial management and propriety in all areas of the Department's business. Although he may assign his responsibilities over a certain area of the Department's business to one or more properly skilled and experienced Departmental Accounting Officers, the Permanent Secretary remains ultimately accountable for these matters as the principal Accounting Officer.

2.8 The Department's compliance with these requirements in the use of public funds, including those allocated to tribunals, is subject to examination by the Comptroller and Auditor General, and the Accounting Officer may expect to be called upon to appear before the Public Accounts Committee to answer matters which arise out of the Comptroller's examination.

2.9 Accordingly, responsibility for the administrative support to the tribunal is normally in the hands of a senior Tribunal Administrator/Chief Executive (usually a civil servant) who, as the tribunal budget holder, is responsible to a senior official within the Department, and ultimately to the Permanent Secretary as principal Accounting Officer, for the proper use of those funds and other resources. This approach, which we generally endorse, has tended nevertheless to promote the view that there is a necessary separation of the judicial functions of the tribunal on the one hand and the financial and administrative responsibilities of the Department on the other. This has led some Departments in turn to conclude that the process by which the tribunal bids for funds, as well as decisions taken during the course of the year about how the tribunal budget should be applied, are matters for the Tribunal Administrator and the Department alone and not something in which the tribunals themselves have a proper part to play. Failure on the part of administrators to recognise the need to discuss matters of funding and resource management with those responsible for ensuring that the judicial tasks of the tribunal are carried out effectively can have serious consequences for the tribunal.

The judicial role

2.10 While we acknowledge that it is not necessary for someone from the judicial side of the tribunal to be seen to take the lead on matters of funding and resource management, we are firmly of the view that the judicial side have an important role to play in such matters. It is entirely appropriate that responsibility for financial and budgeting matters, and accountability for the use of public funds, should be placed in the hands of a senior Tribunal Administrator skilled in carrying out such tasks; indeed, few if any judicial members have the experience or qualities needed to discharge that role. But the decisions made when the bid for tribunal funds is being prepared and settled with the Department, and the financial and administrative decisions taken during the course of the year on how best to apply the funds allocated to the tribunal and to utilise other resources, each bear directly on the efficient and effective working of the tribunal itself, and thus on its independence and integrity.

2.12 For that reason, we believe that someone from the judicial side of the tribunal must be given a central and effective role in such matters, and enabled to contribute his or her views at the highest levels of the Department. In particular, whenever any new restrictions on resources are being contemplated, his views should be sought on the effect this would be likely to have on the quality of justice, and the Department should ensure that full account is taken of those views when final decisions are made. He should also be given the opportunity, in partnership with the tribunal administrator, to contribute formally to the tribunal's overall strategy and to decisions about the need for additional funds to cover it.

2.13 Given the importance of this function, we believe that it can only be carried out effectively by a judicial member from within the tribunal system appointed for that purpose as the judicial head. Moreover, we believe that the role of the judicial head in relation to such matters, as well as that of the tribunal administrator and the Department, should be clearly defined and formally recognised, perhaps in a memorandum of understanding between the Department and the person appointed to carry out that role. We say more about his appointment and status below.

Judicial management

2.14 We now turn to matters of judicial management and where responsibility for that should lie. In essence, we regard the responsibility as twofold. First, there must be a concern for the performance of the tribunals themselves, by ensuring that the tribunal chairmen and members carry out their judicial tasks effectively, but without in any way interfering with the exercise of their judicial discretion in individual cases. Secondly, there must be concern for the efficient use of the judicial resources at the tribunal's disposal, through the setting of appropriate conditions and standards and monitoring of individual performance. If those responsibilities are to be discharged properly the judicial head must, in our view, be given a specific role to play in a number of areas.

Effectiveness

2.15 In terms of the effective use of judicial resources, his interest will be -

(i) in ensuring proper rules of procedure and promoting consistency between individual tribunals in their application, as well as in tribunal practice and decision-making;

(ii) in the arrangements for the recruitment and appointment of tribunal chairmen and members, and Regional Chairmen where appropriate, including decisions about the constitution and make-up of the tribunal, and about numbers and remuneration, thereby ensuring that there is adequate judicial manpower of sufficient ability to carry out the tasks required of the tribunal. We fully

endorse the new approach to "open advertising" used to widen the pool of those suitable for recruitment as new tribunal chairmen and members. Among other things, we hope that the new system will enable tribunals better to develop an appropriate mix of gender and ethnic minority appointments. The judicial head must take a close interest in the appointments process, since the methods used by Departments and others for identifying and appointing suitable candidates will to some degree ultimately affect the quality of tribunal membership, and hence the effectiveness with which the judicial function is exercised. This should not be taken to infer that he must be entrusted with the power of appointment. In our view, this should be ultimately vested in Ministers - the Lord Chancellor in respect of all appointments of legal chairmen in England and Wales. But he must be very closely involved in, and consulted over, appointments and be given the opportunity to sit on the recruitment board, at least in respect of those candidates applying for appointment as legal chairmen; and

(iii) in ensuring that all those appointed are provided with a properly constituted and funded programme of induction and refresher training; that they are further supported by guidance notes, benchbooks, and regular meetings at a central and regional level; and that they are encouraged to develop broad judicial experience by adjudicating, where possible, across a range of disciplines and other jurisdictions.

Efficiency

2.16 In terms of the efficient use of tribunal resources, his interest will be -

(iv) in ensuring that the tribunal's judicial resources are deployed and used to best effect, by setting standards through the giving of guidance on the length of sitting days, frequency of sittings, the conduct of hearings, speedy decision-making, the writing of decisions, listing arrangements, the number and location of tribunals, and the make-up of the tribunals themselves. For these purposes, the judicial head will have a close interest in, and need to take account of, such factors as the tribunal's workload, the nature of the cases involved and priorities for handling them, the range and level of experience and expertise among chairmen and members, and the effect which such decisions will ultimately have on the parties;

(v) in monitoring the performance of tribunal chairmen and members against those standards, perhaps through regular appraisal. In respect of those tribunal systems which already impose standards, it is apparent that judicial heads vary in the way they approach the matter. In some instances, a number of standards are incorporated in the terms and conditions of appointment of tribunal chairmen and members so that they are clear about these from the outset. Others have introduced a formal monitoring system which first comprises the setting of competencies for tribunal chairmen and members describing the core elements which make up the minimum standards expected of them. Some then closely monitor the performance of individual tribunals against the standards which have been set and encourage improvements informally, through persuasion and, if necessary, sanction. Others monitor individual performance during the year in a more formal way, through periodic observation of the tribunal in action and subsequent discussion which then forms the basis of a written performance appraisal.

Other matters

2.17 More generally, there are a range of policy decisions made by Ministers on the advice of officials in respect of which consultation with the judicial head must be considered desirable if not essential. They include decisions concerned with changes to the jurisdiction or procedures of the tribunal, and changes to the composition or make-up of the tribunal (for example, chairmen sitting alone in certain cases, the use of two rather than three person tribunals, and the use of experts, etc), as well as decisions concerned with changes to the organisation or structure of the tribunal. Decisions made in these areas again closely affect the tribunal's ability to carry out its

judicial tasks effectively, and the Department should ensure that the judicial head is properly consulted on such matters, and that his views are fully taken into account when final decisions are being made.

Annual Reports

2.18 It has long been our practice to encourage tribunal systems to produce an Annual Report on their activities as a means of enhancing the tribunal's independence from the Executive. Many are very informative and provide a range of factual data about tribunal membership, and about workloads and disposal rates against agreed targets, as well as other administrative details and initiatives. However, independence is likely to be best served if the Annual Report is also used as a vehicle for the judicial head to speak about the judicial activities of the tribunal concerned, and to bring to public attention any concerns he may have about its procedures and working, including, if necessary, matters of administration and funding.

Providing central direction

2.19 It will be apparent from the foregoing that we regard it as essential that there should be one person on the judicial side of the tribunal appointed to carry out these important tasks. There are a range of tribunals falling within our jurisdiction, both large and small, which have no central direction of the kind we are advocating, and our real concern is that it is not clear whether, or how far, the principles of independence are being observed or achieved by these systems.

2.20 When we last reported on this topic in 1983, we acknowledged that where the size and workload of a tribunal system did not warrant the establishment of a presidential system of organisation, a looser structure of quasi-autonomous regional chairmen without a president would be acceptable. We added that, in such circumstances, we would expect the regional chairmen to meet reasonably frequently to plan and co-ordinate their work in relation to those matters which would otherwise be the responsibility of the president. We suggested that one of the regional chairmen could act as the focal point and take responsibility for organising the regional chairmen's activities. There are currently a number of tribunals falling within our jurisdiction which are structured in this way, and which operate on that basis to a greater or lesser extent, principal among which are the Mental Health Review Tribunals, the Rent Assessment Panels and the Valuation Tribunals.

2.21 Our observations of these tribunal systems over a number of years, suggest that the main difficulty for them and for similar systems is that, despite their best endeavours, there is no one person in a position to give a lead from the centre, by driving the system along, co-ordinating procedures and practice across the country, ensuring that policies and standards are adopted and enforced, harmonising practices and procedure and, generally, managing the system. We have noted how the absence of this central direction can lead to different practices and procedures being operated by different regions, resulting in confusion and uncertainty among tribunal users operating across regional boundaries; to regions operating in almost total isolation from each other with little, if any, opportunity for contact between the judicial members at a national level; to decisions on matters of tribunal performance and training being left to individual regions, leading to an absence of, or differences in, approach on such matters; and to a failure to identify and adopt best practice across the regions.

2.22 The absence of a judicial head has also meant that there is no one in a position to speak with one voice in dealings with the sponsoring Department and other bodies on a range of matters with which a tribunal should normally be involved. That not only weakens the tribunal's ability to ensure that its independence and integrity is not put at risk by Executive action, it also creates immense difficulties for Departments and others when the tribunal needs to be consulted on matters such as policy and administration.

2.23 We do not mention these matters as a criticism of the role played by individual Regional Chairmen in such tribunal systems. To the contrary, we have always been greatly impressed by their commitment and by the way that they carry out their judicial and administrative role at a regional level, as well as by the efforts of some, such as the Mental Health Review Tribunals, to work together as a collegiate group to bring about a measure of consistency in approach between the regions. Other tribunal systems, such as the Valuation Tribunals, have sought to improve matters by establishing a voluntary "National Association" of representative members, with an elected National President, able to provide a greater measure of central direction, by initiating and developing a training programme for their chairmen and members, and encouraging better communication between members through annual conferences and seminars. We have long supported such efforts which we believe demonstrate the desire of many tribunal systems to move towards the principles to which we adhere. But there is a limit to what can be achieved by voluntary means, and our own experience of the working of these tribunal systems demonstrates to us that the absence of a judicial head appointed specifically to carry out the functions we have described significantly restricts their ability to achieve the desired level of independence and effectiveness.

The judicial head: appointment and status

2.24 In terms of his appointment and status, the judicial head need not necessarily be called a "president", but he should stand apart from, if not above, his judicial colleagues by being given the functions we have described above, and his title should adequately reflect the role he is given. His appointment should be made by the Lord Chancellor in respect of tribunals in England and Wales, and his office and main functions should be provided for by statute. It is also essential in our view that his terms of appointment should make clear the extent of his powers and duties in relation to the above matters. They should also be formally recognised in a memorandum of understanding between the person appointed and the Department.

2.25 His eventual status and title will be largely governed by the size, organisation and structure of the tribunal concerned. But we regard it as important to the effective performance of his functions that the person appointed is of sufficient weight and standing to reflect the level of responsibility which he will be required to discharge towards both his judicial colleagues and the Department, as well as others with whom he will have formal dealings. We also regard it as essential that the person appointed is able to demonstrate that he or she has the necessary qualities to undertake the senior judicial role, amongst which we would include an aptitude for judicial management and administration, and the ability to "manage" judicial colleagues.

The scope of our conclusions

2.26 We do not wish to suggest that the principles we have outlined above are necessarily capable of application to all tribunals. For example, the appointment of a judicial head undertaking the full range of functions we have referred to would be wholly inappropriate for those tribunals which seldom meet. Locally-based tribunal systems, such as the Education Appeal Committees which are funded and administered by the local authorities, and the General Commissioners of Income Tax, are also not best suited to the approach we are advocating. As currently constituted, the only means they have of making progress at the moment is by forming, as the General Commissioners of Income Tax have already done, a voluntary "national association" able to carry forward some of the responsibilities we have referred to above. This narrow range of tribunal systems we would regard as the exception to the rule. **But we believe it essential that all other established tribunal systems should aspire to such principles, even though some may find them more difficult to achieve than others. Moreover, we will look to Departments to ensure that full account is taken of them whenever new adjudicative systems are being contemplated and when existing systems are being reviewed.**

Appendix B: The cost of the Council and of the Scottish Committee

(paragraph 3.10)

1. The table below shows expenditure during the financial year ended 31st March 1997 and the 1996 figures for comparison.

Item	*Council on Tribunals*		*Scottish Committee*	
	1996 £	***1997*** £	***1996*** £	***1997*** £
Staff salaries	331,057	337,156	39,164	45,166
Retainers: Chairman and Members	144,473	155,745	24,440	24,440
Administrative costs	72,152	73,799	8,590	8,875

The Council on Tribunal's retainers include the salary of the Scottish Committee Chairman and retainers paid to members of the Council who serve on the Scottish Committee.

The administrative costs include travelling expenses incurred through Council work.

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2. The Council Chairman's and Scottish Committee Chairman's salaries were last increased in April 1997 to £35,170 and £17,585 respectively. The retainers for Members of the Council (based on 44 days work a year) and of the Scottish Committee (based on 35 days work a year) were last increased in December 1996 to £7,742 and £6,159 respectively.

Appendix C: The Council's work 1996/97

(paragraphs 3.11, 3.14, 3.27 and 3.28)

This Appendix contains a list of the Statutory Instruments considered by the Council and made during the year 1996/97, together with a list of the Tribunals, Inquiries and Conferences visited by Council and Scottish Committee members during this period. Scottish visits are shown separately. Tribunals visited in Scotland whose jurisdiction covers Great Britain are shown as "(in Scotland)". Other tribunals established under Scottish legislation are shown either as "(Scotland)" or by their title, eg. Lands Tribunal for Scotland. Numbers in brackets after the name of the tribunal indicate the number of visits where more than one was made. The list includes details of where the visits took place.

Statutory Instruments

Instrument	S.I.
The Channel Tunnel Rail Link (Planning Appeals) Regulations 1997	S.I. 1997/821
The Chemical Weapons (Licence Appeal Provisions) Order 1996	S.I. 1996/3030
The Children's Hearings (Scotland) Rules 1996	S.I. 1996/3261
The Children's Hearings (Transmission of Information etc.) (Scotland) Regulations 1996	S.I. 1996/3260
The Child Support Commissioners (Procedure) (Amendment) Regulations 1997	S.I. 1997/802
The Child Support Departure Direction and Consequential Amendments Regulations 1996	S.I. 1996/2907
The Disability Discrimination (Questions and Replies) Order 1996	S.I. 1996/2793
The Electricity Generating Stations and Overhead Lines and Pipe-lines (Inquiries Procedure) (Amendment) Rules 1997	S.I. 1997/712
The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996	S.I. 1996/2349
The Industrial Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996	S.I. 1996/2803
The Lands Tribunal (Amendment) Rules 1997	S.I. 1997/1965
The Leasehold Valuation Tribunals (Fees) Order 1997	S.I. 1997/1852
The Leasehold Valuation Tribunals (Service Charges, Insurance or Appointment of Managers Applications) Order 1997	S.I. 1997/1853
The Local Government Changes for England (Valuation and Community Charge Tribunals) Regulations 1997	S.I. 1997/75
The Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997	S.I. 1997/358
The Occupational Pensions Regulatory Authority (Determinations and Review Procedure) Regulations 1997	S.I. 1997/794
The Parliamentary Commissioner Order 1996	S.I. 1996/1914
The Patents (Fees) Rules 1996	S.I.1996/2972
The Patents (Supplementary Protection Certificates) Rules 1997	S.I. 1997/64
The Pensions Compensation Board (Determinations and Review Procedure) Regulations 1997	S.I. 1997/724

The Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Amendment Rules 1996	S.I. 1996/2638
The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996	S.I 1996/2475
The Plant Breeders' Rights (Fees) (Amendment) Regulations 1997	S.I. 1997/382
The Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) (Amendment) Regulations 1996	S.I. 1996/2305
The Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) (Amendment) Regulations 1997	S.I. 1997/1854
The Reserve Forces Appeal Tribunals Rules 1997	S.I. 1997/798
The Road Traffic Act 1991 (Commencement No. 13) (Scotland) Order 1997	S.I. 1997/1580
The Road Traffic (Permitted Parking Areas and Special Parking Areas) (City of Oxford and Parish of North Hinksey) Order 1996	S.I. 1996/2650
The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Buckinghamshire) (High Wycombe Town Centre) Order 1997	S.I. 1997/56
The Social Security (Adjudication) and Child Support Amendment (No. 2) Regulations 1996	S.I. 1996/2450
The Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997	S.I. 1997/955
The Town and Country Planning Appeals (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1997	S.I. 1997/750
The Town and Country Planning (Development Plan) (Amendment) Regulations 1997	S.I. 1997/531
The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997	S.I. 1997/796
The Trade Marks (Fees) Rules 1996	S.I. 1996/1942
The Value Added Tax Tribunals (Amendment) Rules 1997	S.I. 1997/255
The Water Services Charges (Billing and Collection) (Scotland) Order 1997	S.I. 1997/362

Visits to tribunals, inquiries and conferences

Tribunals

Child Support Appeal Tribunals (5)
Cambridge, Eastbourne, London, Manchester, Sheffield
Child Support Appeal Tribunals (in Scotland) (3)
Dundee, Glasgow, Aberdeen
Childrens Hearings (Scotland) (2)
Aberdeen, Bathgate
Comptroller-General of Patents, Designs and Trade Marks
London
Criminal Injuries Compensation Appeals Panel (3)
Cardiff, London, Newcastle Upon Tyne
Criminal Injuries Compensation Appeals Panel (in Scotland)
Glasgow
Crofters Commission (Scotland)
Ross-shire

Data Protection Registrar
Wilmslow
Director General of Fair Trading (3)
London (2), Exeter
Disability Appeal Tribunals (4)
Liverpool, London, Newcastle Upon Tyne, Plymouth
Disability Appeal Tribunals (in Scotland) (2)
Ayr, Glasgow
Discretionary Lifer Tribunal (Scotland)
Peterhead
Education Appeal Committees (5)
Cwmbran, London, Newcastle Upon Tyne, Torquay, Wembley
Education Appeal Committees (in Scotland) (11)
Elgin, Glasgow (2), Edinburgh, Dumfries, Falkirk (3), Kilbirnie, Bearsden, Aberdeen
Education Appeal Committees for Grant Maintained Schools (4)
Birmingham, Croydon, Peterborough, Stroud
FHS Appeal Authority
London
General Commissioners of Income Tax (2)
Bristol, London
General Commissioners of Income Tax (in Scotland) (2)
Falkirk, Aberdeen
Health Authorities Discipline Committee
Huddersfield
Immigration Adjudicators (9)
Birmingham (3), Feltham, Havant, Leeds (2), London, Salford
Immigration Appeal Tribunal
London
Immigration Appeal Tribunal (in Scotland)
Glasgow
Industrial Tribunals (6)
Cardiff, Leeds, London (2), Shrewsbury, Nottingham
Industrial Tribunals (in Scotland)
Glasgow
Lands Tribunal (2)
London (2)
Lands Tribunal (in Scotland)
Stonehaven
Leasehold Valuation Tribunals (2)
Cardiff, Newcastle Upon Tyne
Medical Appeal Tribunals (4)
Birmingham, Liverpool, Middlesbrough, Swansea
Medical Appeal Tribunal (in Scotland) (2)
Edinburgh, Inverness
Mental Health Review Tribunals (6)
Birmingham, London (2), Norwich, Rampton, Stockton on the Forest
National Health Service Tribunals
London
NHS - Discipline Committee (in Scotland) (2)
Edinburgh (2)
NHS - Service Committee (in Scotland)
Motherwell

Parking Adjudicators (2)
London, Winchester
Parole Board
March
Pensions Appeal Tribunals (6)
Birmingham, Exeter, Leeds, London (2), Newcastle Upon Tyne
Registered Homes Tribunals (3)
Halifax, Ipswich, Lewes
Rent Assessment Committees (3)
Newtown, Warminster, London
Rent Assessment Committees (in Scotland)
Glasgow
Residential & Other Establishment Tribunal (Scotland)
Perth
Social Security Appeal Tribunals (7)
Chester, Leicester, London, Portsmouth, Sutton, Truro, Worcester
Social Security Appeal Tribunal (in Scotland) (6)
Glasgow, Airdrie, Dunfermline, Oban, Galashiels, Inverness
Social Security Commissioners
London
Special Commissioners of Income Tax
London
Special Commissioners of Income Tax (in Scotland)
Edinburgh
Special Educational Needs Tribunal (5)
Bristol, Cambridge, London, Pentwyn, Peterborough
Traffic Commissioners (3)
Bakewell, Cardiff, Dartford
Traffic Commissioners (in Scotland)
Aberdeen
Valuation Tribunals (3)
Bristol, Cardiff, Bournemouth
Valuation Appeal Committees (Scotland) (2)
Haddington, Dumfries

Local plan inquiries	Local plan inquiry, Sittingbourne Local plan inquiry, Harlow
Other inquiries visited	Small planning inquiry, Coleford Small planning inquiry, Sidmouth Planning appeal inquiry, Woolsington Planning appeal inquiry, Hounslow Public local inquiry (Scotland), Glasgow Appeal to Secretary of State - NHS (in Scotland) Edinburgh
Conferences and training seminars	Criminal Injuries Compensation Appeals Panel Seminar, London Education Appeal Committee Open Evening, London Health Authorities Discipline Committee Training Workshop, London Independent Tribunal Service Training Day, London

Medical Appeal Tribunals Training Day, Edinburgh
Social Security Appeal Tribunals Training Day, Edinburgh
Judicial Studies Board - Tribunal Chairmanship Training Course, Nottingham
Mental Health Review Tribunal Members' Meeting, Duxford
Mental Health Review Tribunal Members' Meeting, London
Mental Health Review Tribunals: North-West Region Members'-
Meeting, Newton-Le-Willows
National Association of Valuation Tribunals: Presidents' and Chairmen's Annual
Conference, Stratford Upon Avon
Pension Appeal Tribunals Training Conference, Birmingham
Planning Inspectorate Training Course, Bristol
Rent Assessment Panel Training Seminar, London
Social Security Appeal Tribunals Training Day, Glasgow
South Western Rent Assessment Panel Training Meeting, Taunton
Planning Inspectorate Training Course, Exeter
Training Seminar and Annual General Meeting of the Greater London
Association of General Commissioners
Training Day for the South Eastern Association of General
Commissioners, London
Training Meeting for Mental Health Review Tribunals, Newbury
Training Meeting of the Nottinghamshire and Derby Association of General
Commissioners, Sandiacre
Training seminar on new jurisdiction for Leasehold Valuation Tribunals under-
the Housing Act 1996, London
Council of Wales Valuation Tribunals Training Conference, Llandrindod Wells
VAT and Duties Tribunals Chairmen's Conference, Croydon
Annual Meeting of the Royal College of Psychiatrists, Bournemouth

Appendix D: The Committees of the Council

(paragraph 3.12)

1. There are at present six committees of the Council, apart from the Scottish Committee.

2. Much committee business is transacted by correspondence, but meetings are held as and when required, generally on the day of the monthly Council meeting. In practice, committees (or, in cases of great urgency, their chairmen) deal with straightforward business within their sphere of interest, reporting to the Council as necessary.

3. The committees, with an indication of their respective areas of activity, are (in alphabetical order):

Education Tribunals Committee	The procedures of Education Appeal Committees (both local authority and grant-maintained) and of the Special Educational Needs Tribunal.
Health and Social Security Committee	Most matters concerning social security, health and related subjects, including tribunals and inquiries dealing with social security, medical and disability issues.
Legal Committee	Matters having a strong legal content, including the scrutiny of primary and subordinate legislation.
Planning Procedures Committee	Town and country planning, highways, and other related subjects which may involve public inquiries or related procedures, including the scrutiny of primary and subordinate legislation.
Representation and Assistance Committee	Matters concerning the provision of professional or other representation or assistance in tribunal and inquiry proceedings.
Visits Committee	The Council's visits policy and the planning and organisation of visits by members of the Council to tribunals, inquiries, training seminars and conferences.

Appendix E: A note on the constitution and functions of the Council

(paragraph 3.30)

1. The Council were set up by the Tribunals and Inquiries Act 1958 and now operate under the Tribunals and Inquiries Act 1992.

2. The Council are to consist of not more than 15 or less than 10 members appointed by the Lord Chancellor and the Lord Advocate. In addition, the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) is a member by virtue of his 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 Lord Advocate, and three or four non-members of the Council appointed by him. The Parliamentary Ombudsman is also an ex-officio member of the Committee.

4. The Council have 15 members, of whom one is appointed primarily to represent the interests of people in Wales. The Scottish Committee has seven 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 these matters, 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 now in force is the Tribunals and Inquiries (Discretionary Inquiries) Order 1975 (S.I. 1975/1379) as amended (S.I. 1976/293, S.I. 1983/1287, S.I. 1990/526 and S.I. 1992/2171).

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 Lord Advocate in connection with statutory inquiries. They must also be consulted before any exemption is granted from the requirement in section 10 of the Act to give reasons for decisions. They 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 they have no authority to deal with any matter in respect of which the Parliament of Northern Ireland would have power to make laws if the Northern Ireland Constitution Act 1973 had not been passed.

9. The Council are required to make an annual report which must be laid before Parliament and may, at any time, make a special report on their own initiative under (a) or (c) of paragraph 5 above.

10. References to the Council or reports by them are normally made by or to the Lord Chancellor and the Lord Advocate, 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 Lord Advocate, the Council must consult the Scottish Committee. In addition, the Scottish Committee have the right in certain circumstances to report directly to the Lord Advocate.

Appendix F: Tribunal and Inquiry Statistics

(paragraph 3.30)

Tribunals under the general supervision of the Council on Tribunals at 31st July 1997

(The appendix follows the order in which tribunals are listed in Schedule 1 to the Tribunals and Inquiries Act 1992. Figures for the number of tribunals and for the number of cases are supplied to us by the tribunals or their Departments and relate to the calendar year 1996 except where otherwise stated)

PART I - TRIBUNALS UNDER THE DIRECT SUPERVISION OF THE COUNCIL

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
AGRICULTURE *Agricultural Land Tribunals* established under section 73 of the Agriculture Act 1947 (Welsh figures in brackets)	7 regional tribunals (1 tribunal in Wales)	434 (42)	250 (39)	251 (24)	54 (2)	379 (55)
Agricultural Arbitrators appointed (otherwise than by agreement) under Schedule 11 to the Agricultural Holdings Act 1986 (arbitrators appointed by President of the RICS)	213 Arbitrators on Lord Chancellor's Panel	452	617	381	36	652
AIRCRAFT AND SHIPBUILDING INDUSTRIES *Aircraft and Shipbuilding Industries Arbitration Tribunal* established under section 42 of the Aircraft and Shipbuilding Industries Act 1977	Last of cases heard in early 1980s. Although not abolished by legislation, tribunal is not expected to sit further	-	-	-	-	-
AVIATION *The Civil Aviation Authority* constituted in accordance with section 2 of the Civil Aviation Act 1982 in the exercise of functions prescribed for the purposes of section 7(2) of that Act						
Air Transport Licences:	1	126	158	30	122	132
Air Travel Organisers' Licences:	1	334	1,866	97	1,887	216
Regulation 6 hearings - Air Navigation Order Appeals:	1	2	5	1	2	4
TOTAL:		462	2,029	128	2,011	352
BANKING *Banking Appeal Tribunal* constituted under section 28 of the Banking Act 1987	Tribunal constituted as required	0	0	0	0	0

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
BETTING LEVY *Betting Levy Appeal Tribunal* for England and Wales, established under section 29 of the Betting, Gaming and Lotteries Act 1963 (these figures are for the period April 1995 to March 1996)	1	0	0	0	0	0
BUILDING SOCIETIES *Building Societies Appeal Tribunal* constituted under section 47 of the Building Societies Act 1986	Tribunal constituted as required	0	0	0	0	0
CHILD SUPPORT MAINTENANCE *Child Support Appeal Tribunals* established under section 21 of the Child Support Act 1991 (Scottish figures in brackets)	3,087[1] (235)	4,802[2] (365)	7,683 (553)	678 (43)	7,225 (545)	4,024 (270)
Child Support Commissioners under section 22 of that Act and any tribunal presided over by such a Commissioner	1 Chief Commissioner, 15 full time Commissioners	51	178	3	134	92
CHILDREN'S HOMES, VOLUNTARY NURSING HOMES, MENTAL NURSING HOMES AND RESIDENTIAL CARE HOMES *Residential Homes Tribunals* constituted under Part III of the Registered Homes Act 1984	Tribunals constituted as required from panel of 10 Chairmen and 65 expert members	53	58	36	42	33
COMMONS *Commons Commissioners* and assessors appointed under section 17(2) and (3) of the Commons Registration Act 1965	1 part time Chief Commissioner, 1 part time Commissioner	189	6	0	13	182
COPYRIGHT *Copyright Tribunal* constituted under section 145 of the Copyright, Designs and Patents Act 1988	1	15	11	1	0	25
CRIMINAL INJURIES COMPENSATION *Adjudicators* appointed under section 5 of the Criminal Injuries Compensation Act 1995	Constituted as required from Panel of Adjudicators	0	305	0	36	209
DAIRY PRODUCE QUOTA *Dairy Produce Quota Tribunal* for England and Wales, constituted under regulation 35(1) of the Dairy Produce Quotas Regulations 1991	Tribunal's role is largely spent since 1985. One or two "special" cases since then	0	0	0	0	0

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
DATA PROTECTION						
Data Protection Registrar appointed under section 3 of the Data Protection Act 1984 (these figures are for the period April 1995 to March 1996)	1					
Applications for registration under the provisions of section 4 of the Act:		3,733	23,881	132	24,300	3,182
Complaints (number considered by the Registrar):		197	2,950	1,224	1,828	95
Data Protection Tribunal constituted under section 3 of the Data Protection Act 1984	1	0	2	0	1	1
EDUCATION						
Independent Schools Tribunal constituted under section 72 and Schedule 6 of, the Education Act 1944	1	0	0	0	0	0
Education Appeal Committees constituted in accordance with Part I of Schedule 2 to the Education Act 1980						
PRIMARY						
County and Voluntary Controlled:			24,208[3]	8,422	15,786	
Voluntary Aided and Special Agreement:			3,063	660	2,403	
TOTAL PRIMARY:			27,271	9,082	18,189	
SECONDARY						
County and Voluntary Controlled:			21,495	7,004	14,491	
Voluntary Aided and Special Agreement:			3,772	520	3,252	
TOTAL SECONDARY:			25,267	7,524	17,743	
GRAND TOTAL:			52,538	16,606	35,932	
Education Appeal Committees for Grant maintained schools constituted in accordance with section 58 and Schedule 12 of the Education Reform Act 1993						
PRIMARY:			725	120	605	
SECONDARY:			9,593	2,130	7,463	
TOTAL:			10,318	2,250	8,068	
Special Educational Needs Tribunal established under section 177 of the Education Act 1993	1 national head-quarters with regional tribunals set up as required	792[4]	1,792	896	1,022	666
Registered Inspector of Schools Tribunal	0	0	0	0	0	0
EMPLOYMENT						
Industrial Tribunals for England and Wales, established under section 128 of the Employment Protection (Consolidation) Act 1978 (these figures are for the financial year 1994/95	Tribunals sit at 20 Regional Offices in England and Wales and at hearing centres in other parts of the country as necessary					
Unfair Dismissal:		Not available	36,833	29,872	12,555	Not available
Equal Pay:			2,113	348	205	
Racial Discrimination:			1,893	888	931	
Sexual Discrimination:			2,952	1,456	1,115	
Other:			37,885	19,840	10,286	
TOTAL:			81,676	52,404	25,092	

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
FAIR TRADING *The Director General of Fair Trading* and any member of his staff authorised to exercise functions under paragraph 7 of Schedule 1 to the Fair Trading Act 1973						
Consumer Credit Act 1974:	5	117[5]	136	25[*]	120	108
Estate Agents Act 1979:	5	16[6]	24	1[*]	19	20
FINANCIAL SERVICES *Financial Services Tribunal* established by section 96 of the Financial Services Act 1986	Tribunal constituted as required	0	1	1	0	0
FOOD *Meat Hygiene Appeal Tribunals* constituted under regulations made under, or having effect as if made under, the Food Safety Act 1990	Tribunal constituted as required	1	9	3	3	4
FOREIGN COMPENSATION *Foreign Compensation Commission* established under the Foreign Compensation Act 1950. Currently operating on a "care and maintenance" basis.	0	0	0	0	0	0
FORESTRY *Forestry Committees* appointed in England and Wales for the purposes of section 16, 17B, 20, 21 or 25 of the Forestry Act 1967	Tribunal constituted as required	2	0	0	1	1
IMMIGRATION APPEALS *Immigration Adjudicators* established under section 12 of the Immigration Act 1971 (figures for April 1996 to March 1997)	1 Chief Adjudicator, 27 full time Adjudicators 112 part time Adjudicators	21,285[7]	36,855	Included in next column	27,243	30,875
Immigration Appeal Tribunal established under section 12 of the Immigration Act 1971	Tribunal sits in 2 divisions	914	13,157	Included in next column	12,551	1,624
INDEMNIFICATION OF JUSTICES AND CLERKS *Indemnification of Justices and Clerks* Any person appointed under section 53(3) of the Justices of the Peace Act 1979	Tribunal never convened	0	0	0	0	0
INDUSTRIAL TRAINING LEVY EXEMPTION *Industrial Training Levy Exemption Referees* established by the Industrial Training (Levy Exemption References) Regulations 1974	Referees stood down - role effectively dormant	-	-	-	-	-
INDUSTRY *Arbitration Tribunal* established under Schedule 3 to the Industry Act 1975	Tribunal never convened	0	0	0	0	0

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
INSOLVENCY PRACTITIONERS *Insolvency Practitioners Tribunal* constituted under section 396 of the Insolvency Act 1986	Tribunal constituted as required	0	10	2	6[8]	2
LAND *Lands Tribunal* constituted under section 1(1)(b) of the Lands Tribunal Act 1949	1					
References:	-	448	248	-	331	365
Other Matters:	-	194	124	-	169	149
Rating Appeals:	-	2,082	446	-	976	1,552
TOTAL:	-	2,724	818	-	1,476	2,066
LOCAL TAXATION *Valuation Tribunals* established by regulations under Schedule 11 to the Local Government Finance Act 1988 (figures include estimates for missing returns and are rounded to the nearest thousand in each case, and cover the period April 1996 to March 1997)	56 tribunals in England and 8 in Wales	477,000[8]	399,000	348,000	80,000	448,000
LONDON BUILDING ACTS *London Building Acts Tribunal* The tribunal of appeal constituted in accordance with section 109, as amended, of the London Building Acts (Amendment) Act 1939	Tribunal constituted as required	0	0	0	0	0
MENTAL HEALTH *Mental Health Review Tribunals* constituted under section 65 of the Mental Health Act 1983 (Welsh figures in brackets)	Tribunal within each of 8 Regions in England (1 Tribunal in Wales)					
All cases apart from restricted and assessment cases:		1,182[9] (57)	8,552 (464)	3,951 (291)	3,525 (176)	1,548 (54)
Restricted cases:		385[10] (14)	1,673 (79)	373 (23)	1,159 (51)	414 (19)
Assessment cases:		113[11] (1)	3,938 (207)	1,368 (94)	2,325 (109)	121 (5)
TOTAL:		1,680[12] (72)	14,163 (750)	5,692 (408)	7,009 (336)	2,083 (78)
(includes cases where the patient is discharged by a doctor, the Home Office or a court, patients who have absconded, deaths, transfers to other hospitals, remits to prison and invalid applications)						
MINES AND QUARRIES *Mines and Quarries Tribunal* for the purposes of section 150 of the Mines and Quarries Act 1954	Tribunal never convened	0	0	0	0	0
MISUSE OF DRUGS *Misuse of Drugs Tribunal* in England and Wales constituted under Part I of Schedule 3 to the Misuse of Drugs Act 1971	Tribunal constituted as required	0	0	0	0	0

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
NATIONAL HEALTH SERVICE						
National Health Service Tribunal constituted under section 46 of the National Health Service Act 1977	1	8[13]	5	3	4	6
Health Authorities Discipline Committees established in pursuance of section 10 of the National Health Service Act 1977 (Welsh figures in brackets are for the period April 1996 to March 1997)	100	Not available[14]	Not available	Not available	Not available	Not available
PATENTS, DESIGNS, TRADE MARKS AND SERVICE MARKS						
Comptroller-General of Patents, Designs and Trade Marks and any other officer authorised to exercise the functions of the Comptroller under section 62(3) of the Patents and Designs Act 1907						
Patents (based on total number of outstanding inter-partes cases, the Comptroller also heard 20 ex-parte matters):	1	173	82	39	45	171
Designs (includes Design Right/Design, Licence of Right, matters under Copyright, Designs and Patents Act 1988 and Registered Design Act matters):	1	31[15]	19	21	9	20
Trade Marks:	1	4,762	11,437	1,857	6,865	7,477
TOTAL:		4,966[16]	11,538	1,917	6,919	7,668
PENSIONS						
Pensions Appeal Tribunals for England and Wales constituted under section 8 of the War Pensions (Administrative Provisions) Act 1919 or under the Pensions Appeal Tribunals Act 1943	Ad hoc President (part time) 14 Legal Chairmen 54 Medical Members (18 of whom can sit as Medical Chairman), 37 Service Members					
Entitlement appeals (to determine whether a person is entitled to an award):	755	3,905	4,272	199	3,067	4,911
Assessment appeals (against assessed degree of disablement, period of interim assessment, or making of a final settlement):	570	5,772	4,599	300	3,000	7,071
TOTAL:	1,325	9,677	8,871	499	6,067	11,982

(continued overleaf)

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
PENSIONS *(continued)*						
Fire Service Pensions Appeal Tribunals constituted in accordance with a scheme in force under section 26 of the Fire Services Act 1947	Tribunal last convened in 1974	0	0	0	0	0
Occupational Pensions Board established by section 66 of the Social Security Act 1973	Board dissolved on 5 April 1997	0	1	0	1	0
Pensions Ombudsman established under Part X of the Social Security Pensions Act 1993 (figures are for the period April 1996 to March 1997)	1	0	27	0	27	0
Police Pensions Appeal Tribunals appointed under regulations under section 1 of the Police Pensions Act 1976	Tribunal last convened in 1974	0	0	0	0	0
PLANT VARIETIES						
Controller of Plant Variety Rights and any officer authorised to exercise the functions of the Controller under regulation 13 of the Plant Breeders Rights Regulations 1978	1	0	0	0	0	0
Plant Varieties and Seeds Tribunal established by section 10 of the Plant Varieties and Seeds Act 1964	Tribunal constituted as required	3	1	4	0	0
RENTS						
Leasehold Valuation Tribunals under section 142 of the Housing Act 1980	Tribunals and Committees are constituted from 12 Regional Rent Assessment Panels in England and 1 in Wales	512	567	216	122	741
Rent Tribunal under section 72 of the Housing Act 1988		7	29	5	26	5
Rent Assessment Committees constituted in accordance with Schedule 10 to the Rent Act 1977						
Hearings under section 10 of the Rent Act 1977:		2,397	11,883	1,334	9,855	3,041
Hearings under sections 14 or 22 of the Housing Act 1988 (includes cases where Panel had no jurisdiction- dealt with as non-determination under section 22 of the Act):		402	1,595	794	834	369
TOTAL:		3,318	14,024	2,349	10,837	4,156

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
RESERVE FORCES						
Reinstatement Committees appointed under paragraph 1 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985	The Committees and Umpires are currently in abeyance	0	0	0	0	0
Reinstatement Umpires appointed under paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985		0	0	0	0	0
REVENUE						
General Commissioners of Income Tax acting under section 2 of the Taxes Management Act 1970 for any Division in England, Wales, Scotland and Northern Ireland, (figures given are not comparable with earlier estimates of the number of delay or contentious cases listed in England and Wales, but provide a more meaningful indication of Commissioners' actual workload)(figure relates to number of appeals heard on which substantive decisions were made but does not necessarily imply that appeal was concluded; it includes 60,275 cases concluded at hearings not attended by appellants or their representatives and 7,700 cases concluded where appellants or their representatives did attend)	355 divisions in England, 55 in Scotland, 38 in Wales and 5 in Northern Ireland, sitting for 4,594.25 hours	Not available	Not available	Not available	149,028[17]	Not available
Special Commissioners of Income Tax appointed under section 4 of the Taxes Management Act 1970	Tribunal sits mainly in London but occasionally elsewhere when necessary. Comprises of a Presiding Special Commissioner, 2 full time Special Commissioners, 11 deputy Special Commissioners					
Figures for the United Kingdom						
Points of Principle:		133	99	71	64	97
Delays:		89	27	53	0	63
Applications:		10	23	13	8	12
TOTAL:		232	149	137	72	172
Tribunals for the purposes of section 706 of the Income and Corporation Taxes Act 1988	1	0	0	0	0	0
ROAD TRAFFIC						
Traffic Commissioners appointed for the purposes of the Public Passenger Vehicles Act 1981 under Part I of the Transport Act 1985 (figures relate to the period April 1993 to March 1994)	1 Senior Commissioner and 6 other Commissioners serving 8 Regional Traffic Areas					
(continued overleaf)						

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
ROAD TRAFFIC *(continued)* Public Passenger Vehicles						
Applications for Public Vehicle Operator's Licence under section 14 of the Public Passenger Vehicle Act 1981:		-	924	25	869	30
Applications for Driver's Licence for Public Service Vehicles under section 22 of the Public Passenger Vehicle Act 1981:		-	4,860	-	4,859	1
TOTAL:			5,784	25	5,728	31
Goods Vehicles						
Applications for Goods Vehicle Operator's Licence (heard at public inquiry):		337[18]	9,552	776	9,113	-
Applications for Driver's Licence for Goods Vehicles:		-	14,319	-	14,313	6
TOTAL:		337	23,871	776	23,426	6
Parking Adjudicators appointed under section 73(3) of the Road Traffic Act 1991	1	2,214[19]	22,968	5,507	16,254	3,421
SEA FISH (CONSERVATION) *Sea Fish Licence Tribunal* established under section 4AA of the Sea Fish (Conservation) Act 1967	Tribunal not yet convened	0	0	0	0	0
SOCIAL SECURITY *Social Security Appeal Tribunals* constituted under section 41 of the Social Security Administration Act 1992 (figures are for Great Britain) (Scottish figures in brackets)	31,476[1] (4,861)	58,526 (5,715)	187,425 (22,699)	20,343 (1,565)	168,265 (19,316)	83,781 (11,348)
Disability Appeal Tribunals constituted under section 43 of the Social Security Administration Act 1992 (figures are for Great Britain) (Scottish figures in brackets)	14,011[1] (3,090)	17,360 (3,248)	36,580 (8,130)	2,179 (277)	38,127 (7,428)	18,854 (3,872)
Medical Appeal Tribunals constituted under section 50 of the Social Security Administration Act 1992 (Scottish figures in brackets)	4,617[1] (589)	10,024 (940)	14,247 (1,338)	1,502 (2)	16,543 (1,834)	8,116 (939)
Social Security Commissioners A Commissioner appointed under section 52 of the Social Security Administration Act 1992 and any tribunal presided over by a Commissioner so appointed	England and Wales: 1 Chief Commissioner, 15 full time Commissioners. Scotland: 3 full time Commissioners					
England and Wales Applications:		4,409	4,482	239	3,601	5,051
Appeals:		4,220	3,731	396	4,197	3,358
Scotland (figures in brackets):		(1,222)	(744)	(202)[20]	(1,496)	(470)
TOTAL:		9,851	9,587	837	9,716	8,885

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
TRANSPORT *Transport Tribunal* constituted as provided in Schedule 4 to the Transport Act 1985	1	20	50	22	35	13
VACCINE DAMAGE *Vaccine Damage Tribunals* constituted under section 4 to the Vaccine Damage Payments Act 1979	9	36	24	2	22	36
VAT AND DUTIES TRIBUNALS *VAT and Duties Tribunals* for England and Wales established under Schedule 12 to the Value Added Tax Act 1994	Permanent hearing centres in London and Manchester. Tribunals also sit at other provincial locations as necessary. In England and Wales, tribunals constituted from a President, 3 full time Chairmen, and 29 part time Chairmen	9,085	3,621	1,986	1,053	9,667
WIRELESS TELEGRAPHY *Wireless Telegraphy Tribunal* established under section 9 of the Wireless Telegraphy Act 1949	Tribunal never convened	0	0	0	0	0

FOOTNOTES

Child Support Maintenance, Social Security, Vaccine Damage Tribunal, Disability Appeal Tribunals and Medical Appeal Tribunals

[1] The number of tribunals in each category refers to the number of appeal hearings held during the year and not to the number of physical tribunal venues where appeal hearings are held.

[2] The figure for the number of cases carried forward to 1995 in Child Support Appeals should read 4802 and not 4474. The carried forward figure at the end of the year is not calculated by adding the brought forward figure to the number of appeals received and subtracting the number of cases cleared. It is calculated by combining the number of cases at various stages of the appeal process together. For this reason the brought forward and carried forward figures appear not to balance.

Education

[3&4] The figures provided for 1995 in the 1995/96 Annual Report have since changed. This is because the figures provided were provisional and not actual figures. The actual figures are only available after the academic year is complete.

Fair Trading

[5] The figure for the number of cases brought forward from 1995 given in the 1995/96 Annual Report should have been 117 and not 129.

[6] The figure for the number of cases brought forward for the Estate Agents Act 1979 given in the 1995/96 Annual Report should have been 16 and not 17.

*these do not include cases determined adversely in the absence of any representations.

Immigration Appeals

[7] Statistics for the Annual Report are now compiled on a financial year basis. Figures carried forward from 1995 will not therefore tally with the figures given in the 1995/96 Annual Report.

Local Taxation

[8] The figure for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 477,000 and not 490,000.

Mental Health

[9] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 1,182 and not 116

[10] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 385 and not 444

[11] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 113 and not 161

[12] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 1,680 and not 721

National Health Service

[13] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 8 and not 9

[14] Establishments and Regulations changed in April 1996. FHSA were abolished and replaced by Health Authorities. There has been an insignificant number of cases received under the new set-up and therefore figures are not available.

Patents, Designs, Trademarks and Service Marks

[15] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 31 and not 14

[16] The figures for the number of cases brought forward from 1995 given in the 1995/6 Annual Report should have been 4,966 and not 4,949

General Commissioners of Income Tax

[17] The yearly totals for each category are significantly lower than in previous years. Unfortunately, returns were only received from 285 out of 453 divisions.

Road Traffic

[18] The figure for the number of cases carried forward from 1995 given in the 1995/96 Annual Report should read 337 and not 75,662.

Parking Adjudicators

[19] The figure for the number of cases carried forward to 1995 given in the 1995/96 Annual Report should have been 2,214 and not 2,358.

Social Security Commissioners

[20] The majority of cases are decided on the basis of the appeal papers ie. paper hearings. Oral hearings are arranged in only about 5% of cases. This figure relates only to withdrawals.

PART II - TRIBUNALS UNDER THE SUPERVISION OF THE SCOTTISH COMMITTEE OF THE COUNCIL

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
AGRICULTURE *Agricultural Arbiters* appointed, otherwise than by agreement, under section 64 of, or Schedule 7 to, the Agriculture Holdings (Scotland) Act 1991	207	142	65	44	5	158
BETTING LEVY *Betting Levy Appeal Tribunal for Scotland* established under section 29 of the Betting, Gaming and Lotteries Act 1963 (figures are for the period April 1995 to March 1996)	1	0	0	0	0	0
CROFTING *Crofters Commission* constituted under section 1 of the Crofters (Scotland) Act 1993	1	177[1]	751	39	664	225
DAIRY PRODUCE QUOTAS *Dairy Produce Quota Tribunal for Scotland* constituted under regulation 34 of Schedule 6 to the Dairy Produce Quota Regulations 1997	Tribunal constituted as required	0	0	0	0	0
EDUCATION *Independent Schools Tribunal* constituted under section 100 and 103 of, and Schedule 2 to, the Education (Scotland) Act 1980	Tribunal constituted as required	0	0	0	0	0
Education Appeal Committees set up under section 28D of the Education (Scotland) Act 1980		3[2]	585	132	419	37
Self-Governing Schools constituted by virtue of section 7 of, and paragraph 2(b) of Part II of Schedule 1 to, the Self-Governing Schools etc. (Scotland) Act 1989	1	0	0	0	0	0
EMPLOYMENT *Industrial Tribunals for Scotland* established under section 128 of the Employment Protection (Consolidation) Act 1978	Tribunals sit at 4 Regional Offices in Scotland and at hearing centres in other parts of the country as necessary					
Unfair Dismissal: Equal Pay: Racial Discrimination: Sexual Discrimination: Other: TOTAL:		Not available[3]	3,614 59 53 205 3,359 7,290	Not available	1,322 68 10 54 672 2,126	Not available
FOOD *Meat Hygiene Appeal Tribunals* Constituted under section 26 of the Food Safety Act 1990	Tribunals constituted as required	0	0	0	0	0

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
FORESTRY *Forestry Committees* appointed in Scotland for the purposes of sections 16, 17B, 20, 21 or 25 of the Forestry Act 1967	Tribunal never convened	0	0	0	0	0
LAND *Lands Tribunal for Scotland* constituted under section 1(1)(a) of the Lands Tribunal Act 1949	1	102	92	50	40	104
MISUSE OF DRUGS *Misuse of Drugs Tribunal for Scotland* constituted under Part I of Schedule 3 to the Misuse of Drugs Act 1971	Tribunal never convened	0	0	0	0	0
NATIONAL HEALTH SERVICE *National Health Service Health Boards and Joint Committees of these Boards* constituted under section 2 of the National Health Service (Scotland) Act 1978	15					
Service Committees and Discipline Committees of Health Board or a Joint Committee of Health Boards being committees constituted in accordance with regulations made under the National Health Service (Scotland) Act 1978	75	} 72	141		197	16
National Health Service Tribunal constituted under section 29 of the National Health Service (Scotland) Act 1978	1	2	0	0	2	0
National Appeal Panel convened in accordance with Part IV of Schedule 3A to the National Health Service (General, Medical and Pharmaceutical Services)(Scotland) Regulations 1974	1	4	19	7	13	3
PENSIONS *Pensions Appeal Tribunals for Scotland* constituted under section 8 of the War Pensions (Administrative Provisions) Act 1919 or under the Pensions Appeal Tribunal Act 1943						
Entitlement:	1	444	638	117	683	282
Assessment:	1	636	884	177	807	536
TOTAL:	2	1,080	1,522	294	1,490	818
Police Pensions Appeal Tribunals appointed under regulations made under section 1 of the Police Pensions Act 1976	Tribunals constituted as required	0	0	0	0	0
POLICE *The Police Appeals Tribunal for Scotland* established under section 55 of the Police and Magistrates Courts Act 1994	Tribunal constituted as required	0	0	0	0	0
RATES *Valuation Appeal Committees* constituted in accordance with section 29 of the Local Government (Scotland) Act 1994 and sections 81 and 82 of the Local Government Finance Act 1992 (figures are for the period April 1994 to March 1995)	Committees appointed from 12 panels	97,507	8,165	62,257	890	42,525

Category of tribunal	Number of tribunals in each category at 31st December 1996	Number of cases brought forward from 1995	Number of cases received in 1996	Number of cases withdrawn or settled in 1996 (before a hearing was reached)	Number of cases decided in 1996	Number of cases carried forward to 1997
RENTS *Rent Assessment Committees* constituted in accordance with Schedule 4 to the Rent (Scotland) Act 1984	Committees appointed as necessary from members of the Rent Assessment Panel for Scotland	170	664	119	530	185
SOCIAL WORK *Children's Hearings* constituted and arranged in pursuance of the Children (Scotland) Act 1995 (figures are for 1996)	Appeal committee hearings appointed from 32 children's panels	1,445[4]	28,023	0	27,966	1,502
Residential and Other Establishments Registrations Any appeal tribunal established under Schedule 5 to the Social Work (Scotland) Act 1968	3	3	1	0	1	3
TAXI FARES *Traffic Commissioners* appointed under the Public Passenger Vehicles Act 1981 in respect of functions concerning taxi fares under section 18 of the Civic Government (Scotland) Act 1982	1	1	6	5	2	0
VAT AND DUTIES TRIBUNALS *VAT and Duties Tribunals for Scotland* established under Schedule 12 of the Value Added Tax Act 1994	Tribunal sits mainly in Edinburgh. Consists of 1 Vice President and 3 part time chairmen	542	275	101	96	620

FOOTNOTES

Crofting

[1] The figure for the number of cases carried forward should have been 177 and not 46 as shown in the Annual Report for 1995/96.

Education Appeal Committees

[2] The figure for the number of cases carried forward should have been 3 and not 17 as shown in the Annual Report for 1995/96.

Employment

[3] Some statistics from Industrial Tribunals were unavailable due to a change in computer system for recording information which has resulted in some of their data being lost.

Children's Hearings

[4] Statistics for the Children's Hearings system in Scotland were not available due to the transfer of responsibilities from the Scottish Office to the Scottish Children's Reporter Administration. The figures shown are those for 1995/96 statistics.

Type of Inquiry	Number of full and part time Inspectors in each category at 31st December 1996	Number of appeals brought forward from 1995/96	Number of appeals received in 1996/97	Number of appeals withdrawn in 1996/97	Number of appeals decided by Secretary of State in 1996/97	Number of appeals decided by Inspectors in 1996/97	Number of appeals carried forward to 1997/98
PLANNING							
ENGLAND							
Planning Appeals under section 78 of the Town and Country Planning Act 1990 (figures are for the financial year 1996/97)	227 full time 104 part time Inspectors undertaking various types of appeals under the jurisdiction of the Planning Inspectorate	7,037	13,757	2,083	141	11,856	6,879
Inquiry Method:					n/a	n/a	
Written Representations:					n/a	n/a	
Hearing:					n/a	n/a	
Enforcement Appeals under section 174 of the Town and Country Planning Act 1990 (figures are for the financial year 1996/97)		2,930	4,247	1,330	38	2,190	3,402
Inquiry Method:					n/a	n/a	
Written Representations:					n/a	n/a	
Hearings:					n/a	n/a	
Local Plans	15 part time						
Inquiries opened:			59				
Inquiries closed:						68	
Reports issued:						90	
WALES							
Planning Appeals under sections 64 and 78 of the Town and Country Planning Act 1990 (figures are for the financial year 1996/97)	14 full time 3 part time	253	700	116			264
Inquiry Method:					8	62	
Written Representations:					8	408	
Hearings:						87	
Enforcement Appeals under section 174 of the Town and Country Planning Act 1990 (figures are for the financial year 1996/97)	7 full time 1 part time	114	145	69			93
Inquiry Method:					1	36	
Written Representations:						58	
Hearings:						2	
PUBLIC PATHS							
ENGLAND							
Public Path Orders under section 26, 118 and 119 of the Highways Act 1980	46 part time	191	175			223	143
Inquiry Method:						109	
Written Representations:						114	
under section 210 and 214 of the Town and Country Planning Act 1971	46 part time	22	55			53	24
Inquiry Method:						28	
Written Representations:						25	
Definitive Map Orders under the Wildlife and Countryside Act 1981	46 part time	181	143			182	142
Inquiry Method:						147	
Written Representations:						35	

Type of Inquiry	Number of full and part time Inspectors in each category at 31st December 1996	Number of appeals brought forward from 1995/96	Number of appeals received in 1996/97	Number of appeals withdrawn in 1996/97	Number of appeals decided by Secretary of State in 1997/97	Number of appeals decided by Inspectors in 1996/97	Number of appeals carried forward to 1997/98
OTHER INQUIRIES							
ENGLAND AND WALES							
Inquiries under section 17(4) of the Social Security Administration Act 1992 enabling the determination of certain employment matters (figures are for the period 6 April 1996 to 5 March 1997)							
Insurance Cases		89	119	15			101
Inquiry Method:					33		
Written Representations:					59		
Contribution Cases		211	566	9			216
Inquiry Method:							
Written Representations:					552		
TOTAL:		300	685	24	644		317
Inquiry Method:					33		
Written Representations:					611		
Inquiries under regulation 10 of, and Schedule 3 to, the National Health Service (Service Committees and Tribunal) Regulations 1992 being appeals to the Secretary of State from decisions of Family Health Service Authorities (Welsh figures are in brackets and relate to the period April 1996 to March 1997)							
Regulation 10							
Oral Hearings:		285[1]	470	1	111		288
		(21)	(24)		(2)		(11)
Written Representations:			134	7	348		1
					(34)		
Schedule 3							
Applications for Consent:		45[2]	136	3	175		8
		(11)	(3)		(14)		
Appeals where Consent not sought:		53[3]		3	178		
		(4)	(3)		(7)		
Inquiries under the National Health Service (Pharmaceutical Services) Regulations 1992 as amended being appeals to the Secretary of State from decisions of Family Health Service Authorities							
Regulation 8 (10)							
Oral Hearings:					48		
Written Representations:			444	11	356		
Regulation 10 (5)							
Oral Hearings:					1		
Written Representations:		112	1				143[4]
Regulation 13 (8)							
Oral Hearings:					8		
Written Representations:			28	1	28		
Appeals to the Secretary of State from determinations of the Director General of Fair Trading							
Consumer Credit Act 1974	28 part time[5]	3	3	2	4		2
Estate Agents Act 1979	29 part time[6]	1	-	-	1		-

FOOTNOTE

Inquiries under regulation 10 of, and Schedule 3 to, the National Health Service (Service Committees and Tribunal) Regulations 1992

[1,2 & 3] The figures for number of appeals brought forward from 1995/96 were previously given for the calendar year. This year's figures run from April to March. It is not possible to say whether a case is an oral hearing case until it has been completed because the decision to hold an oral hearing may take place at different stages during the processing of the case.

Inquiries under the National Health Service (Pharmaceutical Services) Regulations 1992

[4] There are no available outstanding figures broken down by case types.

Appeals to the Secretary of State from determinations of the Director General of Fair Trading

[5 & 6] Persons appointed by the Secretary of State to hear appeals.

Appendix G: The Council's previous Annual and Special Reports

(paragraph 3.30)

Annual Reports

1959	(S.O. Code No. 39-81-1)	1978-79	(H.C. 359)	
1960	(S.O. Code No. 39-81-2)	1979-80	(H.C. 246)	
1961	(S.O. Code No. 39-81-3)	1980-81	(H.C. 89)	
1962	(S.O. Code No. 39-81-4-65)	1981-82	(H.C. 64)	
1963	(S.O. Code No. 39-81-5-64)	1982-83	(H.C. 129)	
1964	(S.O. Code No. 39-81-6-65)	1983-84	(H.C. 42)	
1965	(S.O. Code No. 39-81-7-66)	1984-85	(H.C. 54)	
1966	(SBN 11-390007-4)	1985-86	(H.C. 42)	
1967	(H.C. 316)	1986-87	(H.C. 234)	
1968	(H.C. 272)	1987-88	(H.C. 102)	
1969	(H.C. 72)	1988-89	(H.C. 114)	
1970-71	(H.C. 26)	1989-90	(H.C. 64)	
1971-72	(H.C. 13)	1990-91	(H.C. 97)	
1972-73	(H.C. 82)	1991-92	(H.C. 316)	
1973-74	(H.C. 289)	1992-93	(H.C. 78)	
1974-75	(H.C. 679)	1993-94	(H.C. 22)	
1975-76	(H.C. 236)	1994-95	(H.C. 64)	£15.20
1976-77	(H.C. 108)	1995-96	(H.C. 114)	£19.50
1977-78	(H.C. 74)			

Special Reports

Recommendations arising from the "Chalkpit" case (handling of new factual evidence after a public inquiry has ended) - 1962 (Appendix D to the Council's Annual Report for 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 (Appendix A to the Council's Annual Report for 1965).

Stansted Airport - 1968 - Cmnd. 3559 (also printed as Appendix A to the Council's Annual Report for 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. £13.70

Tribunals: their organisation and independence - 1997 - Cm. 3744 £4.40

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