



Annual Report

2001/2002

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Scottish Ministers and the National Assembly for Wales

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Chairman's Preface

My third year as the Council's Chairman has been both a busy one and a satisfying one, as we have seen some of the results of our "change programme" beginning to come through.

We have of course maintained our regular work of visiting tribunal hearings, responding to policy consultations, commenting on innumerable points of detail in procedural regulations - and distilling all this into the commentary which this Annual Report seeks to provide.

But at the same time we continued vigorously to develop our work in broader ways. A new Framework of Standards for tribunals was completed and put on the way to publication. Nearing completion was comprehensive practical guidance on the application to the tribunals world of the Disability Discrimination Act, produced in fruitful collaboration with the Disability Rights Commission. And a completely modernised version of our Model Rules of Procedure for Tribunals was well under way for publication in the first half of 2003.

No less importantly, we contributed actively to the follow-up of Sir Andrew Leggatt's very valuable report on Tribunals for Users - through our own response to consultation on it, through a very successful conference for the senior tribunal judiciary, and through constructive involvement in the subsequent work of the Lord Chancellor's Department towards creating what we hope will be a major improvement of the tribunal system as a whole.

All this has involved much effort by both the Council's members and our staff, to all of whom I want to express my warm thanks. Their work has left the Council well-placed to play its full part in carrying the tribunal system forward.



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

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

The Council seeks to ensure that tribunals and inquiries:

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

Strategic Objectives

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

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



1 Introduction

1. A major part of the background to our work this year has been the continuing consideration of the Leggatt Review of Tribunals, which is being taken forward within the Lord Chancellor's Tribunals for Users Programme (TUP). We strongly support the endeavour to carry forward the creation of a unified tribunal service in line with the central thrust of Sir Andrew Leggatt's recommendations that proposed the transfer of responsibility for the operation and administration of tribunals to the Lord Chancellor's Department. The creation of a unified tribunal service is seen as one of the main factors that would assist in ensuring the actual and perceived independence of tribunals from those whose decisions are challenged.
2. Whatever the eventual proposals, however, we have devoted much of our efforts this year, in addition to fulfilling our statutory responsibilities, to developing work linked both to our own priorities and key Leggatt themes. To this end, we have:
 - Developed a framework of standards;
 - Begun a major overhaul of our model rules of procedures for tribunals;
 - Combined with the Disability Rights Commission to publish for consultation guidance for improving access to tribunal services for disabled users;
 - Further improved our relationship with tribunal judiciary, particularly through our Conferences;
 - Strengthened our partnership with the Judicial Studies Board on training;
 - Continued to develop our website;
 - Modernised our working practices, including feedback to tribunals, to make the most effective use of our resources.
3. The extent to which we can build still further on this in future years inevitably will depend on the resources made available to us in the wake of Government decisions on TUP. However, we believe that our work this year has greatly enhanced our capability to contribute to the improvement of the tribunal system as a whole within whatever future structure may emerge.
4. We report below on the progress we have made against these priorities and themes and, in **Chapters 2-10**, on our work relating to the statutory aspects of our role. We are much encouraged by the picture we describe. In particular, we pay tribute to those who have given help with our own programme of work. We have found discussions with tribunal Presidents at our Conferences and consultations with tribunal colleagues invaluable in taking forward our change programme.

Major projects

Framework of Standards



5. Last year we reported that work was underway on the development of a framework of standards for the tribunals under our supervision. At our Conference in November 2001 a draft framework was presented to tribunal presidents and heads. Our initiative gained warm positive support, and following detailed discussion at the Conference itself a revised draft was distributed widely for consultation. We received a great deal of very helpful feedback both from Conference delegates and other consultees, in light of which the draft was further revised. The final text was distributed to tribunals in May this year, and was subsequently reproduced in the Judicial Studies Board's magazine "Tribunals". We plan to give the framework a formal launch on 20 November 2002, the day of our next Conference, and thereafter to ensure that it reaches a wide audience and to promote vigorously the standards we seek.

Modernising the Model Rules



6. We have embarked on the major task of modernising our Model Rules of Procedure for Tribunals (Cm 1434). The Council published the first edition of the Model Rules in 1991. In 1999 we produced an interim updated version to take account of the development of human rights jurisprudence in the intervening period. This was primarily intended to assist the Judicial Studies Board in training tribunals in preparation for the coming into force of the Human Rights Act 1998 in October 2000. It was also circulated to Government Departments. At the same time, however, we indicated our intention to carry out a more thoroughgoing revision of the Model Rules as soon as we were in a position to do so.
7. This year we were able to secure the services of Mr Robin Bellis, a retired senior Government lawyer, to help our Legal Committee carry this work forward as consultant draftsman. At the outset the Legal Committee identified certain key matters to consider:
 - Modernisation of policy;
 - Update of case law;
 - Update of statutory references;
 - Lessons from Civil Procedure Rules;
 - Stronger case management provisions;
 - Rules in plain clear modern English;
 - Structure and organisation of rules;
 - Principles of our Framework of Standards;
 - Any changes consequent on possible structural reform of tribunals;
 - Comparison with other jurisdictions.

8. The work entailed has proved to be much greater than we had originally expected. Our concern that the Model Rules should be a user-friendly document has led to extensive reappraisal of its content and presentation. In due course we propose to consult departments, tribunals, user groups and other stakeholders. There will be a consultation period of at least three months. We hope to be able to publish a revised edition of the Model Rules next year.

Guidance on Applying the Disability Discrimination Act

9. We reported last year on the collaborative work we had undertaken in partnership with the Disability Rights Commission (DRC) to produce new guidance on access to tribunals for disabled people. This work has been taken forward this year and a draft document "Making Tribunals Accessible to Disabled People: Guidance on Applying the Disability Discrimination Act" was issued for consultation in June 2002. Consultees included the tribunal systems under our supervision, organisations of and for disabled people and other key interested outside parties. We plan to launch the new Guidance at our next Conference.
10. We hope the guidance will be of considerable practical assistance to tribunals in determining how best to comply with the requirements of Part III of the Disability Discrimination Act 1995, due to come into force in 2004.
11. The work marked a new departure for us in terms of working in partnership with another body outside the tribunals' world. This collaboration has proved a very positive and valuable experience, and is something we hope to repeat in other similar initiatives. We would like to express our thanks and appreciation to the members of the working group for the time and commitment they gave to this significant exercise.
12. We would like, particularly, to give special thanks to Jonathan Holbrook from the DRC who, as the main author of the guidance, contributed a significant amount of his time to this project, and who unfailingly met even the most challenging deadlines. Full details of the working group are contained in **Appendix H**.



Feedback after Visits

13. The development of the framework of standards has been a key component of our work towards the provision of feedback to tribunals following our visits. We have also held a residential workshop to equip Council members to provide oral feedback to panels at the conclusion of visits, and we have begun to offer this opportunity on all the visits we carry out. Work on a system of written feedback to supplement this is also underway. We will report on our progress next year.

Raising awareness of our work



Hosting of Events and Conferences

14. We held another Conference in November 2001. Speakers included Rosie Winterton MP, Parliamentary Secretary, Lord Chancellor's Department, and Sir Andrew Leggatt. The day provided a valuable opportunity to explore issues arising from the Review of Tribunals, in addition to discussion of our draft framework of standards for tribunals. As we say above, we will be hosting a further Conference in November 2002.

Council on Tribunals Website

15. Later this year we hope that new content management software will enable more news and information to be added to our website. The withdrawal of internet services by the Office of Government Commerce (OGC), which formerly hosted our site, in March 2002, directed much of our activity during this year towards the migration of the site to a new hosting organisation.

International Contacts

16. Our Chairman has attended two Administrative Justice Conferences in Canada, since his presentation to the International Conference "In Search of Universal Values in Administrative Justice" held by the Council of Canadian Administrative Tribunals (CCAT) in Quebec in June 2001, which was subsequently broadcast across the Canadian Cable TV network. In November 2001, he addressed a Conference held by the Society of Ontario Adjudicators and Regulators, speaking on "Administrative Justice Reform in the UK". In June 2002 he attended a Conference held in Ottawa by CCAT on the theme "The Maturing of Canada's Administrative Law System: An Accessible and Effective Way to Deliver Justice". He also held a separate meeting with Wendi Mackay, Philip Bryden and John Steeves, members of the Advisory Committee of the government of British Columbia's "Administrative Justice Project", who are involved themselves in a substantial agency reform initiative and are interested in establishing a body such as the Council.
17. These links, building on earlier ones established by our former member Professor Martin Partington, are proving valuable both in themselves and in developing other international contacts - fostered also by the visit of our current member Professor Geneva Richardson to Australia last year. We received helpful observations on our consultation on our framework of standards from Murray Chitra, the President

of CCAT. We hope both to involve our Canadian colleagues in one of our own future Conferences and to be represented at the next CCAT International Conference in Toronto in 2004. All of us attach importance to the continued strengthening of these links, which we believe bring advantage to the administrative justice community as a whole.

18. Our colleague John Eames has continued to work as consultant to a social security appeals project in Samara Region, Russia, which will adopt many aspects of UK tribunal systems in its pilot phase. An 18-member "Social Commission" has been appointed and trained, and will be hearing appeals from decisions of Samara's Social Protection Department, on a trial basis, towards the end of 2002. The Russians' response to the Council's Model Rules and new framework of standards has been extremely positive, and many of the Council's recommended practices have been adopted. It is hoped that the adoption of federal legislation in 2003 will allow this social protection appeals model eventually to be replicated across the rest of Russia. A meeting with members of the Commission was planned for late September, during their second study tour in England.
19. Our secretariat held discussions with Dr Say Bory and Mr Yang Sem, senior members of the Constitutional Council, Phnom Penh, Cambodia, and with Mr Alaittin Ali Oqus, Mr Ibrahim Ozdemir, Mr Berent Arasli and Mr Suleyman Kurt, Judges of the Council of State of the Turkish Republic.

Training

20. We are continuing to work in close collaboration with the Judicial Studies Board's Tribunals Committee whose own framework of competences for tribunal chairs and members will also be formally launched later this year. We are working together to update the information available to the JSB about the training provided within individual systems. We have also put in place structured internal induction arrangements for newly appointed Council members.

Improving our working practices

21. Our Business Plan for the year ending 31 March 2003 sets out all the work on which we are at present involved. The Business Plan is included at **Appendix G**. This year we have changed our business planning cycle to 1 April - 31 March, breaking away from the historical August - July Council year in order to be consistent with planning practice across Government. Thus the timetable for some of the objectives in the plan extends through to March 2003.

22. We have continued this year to develop more systematically the role of the Council's committees. This not only enables the full Council to focus more clearly on the more important or strategic issues, but also enables us to harness the expertise of individual members more effectively and to increase the overall contribution which the Council collectively can make.
23. Each committee has a settled work programme, which is directed towards our key priorities, but focused on each committee's area of interest. Our committees hold regular meetings to take forward their own programme. For instance, our Legal Committee has held 6 full day meetings this year in furtherance of our work on the model rules modernisation. Committees will in the future regularly review their work plans and amend them as appropriate. Details of our committees are set out in **Appendix B**.
24. Following the considerations of our working methods group, which completed its work in July, we have introduced an appraisal system. Each Council member will have their own individual description of their responsibilities and objectives which they will review, amend and update on an annual basis in discussion with the Council Chairman.

Diversity



25. The Council on Tribunals is now included in the list of bodies which come within the scope of the general duty to promote race equality under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The duty is potentially relevant to all our functions and we must specifically address the race equality implications of proposals that come before us. Each of our members has been provided with guidance on equality and diversity, including the Judicial Studies Board's Equal Treatment Bench Book and booklet on "Race and the Courts".
26. In last year's Report we published our diversity statement as a sign of our commitment to becoming more proactive in promoting equality of opportunity for, and good relations between, persons of different racial, cultural and social groups. We are ourselves committed to becoming an organisation that more fully reflects the diversity of our society. We have in the past year taken positive steps to put that commitment into practice when advising on recruitment campaigns to fill membership vacancies in both the Council and the Scottish Committee. We have worked closely with colleagues in the Lord Chancellor's Department and the Scottish Executive, who have responsibility for managing the procedures for appointments, to attract applications for membership of the Council and the Scottish Committee from across a wider spectrum of potential applicants.

Visits

England and Wales

27. During the year, members of the Council and of the Scottish Committee (and, in a few instances, our Secretariat) observed a total of 107 tribunal and inquiry hearings and participated in 13 conferences and training seminars. Details are at **Appendix D**, and include visits to recently established tribunals (including the Protection of Children Act Tribunal, Asylum Support Adjudicators, and the Financial Services and Markets Tribunal).
28. Of the 80 visits to tribunals, 17 were made to school admission and exclusion appeal panels, and 12 to Health Authority Discipline Committees to assist our work on Special Reports. We also attended 1 Local Plan Inquiry and 1 Right of Way Inquiry.
29. We have diverted considerable time and effort this year to work on major projects of particular importance and the Model Rules in particular. This will continue to be a feature over the coming year, and we have adjusted our visits targets accordingly. We have brought our visits programme in line with our April-March planning year, setting an interim programme from 1 August 2002 to 31 March 2003 to achieve this. Our programme will enable us to focus on immigration tribunals whose operations are affected by recent legislative changes, in anticipation of future work on a Special Report.

Scotland

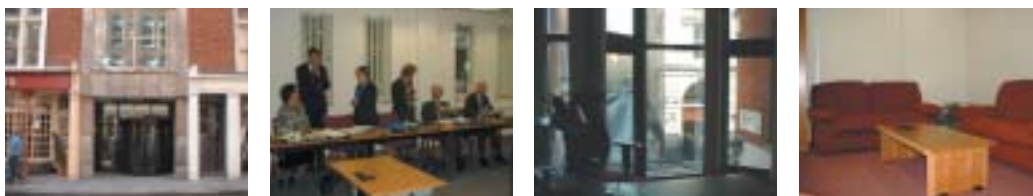
30. Of our Scottish Committee's 50 visits, 39 were to tribunal hearings, 2 to public inquiries, 3 to tribunal systems' training events and 6 to other meetings. Six sessions of Children's Hearings were observed in final preparation for the Special Report on Children's Hearings which was presented to Scottish Ministers in June.

Consultation on legislation

31. This has been another busy year. For the most part, departments have adhered to the Cabinet Office's guidance on timescales for consultation on major government proposals, which generally provides sufficient time for us to consider new policy initiatives and to respond appropriately. However, on occasion, some departments do not allow sufficient time for statutory consultation on proposals for, or change to, the procedural regulations under which their tribunal systems operate. Whilst we are keen to do our best to accommodate requests for urgent responses whenever we can, in cases where the deadlines they have set for comment have been unreasonable we remind them of the requirements of our Code for Consultation (updated and reproduced last year in our Annual Report), which cites 5 weeks notice for routine consultation and 8 weeks for major issues of principle. A list of the Statutory Instruments (excluding Orders under the Road Traffic Act 1991) considered by the Council and Scottish Committee and made during 2001/2002 is at **Appendix D**.

The future

32. Until we know the extent to which the recommendations made by Sir Andrew Leggatt's Review of Tribunals will be implemented, it would not be realistic for us to say much more about our future plans. However, as we said in our response to the Government's Consultation Paper in December 2001, we hope and expect that there will be some re-alignment of tribunals into a more coherent system consisting of first-tier and appellate tribunals with separate Presidents. We look forward to the creation of such a service charged with establishing improvements to the administrative operations that are needed, including IT. We believe the development of a unified service would re-inforce the independence of the tribunals and the tribunal judiciary, which the service will support, and on which much of our work focuses.
33. In the meantime we are contributing to the debate about possible implementation of a tribunal service for users through our Chairman's membership of the LCD Tribunals for Users Strategic Board and associated working groups, and are continuing to work closely with the JSB on our respective areas of responsibilities, which complement each other. We are also promoting good practice on training and appraisal in individual tribunals.
34. The recommendations made by the Review of Tribunals for our future activities would involve considerable widening of our powers and an increase in staffing levels. We cannot forecast with any certainty the extent to which we as a Council will develop our activities in the future where those plans are dependent on a significant increase in our resources. Nevertheless, as we mention in paragraph 2, our planning takes on board much of what the Review recommended we should do.
35. We moved to new accommodation in Chancery Lane on 1 July this year, having been based for a number of years in Kingsway. From this base we will do all we can to support the tribunal system as it changes and as we as a Council develop our responsibilities.



2 Competition and Fair Trading

Enterprise Bill

1. The Enterprise Bill is a major piece of legislation that affects two bodies under our supervision, namely the Director General of Fair Trading (DGFT) and the Competition Commission Appeal Tribunals (CCATs).
2. Our supervision over the DGFT (and authorised staff) is limited to functions under the Consumer Credit Act 1974 and the Estate Agents Act 1979. The Bill abolishes the DGFT and creates a new body corporate called the Office of Fair Trading (OFT). The DGFT's functions under the 1974 and 1979 Acts are transferred to the new body. Our supervisory role over the exercise of those functions continues.
3. CCATs were established by the Competition Act 1998 as part of the Competition Commission. In December 2001, following a White Paper "Productivity and Enterprise: A World Class Competition Regime" (July 2001) and earlier consultations, the Government proposed an expansion of their jurisdiction to include:
 - modified provisions for third party appeals from OFT decisions;
 - claims for damages by harmed parties where an infringement of competition law has occurred;
 - claims for damages brought by representative bodies on behalf of named consumers;
 - appeals against monetary penalties imposed by the Competition Commission;
 - review on "judicial review" grounds of decisions taken by the OFT, Competition Commission or Secretary of State in connection with merger references;
 - review on "judicial review" grounds of decisions taken by public authorities under market investigation provisions.
4. Because some of the decisions subject to appeal or review would be those of the Competition Commission, it would not be appropriate for CCATs to continue in their present form as part of the Competition Commission. The Bill accordingly provides for a new Tribunal, the Competition Appeal Tribunal, to assume the existing jurisdiction of the CCATs and the additional jurisdictions. The Tribunal will be independent of the Competition Commission. Its President and chairmen will be appointed by the Lord Chancellor. The Tribunal will be supported by a Competition Service. As with CCATs under the 1998 Act, the President will have a statutory obligation to arrange for the training of Tribunal members.
5. We have always had strong reservations about CCATs being a part of the Competition Commission. We welcomed the decision to establish the new Tribunal, which will be under our supervision. The provisions in the Bill for procedural rules are broadly based



on those for CCATs in the 1998 Act but with adaptations to accommodate the enlarged jurisdiction. There is also provision for the enforcement of Tribunal decisions in the courts. We look forward to formal consultation on procedural rules in due course.

3 Education

Special Report

1. In the preparatory work for our Special Report on the operation of school admission and exclusion appeal panels, we have undertaken a number of additional visits to panel hearings, which in total accounted for around 25% of our overall visits programme for the past year. In the light of difficulties in obtaining prior notification of panel hearings for foundation and voluntary-aided schools (which are their own admission authorities), our Secretariat wrote to 500 such schools inviting them to notify us of hearing dates. We discovered that many of these schools rely on the local education authority (LEA) to organise and run their admission hearings on their behalf.
2. In connection with the evidence gathering process for our Special Report members of our Education Committee have also held meetings during the year with:
 - Felicity Taylor and Margaret Jones from ISCG (Information for School and College Governors). The ISCG have been involved in the development, piloting and dissemination of new training material for admission and exclusion panel members. They confirmed that they had trained a considerable number of panel members across the country;
 - David Nice from the Commission for Local Administration in England, whose office investigates cases of alleged maladministration by the panels; and
 - Professor John Coldron and Kathy Stephenson from Sheffield Hallam University, who have recently completed a study of admission appeal panels for the Department for Education and Skills.
3. We have found these meetings invaluable and are grateful to those involved for their co-operation and assistance. We plan to publish our Special Report by the end of 2002.

Education Act 2002

4. The Education Act 2002 was wide-ranging in scope and its provisions impacted on several areas in which we have an interest, including:
 - provision for the procedural rules for admission and exclusion appeal panels (currently set out in Schedules 24 and 18, respectively, to the School Standards and Framework Act 1998) to be made in future by regulations; this accords with our advice to the Department during the passage of the 1998 Act;
 - provision for the prohibition from teaching of a person who is included in the list of persons considered unsuitable to work with children under the Protection of Children Act 1999, and for a right of appeal against such prohibition to the Care Standards Tribunal;



- a provision to create a separate Special Educational Needs Tribunal for Wales with its own President, which will also have responsibility for disability discrimination cases in Wales; we were content with this proposal in principle and look forward to being consulted on the proposed arrangements in detail.

Consultation on Exclusion Appeal Panels



5. The Department issued a consultation paper in September 2001 which contained proposals affecting exclusion appeal panels, including:
 - to make it a statutory requirement for an appeal panel to balance the interests of the excluded pupil against the interests of all the other members of the school community; our view was that, regardless of whether this requirement was framed in primary legislation or in guidance, unless panel members were properly trained in its application it would have little practical effect;
 - to make it clear in legislation that an appeal panel's remit is not to review the procedure preceding an appeal hearing but to consider afresh the question of whether the excluded pupil should be reinstated; we commented that, whilst it was important for the panels to ensure that proper procedures have been followed, and to be able to take such matters into account, procedural defects alone should not lead a panel to reinstate an excluded pupil without regard to the substantive issues in the case;
 - to change the requirements relating to the composition of the panels so that, whilst they remain independent, they consist predominantly of people with direct experience of classroom management; we objected strongly to this proposal on the ground that it would be likely to shift the balance of the panels too far in favour of schools, thereby fundamentally altering their actual and perceived independence;
6. In response to a question about what steps LEAs might take to ensure they could assemble panels in a more timely fashion we suggested that LEAs should ensure they have sufficient numbers of trained people in their lists of panels members, and have systems in place to enable them to anticipate the likely demand for hearings, for example, using past statistical data, and to plan ahead annually on that basis.
7. We look forward to being consulted on the procedural regulations which will effect these changes and have urged the Department to re-consider the proposals concerning the composition of the panels.

Consultation on School Admissions

8. The Department also issued a consultation paper on proposals for improving the school admissions framework introduced in the School Standards and Framework Act. We welcomed the underlying aim of giving LEAs responsibility for co-ordinating the admission process in their areas, since we regard the flaws in the current arrangements as one of the main reasons why so many parents appeal. We also welcomed proposals aimed at clarifying the status of the Schools Admission Adjudicator's decisions. We again look forward to being consulted on the procedural regulations to effect these changes.



Special Educational Needs and Disability Tribunal

9. We were consulted on the Special Educational Needs and Disability Tribunal (General Provisions and Disability Claims Procedure) Regulations 2002, for implementation from 1 September 2002. We were broadly content with the regulations and made the following observations on an early draft:
- it would be too restrictive to limit the qualification for lay membership of the Tribunal to people with knowledge of disability in a school/educational setting;
 - it would be a sensible approach to hear joint SEN/disability cases together;
 - the operation of different time limits for SEN and disability appeals might be problematic, but we urged that there should be no undue delay in hearing SEN cases because of a related disability claim; and that the arrangements for joining cases should be sufficiently flexible so as to allow for cases to be joined, or not, as appeared appropriate in all the circumstances of any particular case;
 - we favoured giving the President the same discretionary powers as he has in SEN cases;
 - we suggested that there might be a need for a preliminary hearing where any question arises as to whether an appellant satisfies the definition of disability under the Disability Discrimination Act 1995;
 - we asked for further information on how the Department aimed to ensure that the voice of the child was heard, and suggested that this might raise particular training needs for tribunal chairmen;
 - we did not favour limiting the numbers of witnesses who could attend a hearing but suggested that this should be at the discretion of the tribunal chairman.

School Admission Adjudicators

10. We were invited to attend an informal oral hearing being held by a school admissions adjudicator. It was a good example of the way in which an adjudicator can not only provide an opportunity to those affected by the proposals to explain their concerns or support to him directly, but also for him to learn about issues which may not come through fully in the papers submitted to him. In a public meeting, however, and particularly one without any formal structure, it required an experienced hand to control it so that maximum benefit was derived. The clear impression was that this was achieved.
11. Our Chairman had a meeting with the Chief Adjudicator, Sir Peter Newsam, whose appointment was due to come to an end on 31 August 2002. Sir Peter advised that the intake of cases remained steady and the adjudicators had set challenging targets which they were meeting. Adjudicators' decisions had also stood up well to scrutiny in the courts.
12. However, there was concern about the adjudicators' appointments, all of which had been extended to April 2003 in the interim period, pending clarification by the Department of a legal question, and all of which therefore fell due for renewal or otherwise at the same time. We had considered this unsatisfactory when we first became aware of it, and will wish to monitor the position closely in the coming months.
13. Sir Peter advised that consideration was being given to an appropriate appraisal system for adjudicators, on which, at our suggestion, he had earlier sought advice from His Honour Judge Harris in the Appeals Service. We look forward to learning of proposals which we understand will be taken forward by Sir Peter's successor.
14. We wish Sir Peter well in his retirement following the achievement of setting up this new jurisdiction. Sir Peter's successor will be Professor Philip Hunter, currently a visiting professor of education at Keele University, who takes up his post on 1 September 2002. We look forward to meeting him in due course.

4 Employment

Employment Act 2002

1. The main areas covered by this Act are paternity and adoption leave and pay, maternity leave and pay, flexible working, employment tribunal reform and resolving disputes between employers and employees. These last two areas were the subject of a consultation paper entitled "Routes to Resolution: Improving Dispute Resolution in Britain", published in July 2001.



The consultation paper

2. The "Routes to Resolution" consultation paper was issued against a background of ever-increasing recourse to employment tribunals, which, as we have warned in successive Annual Reports, is putting the system under great strain. Our main interest was in the chapter on modernising employment tribunals, but we also looked at proposals concerned with resolving disputes at work and promoting conciliation. The general thrust of the consultation paper was to try to ensure that wherever possible disputes should be resolved without the need to go to a tribunal. We appreciated the opportunity of discussing the proposals with officials before we responded.
3. We believe that in current conditions, with the steep increase in the number of cases coming before tribunals and the greater awareness of the importance of fair disciplinary procedures, there are now very strong arguments for disallowing applications until workplace procedures have been completed. We recognise that there may be difficulties in requiring people who are no longer in employment to go through internal procedures, for example if they have left employment in circumstances which could be argued to amount to constructive dismissal. However, we thought that the framework of minimum procedural steps for disciplinary and grievance procedures set out in the consultation paper could be sufficiently flexible to meet most cases. It would help to ensure that, so far as possible, disagreements are addressed before positions become polarised, and would avoid the position where employees (or their advisers) seek to put pressure on employers by making a tribunal application without warning.
4. We expressed doubts about how effective the increase or reduction of a compensatory award would be in securing compliance with the minimum procedural steps. At the time when disciplinary or grievance procedures are (or should be) invoked, the possibility of an adjusted compensatory award at the end of the day may seem remote. It might also lead to greater complexity in tribunal cases. We thought the same might go for the award of additional compensation to reflect the absence of an employer's "written statement" (written particulars of the terms and conditions of employment). However, we did support the removal of the 20 employee threshold for including details of disciplinary or grievance procedures in the written statement.

5. More generally we commented that despite increasing awareness there remains a need to educate some employers, particularly small employers, about the importance of fair disciplinary and grievance procedures. We welcomed the consideration that was being given to how this can be achieved. Finally on the subject of internal workplace procedures, we supported the proposal to allow tribunals to disregard procedural mistakes beyond a set of minimum procedural actions if they made no difference to the outcome of a case.
6. On promoting conciliation, we made it clear that in principle we are in favour of alternative forms of dispute resolution. We agreed that conciliation can be particularly helpful in resolving employment disputes. We did not favour removing ACAS's duty to conciliate in certain types of dispute, but we supported the introduction of a fixed period for conciliation. We feared that funding was likely to prove a serious obstacle to any more general extension of alternative dispute resolution in this area.
7. On modernising employment tribunals, we resolutely opposed a proposal to introduce charging for applications to employment tribunals and when a case is listed for hearing. Since this proposal was subsequently dropped, we perhaps need say no more about it, except that we were very concerned about its impact on people who had lost their jobs and its deterrent effect in relation to hearings. While additional funding for improvements in the tribunal and conciliation services is vital, we could not regard the charging of fees as the right solution.
8. There were also proposals relating to costs. Our view was that there should be no further changes to the costs regime until a study and research had been carried out, as recommended in the Leggatt Report. We therefore did not comment on some of the detailed proposals, for example payments in respect of preparation time. We said that tribunals should be trusted to exercise their discretionary powers to award costs in a proper way, giving reasons for their decisions where necessary, and that there was no need for a change in the presumption on awarding costs in "weak" cases. So far as wasted costs orders against representatives were concerned, we pointed out that wasted costs orders had proved a fruitful source of litigation in the courts, which we did not wish to see replicated in tribunals. We suggested that a better solution to the problem of "vexatious" representatives might be a regulatory system such as now exists in respect of immigration advisers.
9. We were content that tribunal forms should be revised and made mandatory. We strongly supported giving Presidents the power to issue Practice Directions. We thought that proposals for a fast track system for certain jurisdictions tended to underestimate the importance of oral hearings. We also thought that recent changes to ensure that weak cases are identified and determined early should be given a chance to show their worth, before further change was considered.

The new Act

10. Broadly speaking the new Act follows the proposals in the consultation paper. So far as the tribunals themselves are concerned, most of the new provisions will be given effect by employment tribunal procedure regulations on which we will be consulted. These include:
 - awards of costs against representatives;
 - payments in respect of preparation time;
 - allowing tribunals, in making costs awards, to take account of a party's ability to pay (restoring the position as it was generally supposed to be before a recent Court of Appeal decision);
 - fixed period for ACAS conciliation, preserving ACAS's role in all jurisdictions where it currently has a duty to act, but with the duty becoming a power once the fixed period has expired;
 - delegated power to prescribe forms etc.;
 - determination of cases without a hearing, subject to safeguards;
 - issuing Practice Directions;
 - striking out cases at a pre-hearing review on grounds that do not go beyond those applicable to other stages in the proceedings.

11. So far as dispute resolution in the workplace is concerned, the Act will bring in:
 - provisions setting out statutory dismissal and disciplinary procedures and statutory grievance procedures;
 - powers to make these statutory procedures an implied term of all contracts of employment;
 - provisions to enable tribunals to vary compensatory awards by up to 50% where the employer or the applicant has failed to use the minimum statutory procedures;
 - provisions preventing certain categories of complaint from being presented to tribunals until the first step of the grievance procedures has been completed and at least 28 days have elapsed thereafter;
 - powers to extend, and to enable employment tribunals to extend, the time limits within which claims need to be made, to allow the relevant statutory procedures to be completed;
 - provisions which will make it unfair for employers to dismiss an employee without meeting their obligations under the statutory dismissal and disciplinary procedures (but tribunals to disregard any failures by an employer to take other procedural actions outside the framework of the statutory procedure where taking such actions would have had no effect on the decision to dismiss);
 - changes to statutory requirements as to written statements of terms and conditions - tribunals to make or increase award in certain circumstances where there has been non-compliance.

12. Other changes made by the Act include:
- introducing equal pay questionnaires equivalent to the questionnaires currently available in disputes about sex, race and disability discrimination (a proposal we supported in consultation on equal pay procedures);
 - new jurisdiction for employment tribunals in connection with Union Learning Representatives (a new type of lay union representative whose main function is to advise union members about their training, educational and developmental needs) and with flexible working;
 - power to modify provisions relating to Dismissal Procedures Agreements to ensure compliance with the Human Rights Act 1998.
13. We hope that the new Act will succeed in its purpose of ensuring that, so far as possible, most employment disputes are satisfactorily resolved in the workplace without the need for recourse to employment tribunals. We look forward to consultation on detailed implementation. We note concerns that some of the new provisions will make employment tribunal proceedings more complicated and lead to longer hearings. We shall monitor this.

Employment Tribunal System Taskforce

14. In October 2001 the Government set up the Employment Tribunal System Taskforce to make recommendations to the Secretary of State for Trade and Industry and the Lord Chancellor on how services can be made more efficient and cost effective for users, against a background of rising caseloads. The Taskforce was chaired by Janet Gaymer, a distinguished solicitor, and included representatives of the TUC, CBI and ACAS as well as the Presidents of the Employment Tribunals in England and Wales and in Scotland. Our former colleague Professor Martin Partington provided expert advice.
15. We responded to the Taskforce's request for views and a member of our Secretariat took part in a consultation forum in April 2002. In our submission to the Taskforce we said that we supported the recommendation in the Leggatt Report that employment tribunals should form part of a unified Tribunal Service. In our view it is important that employment tribunals should retain and indeed enhance their tribunal ethos, with all that that implies in terms of cheapness, accessibility, freedom from technicality, expedition and expert knowledge of their particular subject.
16. We went on to suggest that some of the dissatisfaction within the employment tribunals themselves stems from the fact that they are sponsored by the Department with the main policy responsibility. This has the disadvantage that the tribunals are not seen as truly independent; that they are accorded a low priority in terms of resources and efficient administration; and that they are regarded by the sponsoring Department as an instrument of policy instead of part of the judicial arm of the State. If responsibility

for the tribunals were transferred to a unified Tribunal Service under the Lord Chancellor's Department, we firmly believe that a major source of dissatisfaction would be removed.

17. As to the argument that employment tribunals are essentially labour courts and should not therefore be part of a unified Tribunal Service, we strongly endorsed the Leggatt Report's view that the features that are common to citizen v state tribunals and party v party tribunals are much more important than those that divide them. We believe that the improvements that users wish to see in employment tribunals would more readily be achieved if the tribunals were integrated into a unified service focused on users' needs.
18. On the matter of hearings, we commented that on our visits to tribunals we had noticed a divergence of approach from one tribunal to another. We have seen hearings involving unrepresented parties that have been a model of the "enabling" approach advocated by Leggatt. On the other hand we have noticed a tendency where both parties are represented for the tribunal to rely on the arguments and evidence put before it without exploring matters that seem to need clarification. Difficulties can also arise where one party (often the employer) is represented and the other is not, though we have certainly seen instances where this has been handled extremely well by the tribunal. We suggested to the Taskforce that encouraging the enabling approach was largely a matter of training. It is not that the tribunals lack the necessary means.
19. The Taskforce published its Report at the end of July 2002 (the close of our reporting period). It made 61 recommendations for making the employment tribunal system more efficient and cost effective for users. We shall study the report with interest.

5 Finance and Tax

Tax Credits Act 2002



1. The Tax Credits Act 2002 introduces two new credits, one for families with children (child tax credit) and the other for working households facing disadvantage (working tax credit). The new tax credits will be administered by the Inland Revenue. Responsibility for child benefit and guardian's allowance is also transferred to the Inland Revenue. The legislation provides for appeals in respect of the new tax credits to go to the General Commissioners of Income Tax or, if the appellant chooses, to the Special Commissioners. In effect this means that matters which, as part of the social security system, have been within the province of the Appeals Service will now fall to be considered by the tax appeals system.
2. Along with others, we expressed concerns as to whether the tax appeals system as at present constituted was fully equipped to deal with tax credit appeals by claimants. We referred to similar concerns that we had expressed at the time of the Social Security (Transfer of Functions etc.) Act 1999 and the Tax Credits Act 1999. As before, our concerns were to be seen in the context of the examination of the tax appeals system generally and recognised that there was work to be done before the system could match the demands of this new work.
3. We thought there was a powerful case for tax credit appeals by claimants remaining with the Appeals Service, at least for the time being. The new Tax Credits Act widens the client base for tax credits very considerably and the volume of appeals is likely to increase. The Appeals Service tribunals, and the Social Security Commissioners on appeal, have the necessary expertise both in the relevant law and in dealing with claimants, who often come from the most disadvantaged sections of society. The tribunals are chaired by a lawyer and may include an accountant in appropriate cases. There are suitable hearing venues across the country. We also thought it vital, in the interests of the proper development of the law and of fairness in individual cases, that there should be consistency in the interpretation of statutory provisions affecting both social security and tax credits.
4. We are therefore pleased that the Government decided to amend the Tax Credits Bill to provide for appeals by claimants in respect of the new tax credits to go to the Appeals Service until an appointed day. As the Government explained, both the Tax Law Review Committee and the Leggatt Report identified the need to modernise the handling of tax appeals. The Lord Chancellor's Department is currently examining and evaluating options for modernisation and reform through an interdepartmental project (in which we are involved). Options will be worked out for consideration by Ministers later this year. Only when reforms of the system for handling tax appeals are in place will tax credit appeals by claimants be transferred to the reformed system.

5. Meanwhile the Lord Chancellor's Department, in conjunction with the National Association of General Commissioners of Income Tax and the Judicial Studies Board, has been developing a properly funded programme of training for General Commissioners in tribunal and technical skills. The training programme will roll out later this year and will be developed further in 2003/2004. Consideration is also being given to the amalgamation of divisions of General Commissioners and to holding appeal hearings in public. The Department has launched a General Commissioner website, the main aim of which is to give guidance and information to taxpayers who disagree with a decision made by the Inland Revenue. We welcome these developments.

Financial Services and Markets Tribunal

6. The main provisions of the Financial Services and Markets Act 2000, described in previous Annual Reports, came into force on 1 December 2001. The Financial Services and Markets Tribunal set up under the Act is now fully operational, and we look forward to visiting a hearing. The Tribunal's President is His Honour Stephen Oliver QC, who is also Presiding Special Commissioner and President of the VAT and Duties Tribunals. Previously the Special Commissioners and the VAT and Duties Tribunals, which are jointly administered, were known for operational purposes as the Combined Tax Tribunal. With the addition of the new Tribunal, the organisation is now known as the Finance and Tax Tribunal.

6 Health and Care

Reform of the Mental Health Act 1983

1. We have liaised with the Department of Health on the reform of mental health legislation and the developing proposals for new tribunal arrangements. Members of our Health Committee had a number of useful meetings with policy officials at which discussions centred on proposals for a new two-tier tribunal system under a single National President. We approved of the proposal for a National President but had some reservations about the proposal that the President should be responsible for both tiers of appeals. Our main concern was that the two tiers should be kept quite separate, with two distinct panels of members. We saw the potential for a conflict of interest since the decisions of the second appeal tier would inevitably impact on the decisions of the first. We said that it would be important to be very clear about the President's role in overseeing the new two-tier structure.



2. The Government issued a Consultation Paper in June covering a draft Mental Health Bill and we were pleased to note that our views had been heeded. The Bill proposes separate tribunal structures, namely the Mental Health Tribunal and the Mental Health Appeal Tribunal, with separate Presidents appointed for each tier. We made the following comments in our response to the consultation paper:

- on the proposal for single member tribunal hearings, we agreed there was a good case for providing for greater flexibility in the composition of the Mental Health Tribunal, and for enabling a single person tribunal to deal with particular, well-defined interim or procedural categories of issue. However, we would expect that any substantive issue concerning the use of compulsory powers would always require a three person tribunal;
- the wide range of issues which will come before the Mental Health Tribunal at the various stages of the assessment and review process could result in the same tribunal members dealing with the same case on a number of separate occasions. We suggested that, as far as possible, any application for variation or discharge should be heard by a different panel to that which made the initial order;
- in the light of the anticipated significant increase in workload of the new Mental Health Tribunal, we re-emphasised the need for effective support functions and urged the Department to carry out a full evaluation of the workload implications for both tribunals;
- we welcomed in principle the provisions relating to mental health advocacy services, but urged that this should not be seen as a substitute for legally aided representation for patients;

- we considered that the "relevant conditions" for compulsory detention were rather too broadly drawn and could have an adverse effect on the workload of the Mental Health Tribunal and also make it difficult for tribunals to discharge patients from compulsory detention;
- the new issues which would fall to the Mental Health Tribunal, such as the approval of treatment plans, would lead to tribunal members needing additional skills.

The Mental Health Review Tribunal

3. Our concerns, reported last year, about the new arrangements for the clerking of Mental Health Review Tribunal (MHRT) hearings, involving the use of the tribunal assistants provided by NHS Trusts, have been the subject of separate discussions. At a meeting with our Health Committee Mrs Margaret Burn, the Head of the MHRT Secretariat, explained how the new clerking arrangements were being implemented and monitored through feedback returns from Tribunal Presidents. At the time of the meeting last November, take-up of the new arrangements by Trusts was reported to be slow, with some Trusts resorting to using Agency staff provided by the MHRT. Others were forming co-operatives.
4. We have since received evaluation data from Mrs Burn showing a significant increase in the numbers of clerked MHRT hearings. As at March 2002, the data showed that 86% of all hearings were being clerked. We sought information on the qualitative aspects of the new clerking arrangements and have received data showing high levels of satisfaction with the arrangements for issuing reports, the quality of tribunal accommodation, and the quality of service provided by the new Tribunal assistants. If sustained, these results would materially allay our concerns.
5. We were pleased to be represented by one of our members at an induction training seminar for newly appointed MHRT members. Following the event we provided feedback to the Chairman of the MHRT National Training Group, Mrs Howell. In general terms our colleague found that the training was very well structured and thought that the members of the National Training Group worked well as a team. Comments made by the trainees were almost without exception very favourable.

Proposal for draft Remedial Order to amend the Mental Health Act 1983

6. We were consulted by the Joint Committee on Human Rights of the House of Lords on proposals for a draft Remedial Order to amend sections 72 and 73 of the Mental Health Act 1983, which had been found by the Court of Appeal to be incompatible with Articles 5(1) and (4) of the European Convention on Human Rights. We were broadly content with the wording of the draft Order but noted that section 72(4) of the Act, concerning applications to the MHRT in respect of a patient who is subject to guardianship, was couched in the same terms as the existing section 72(1).

Appointment of MHRT Liaison Judge

7. We were notified of the Lord Chancellor's proposal to create the post of Liaison Judge for the MHRT, whose role would be akin to a Presidential Head. Our Chairman wrote to the Lord Chancellor warmly welcoming this proposal, which we thought constituted a significant move towards the creation of a Presidential system for the MHRT, which we have advocated for many years. On 31 July 2002 the Lord Chancellor appointed His Honour Judge Sycamore to this post.

Care Standards Tribunal

8. The Care Standards Tribunal came fully into operation on 1 April 2002, under the President, His Honour Judge David Pearl. In addition to its jurisdiction under the Care Standards Act 2000, the Tribunal also subsumed the functions of the Registered Homes and Protection of Children Act Tribunals.
9. We were consulted at various stages on the procedural rules for the new Tribunal and voiced the following concerns:
 - we raised firm objections to the provision for cost warnings and deposits, particularly in the light of the provision for striking out scandalous, frivolous or vexatious appeals, which we thought was tantamount to double provision for imposing penalties;
 - the draft regulations provided for appeals to be struck out in the event of an appellant's death and we suggested that this provision should be permissive rather than mandatory, since we could see that there might be some circumstances in which an appeal should be allowed to proceed;
 - we suggested that there might be a need for a "good cause" provision to provide for circumstances where an appellant may have a good reason for not responding precisely as directed by the Tribunal, which could lead to an appeal being struck out.

As a consequence, we note that the final regulations, as they came into force on 25 March 2002, took account of most of these concerns.

10. Our primary concern centred on the procedures for suspending the registration of childminders and providers of day care for children under 8, and particularly in respect of the time limits for appeals. The draft regulations proposed a time limit of 5 working days for submitting an appeal, which we thought was both unreasonable and unworkable. We also thought that some of the other time limits - 3 days to respond to an appeal, 3 days notice of a hearing, and 5 days notice to a summoned witness - were equally unreasonable and unworkable. In our response we drew attention to the time limits provisions in our "Model Rules of Procedure for Tribunals".

11. We received a fairly positive response to the effect that the policy officials were re-considering the extent to which the time limits might be made slightly more generous. We appreciated the underlying reasons behind the need to have tight time limits for these cases, bearing in mind the aim of protecting vulnerable children, but remained of the view that the time limits as they stood were inadequate and unworkable. We understand this matter is still under consideration and look forward to being consulted on any further amendment to the Rules.

Health Authority Discipline Committees

12. In the past year we have made a number of additional visits to hearings of the Health Authority Discipline Committees (HADCs), which deal with cases of alleged breach of service by NHS practitioners, in anticipation of producing a Special Report on their operation. In this connection, we have also sought views from other outside interested parties, including the Medical and Dental Defence Unions and the London Disciplinary Forum, which comprises a group of Health Authority Discipline Committee clerks who meet regularly to exchange ideas and share good practice.
13. Among our concerns which are likely to be covered in the Report are the following:
 - the lack of neutrality of some hearing venues;
 - the infrequency with which some Committee members sit, and the difficulty that causes in enabling them to maintain an up to date knowledge of the regulations and procedures;
 - the lack of training for committee members;
 - the unreasonable delays in cases being heard;
 - the potential for improving the quality of hearings by allowing legal representation;
 - the lack of structure at the deliberation stage of some hearings (due largely to the size and unwieldy nature of the Committees);
 - the potential for straightforward cases to be resolved without the need for a hearing, through better case management and scrutiny by Health Authorities at the initial stage;
 - the difficulty for the Committees in making recommendations without prior knowledge of a practitioner's past record;
 - misinterpretation of the statement of case;
 - failure to call adequate witnesses;
 - the role of the clerk to the Committee;
 - the potential benefits of establishing consortia and forums of HAs.
14. It has been our view for some time that the procedural rules under which the HADCs operate should be reviewed but this was not afforded high priority by the Department. However, in the light of the powers to implement changes taken in the Health and Social Care Act 2011, the prospective changes to the arrangements under which

GPs provide NHS services are likely to necessitate considerable change to the existing discipline committee system. We hope that the findings and recommendations in our Special Report will inform the development of the new arrangements.

15. The abolition of Health Authorities in their current form, as a result of the NHS Reform and Health Care Professions Act 2002, will mean that each Primary Care Trust in England and Local Health Board in Wales will have to deal with a range of disciplinary issues within primary care services for which there will have to be a system to carry out the present functions of the HADCs. We will monitor developments in this area during the coming year.

Family Health Services Appeal Authority

16. We reported last year on the creation of the new Family Health Services Appeal Authority (FHSAA), which assumed the previous jurisdiction of the National Health Service Tribunal in respect of appeals against decisions of Health Authorities to suspend or remove an individual from the list of health practitioners. Mr Paul Kelly took up post as the President of the new Tribunal in December 2001. We have not yet had the opportunity to attend a hearing of the new FHSAA and understand that there have been very few cases to date.
17. The former Family Health Services Appeal Authority is now renamed the Family Health Services Appeal Authority (Special Health Authority) (FHSAA(SHA)) and continues to hear those appeals delegated to it by the Secretary of State against decisions of Health Authorities. It provides administrative support to the new FHSAA but has no involvement in its decision making process. In gathering evidence for the Special Report on HADCs we had a useful meeting with Mr Paul Burns, the Acting Chief Executive of the FHSAA(SHA).

The FHSAA (Procedure) Rules 2001

18. We were consulted on an early draft of the procedural rules for the new FHSAA which was due to come into operation on 1 October 2001. We were generally content with the Rules but offered comment on the following matters:
 - we were concerned at the lack of specific provision in respect of time limits for appealing, and particularly the circumstances in which the time limit for appeals might be extended;
 - we suggested that the Rules ought to include a specific statement to the effect that the question of whether to restrict disclosure of certain information was a matter solely for the Tribunal;
 - we noted the lack of provision for review of a tribunal's decision in the light of new evidence;

- we also noted that the Rules made no mention of certain matters pertaining to the administrative arrangements for appeal hearings (i.e. notice of the place and time of hearing; public notice of hearings; absence of a panel member, power of the Chairman to exercise powers of the panel, etc.).

We were reassured to note that these concerns were borne in mind in later drafts of the Rules.

Accreditation of out of hours service providers

19. The Department consulted us on proposals to make regulations under section 18 of the Health and Social Care Act 2001, to provide an additional appellate function for the FHSAA, to hear appeals against the refusal or withdrawal of accreditation for out of hours service providers. We were content with this proposal, which appeared to be a reasonable and sensible extension of the FHSAA's jurisdiction.

The Abolition of the NHS Tribunal in Wales

20. We were consulted on a proposal by the National Assembly for Wales to abolish the NHS Tribunal's jurisdiction in Wales and to transfer this jurisdiction to the new FHSAA in Wales. We were content to note that the effect of this would be to mirror the existing arrangements for England.

7 Immigration and Asylum

Nationality, Immigration and Asylum Bill

1. The Nationality, Immigration and Asylum Bill maintained the pattern, going back to 1993, of a major piece of legislation dealing with immigration and asylum every three years. Over that period, in successive Annual Reports, we have expressed our concerns about the ever-increasing burden of asylum cases on the Immigration Appellate Authorities, the need for improved decision making by the immigration authorities, and the importance of safeguarding the interests of appellants.

The White Paper



2. The Bill was preceded by a White Paper "Secure Borders, Safe Haven: Integration with Diversity in Modern Britain" (CM 5387, February 2002). The Government invited comments on the proposals. Our main interest lay in the proposals for immigration and asylum appeals.
3. The first set of proposals was aimed at tightening up the one-stop appeal procedure introduced by the Immigration and Asylum Act 1999. We had accepted the principle underlying the one-stop procedure. The proposed changes seemed to be essentially matters of policy on which we made no comment.
4. The White Paper proposed to introduce personal delivery of some asylum appeal determinations, concentrating initially on unsuccessful appeal cases where statutory rights of appeal had been exhausted. Previously the appellant had been notified at the same time as the Home Office, resulting in a high level of absconding on receipt of the determination. The Government proposed to evaluate the new method of notification and to consider expanding it to cover all reporting centres and all appeal determinations.
5. This proposal in fact related to the Immigration and Asylum Appeals (Procedure) (Amendment) Rules 2001 (S.I. 2001/4014) on which we had already been consulted at extremely short notice at the end of 2001. The rules provided that, where asylum seekers had exhausted their rights of appeal, notice of the final adverse determination would be served on them by the Home Office instead of by the Immigration Appellate Authorities. We were concerned that asylum seekers notified in this way would not have adequate opportunity to take advice (for example about judicial review) before removal. We also thought that the process was not conducive to perceptions of the openness, independence and impartiality of the tribunal.
6. We made our concerns known to Ministers both before and after the rules were made. Ministers took the view that notification of a decision was an administrative matter and that the new procedure did not compromise judicial independence. They

also gave certain assurances about the opportunity to take advice. However, we were not persuaded that this was the right way to tackle the problem of absconding. We were therefore very concerned at the White Paper's suggestion that the new method of communicating decisions might be extended. We noted that it was to be evaluated.

7. The White Paper briefly outlined proposals for reducing the frequency of adjournments, cutting down the number of late appeals, and applying a more structured use of "fast-tracking" to appeals to the Immigration Appeal Tribunal. Although there was insufficient detail on which to make constructive comment, we were concerned that some of the proposals were liable to cause injustice and lead to more appeals and applications for judicial review.
8. It was proposed that the Tribunal should deal only with appeals on points of law (to which we made no objection) and that it should be designated as a superior court of record. While not opposed in principle to an enhanced status for the Tribunal, we were concerned about the possible effect on the jurisdiction of the courts to review the Tribunal's decisions, particularly decisions refusing permission to appeal. Such decisions, which are taken by single legally qualified members of the Tribunal on consideration of the papers, ought to be capable of being tested in the courts.
9. On judicial review, the White Paper proposed measures to tighten up the funding of legal representation and to expedite the judicial review process where removal directions have been set. While recognising the need for proper use of public money and for a quicker judicial review process, we did not think that improvements in this direction should concentrate solely on immigration and asylum cases.

The Bill

10. The Bill was introduced hard on the heels of the White Paper. On Second Reading in the Commons the Home Secretary indicated that the Bill would be subject to Government amendments during its Commons passage. He also announced that fees for family visitor appeals would be abolished. This is a decision that we welcome.
11. Some of the Government amendments went well beyond the White Paper proposals and had not been subject to consultation. Debate on many provisions was guillotined. In the form in which the Bill reached the Lords, it contained a large number of provisions about appeals, some of them reflecting existing statutory provision but others introducing major changes. It is possible to mention only the more significant provisions. They include:
 - right of appeal to Immigration Appellate Authorities in respect of deprivation of citizenship;
 - right of appeal to Asylum Support Adjudicators in respect of withdrawal of support in accommodation centres;



- right of appeal to Immigration Services Tribunal in respect of Immigration Services Commissioner's decision to vary an adviser's registration at any time without a disciplinary charge being laid;
- re-statement with modifications of provisions relating to immigration adjudicators and Immigration Appeal Tribunal;
- President of the Immigration Appeal Tribunal to be a senior judge (High Court or above);
- appeals from adjudicators to the Tribunal on points of law only, with permission;
- new procedure for review of Tribunal's refusal of permission by single High Court judge on consideration of the papers only, the judge's decision being final - power for judge to issue certificate of "no merit" (with possible consequences for Community Legal Service funding);
- alteration and restructuring of provisions for immigration and asylum appeals;
- Secretary of State's certification of asylum or human rights claims where claim is clearly unfounded or where person is to be removed to a country of which they are not a national and the Secretary of State has no reason to believe that their Convention rights will be breached in that country - effect of certification is that the person cannot appeal against the decision while in the UK;
- certification of cases where a particular matter has been, or could have been, raised on an earlier appeal - in some circumstances certification means there is no right of appeal;
- rules to make provision in respect of adjournments by adjudicator, including provision prohibiting an adjudicator from adjourning except in specified circumstances and requiring an adjudicator to determine an appeal within a specified period;
- rules to make provision about use of electronic communication in the course of or in connection with a hearing (e.g. remote video links);
- rules to make provision about the consolidation of appeals;
- rules to make provision about costs before adjudicators and the Immigration Appeal Tribunal, including disallowing all or part of a representative's costs, requiring a representative to pay costs (e.g. if they act improperly) and allowing adjudicators and the Tribunal to issue certificates of "no merit" (so that if a case has been receiving Community Legal Service funding, the Legal Services Commission may decide whether fees should be paid for work done on the meritless application).

Conclusion

12. Some of these provisions cause us great concern. In particular, the provisions whereby appeals in respect of certain certificated asylum and human rights claims may not be made while the appellant is in the UK seem to us to present considerable practical problems and to be capable of leading to unfairness and injustice. The requirement to conduct appeals from abroad will make it more difficult for adjudicators to assess the evidence of appellants. It will also make it more difficult for appellants to

have face-to-face discussions with their advisers and to present their cases satisfactorily. Costs will inevitably be greater. And there could be serious problems with regard to the status and safety of tribunal users in the countries from which they are appealing.

13. We are also concerned about the costs provisions, particularly those for awarding costs against representatives or disallowing all or part of their costs. This could lead to inefficiency resulting from a reduction in the number of advisers willing or able to conduct a case vigorously for an appellant for fear of costs sanctions. In our view, a representative should not be penalised in costs simply because a case transpires on examination to be without merit. We firmly adhere to the view that the test for the award of costs in tribunals should be frivolous, vexatious or unreasonable behaviour.

Other matters

14. We have continued to maintain close contact with the Immigration Appellate Authorities. This included our first visit to an Immigration Appeal Tribunal hearing conducted by video link between Glasgow and London, with one of our members at the Glasgow end and a member of our Secretariat at the Tribunal's new premises in Field House, Breams Buildings in London. We consider that video linking has great potential for tribunals generally.
15. We have also continued our visits to Asylum Support Adjudicators. We are pleased that amendments to the procedural rules for this tribunal are under consideration by an interdepartmental Review Group. We are represented on the Review Group by a member of our Secretariat. In our view the existing rules are too rigid with regard to time limits and give the adjudicators insufficient case management powers to do justice in certain cases. The amendments proposed by the Chief Asylum Support Adjudicator seem to us to be necessary. We look forward to consultation on amending rules in due course.
16. In view of our adverse comments in our last Annual Report, we are very pleased to report that the procedural rules for the Immigration Services Tribunal have been amended to provide for the attendance of our members at the deliberations of this tribunal. We look forward to making visits soon.

8 Local Government

Local Government Act 2000

1. In our Annual Report for 1999/2000 (Chapter 6, paras.10-16) we discussed the provisions in the Local Government Act 2000 for adjudication by case tribunals on alleged breaches by local authority members of a local authority's code of conduct. Case tribunals are under our supervision. They will be drawn from Adjudication Panels, one for England and one for Wales. We were consulted some while ago on procedural rules for case tribunals in Wales, but there are as yet no procedural rules for case tribunals in England. The first cases are expected shortly.
2. There is power under the legislation for the President of the Adjudication Panel to give directions as to practice and procedure. The President has consulted us on proposed directions and these will be issued in September 2002. However, we are firmly of the view that Presidential directions are no substitute for statutory regulations. We understand that the Office of the Deputy Prime Minister will be issuing statutory regulations later in the year.
3. In England, cases are referred to the Adjudication Panel by the Standards Board following investigation of alleged breaches of the code. It is therefore important that the Adjudication Panel should be seen to be separate from the Standards Board. We are pleased to note that the Adjudication Panel has established a base geographically separate from the Standards Board and, although resourced by the Standards Board, is being serviced by staff from another tribunal service. We are also pleased to note that the President of the Adjudication Panel intends case tribunals to be chaired by legally qualified members.

Draft Local Government Bill

4. In last year's Annual Report (Chapter 7, para.4) we referred to proposals for giving statutory backing to the administrative reorganisation of valuation tribunals in England following the 1999 Financial Management and Policy Review. Towards the close of this year's reporting period the Government published for consultation a draft Local Government Bill which would, among other things, give effect to this proposal. We have raised various issues on the draft Bill and shall report further on the matter next year.

Local authority inquiries

5. Last year the Society of Local Authority Chief Executives and Senior Managers (SOLACE) agreed to examine again the conduct of ad hoc inquiries by local authorities, on which it last reported in 1978. A Review Group was set up under the chairmanship of Mr Roger Jefferies, a former local authority Chief Executive and subsequently Independent Housing Ombudsman. We were invited to send a representative to take part in the work of the Review Group. Although most local authority ad hoc inquiries fall outside our statutory remit, we were very glad to be represented. Accordingly Mr Sam Jones, himself a former local authority Chief Executive and Town Clerk, joined the Review Group, supported by a member of our Secretariat. Mr Jones agreed to remain on the Review Group notwithstanding that his term as a member of the Council on Tribunals was due to expire at the end of August 2002.

6. The establishment of the Review Group happened to dovetail with one of the provisional recommendations in the Law Commission's Consultation Paper No.163 on the Publication of Local Authority Reports (April 2002). That paper addressed certain difficulties that had been identified in the Report of the Tribunal of Inquiry into child abuse in North Wales ("the Waterhouse Report", HC 201). The Law Commission's provisional view was that the drawing up of a Code of Practice for local authority inquiries would, along with other measures, assist in resolving the particular difficulties that the consultation paper addressed. The Law Commission thought that the necessary Code of Practice was, in effect, already being developed by the SOLACE Review Group. We look forward to the outcome of the Review Group's deliberations.

9 Property and Land

Planning and related matters

1. In December 2001 the Government published a Planning Green Paper and consultative documents on planning obligations, major infrastructure projects and compulsory purchase. We responded to all of these except the one on planning obligations, which dealt entirely with policy matters outside our remit.

Planning Green Paper



2. Our interest in the Green Paper "Planning: Delivering a Fundamental Change" arises from our statutory functions relating to inquiry procedures. Our remit also extends to procedures for examinations in public in connection with structure plans. We are not concerned with planning policy as such. Consequently our comments on the Green Paper were limited to a few specific points.
3. We noted the proposals to abolish county structure plans and to replace local plans and Unitary Development Plans with less detailed Local Development Frameworks, including community based action plans and new arrangements for community involvement in their preparation. We thought that if there were no longer to be local plan inquiries there must be some appropriate replacement to enable people's views to be heard and the substantive merits of objections to be considered. We thought that scrutiny of the Framework should not be confined to testing its adequacy and the process by which it was prepared. At this early stage in the development of proposals we did not have a firm view on the best procedures for the adoption of Frameworks and action plans, but we asked to be consulted on the detail of the procedures whichever options were taken forward.
4. There were two proposals on planning appeals. The first was that, in appeals against non-determination, the inspector should pick up the local authority's case file and take over jurisdiction, rather than start afresh; we thought this seemed on the face of it to be a rational attempt to prevent more time elapsing, but its detailed operation would need further consideration. The second was that the time for appealing against the refusal of permission (or the grant of permission on terms) should be reduced from six to three months; we were content with this.
5. We welcomed the proposal that local authorities should always give reasons for granting a planning application. We also welcomed the intention to review the requirement to publicise planning appeals and called-in applications with the aim of encouraging greater participation.

6. We noted with interest that further work would be undertaken on mediation and consideration given to how a mediation service might be funded and appropriately staffed. We believe that mediation could have a useful role in the resolution of planning disputes, subject to the protection of third party interests. We are especially interested in how mediation might be funded, having regard to our own firm view that there should be no fee for making an appeal.
7. We noted the plans to reduce yet further the time taken by the Planning Inspectorate to decide appeals. This is to be welcomed so long as the quality of decision making is in no way compromised. We also expressed the hope that the aim to reduce delays in reaching decisions in called-in applications and recovered appeals would be realised.

Major infrastructure projects

8. The consultation paper on new Parliamentary procedures for processing major infrastructure projects flowed from an earlier consultation on which we reported fully in our Annual Report for 1998/99 (paragraphs 2.171-2.185). It set out proposals for procedures for informing Parliament of certain major infrastructure projects and obtaining Parliamentary approval for them prior to any public inquiry. The paper said that it was essential, given the overall objective of the new procedures, that the subsequent inquiry, and the inspector conducting it, should take as read the principle of, need for, and location of the project and should focus on the detailed issues of its implementation on the ground. It followed, said the paper, that there would need to be provision to preclude the inspector from recommending against the principle of the project as set out by the terms of Parliament's approval. The terms of reference of the inquiry would be framed accordingly and the inspector would have powers to refuse to hear evidence on matters already addressed by Parliament and falling outside the inquiry's terms of reference.
9. Our objections to this approach were essentially the same as those we expressed in 1999. We thought it unacceptable that objectors to major proposals should be systematically put in a less favourable position than objectors to normal planning proposals. We saw no justification for disadvantaging an individual landowner or houseowner simply because a proposal is more complex or of national significance. We did not wish to see an outcome that detracted from the value of the public inquiry process. Although the consultation paper included proposals to ensure some form of public participation in consideration of the primary question of principle, we adhered to the view that to preclude discussion at the inquiry of matters approved in principle by Parliament was not the right way forward. We preferred an approach that strictly limited the time available for objections and cross-examination. At least objectors would then feel that they had had their say without the outcome being pre-ordained.

Compulsory purchase and compensation

10. The consultation paper on the Government's proposals for reforming the system of compulsory purchase and compensation contained relatively few proposals of direct concern to us. However, we welcomed proposals for widening the categories of statutory objectors, a written procedure where all parties agree, and a single set of inquiry procedure rules with clear deadlines for preparatory procedures. We also thought that the idea of imposing a time limit after which compensation disputes have to be referred to the Lands Tribunal had merit. We supported the suggestion that the Lands Tribunal should handle appeals or arbitration about the applicability to particular situations of the Crichel Down Rules (which govern the arrangements for the disposal of land that is no longer needed for the purpose for which it was compulsorily acquired). More generally, we supported the general aim of speeding up the compulsory purchase process and we commended the increased focus on alternative dispute resolution. We expressed disagreement with the proposals on one matter only, concerned with the amendment of compulsory purchase orders. We think it is fundamental to quote the correct statutory provision in an order, and if there is an error the order should be remade.

The Government's conclusions

11. In July 2002 the Deputy Prime Minister in a policy statement entitled "Sustainable Communities – Delivering through Planning" announced the Government's conclusions on the Planning Green Paper and the other consultative documents. Important proposals include:
 - an enabling power in primary legislation for the Secretary of State to prescribe a timetable for called-in and recovered appeal decisions;
 - major infrastructure projects: clear statements of national policy and more efficient public inquiries (proposal to introduce a Parliamentary Procedure not to be pursued);
 - Local Development Frameworks to be subject to testing by an independent Inspector or Panel;
 - right of objectors to be heard not to be removed (presumption that this will take place in informal hearings);
 - focus of Inspector's or Panel's examination to be on soundness of plan as a whole, not restricted to considering objections as at present;
 - Inspector's or Panel's Report to be binding on local planning authorities;
 - making compulsory purchase simpler, fairer and quicker;
 - original proposal for time limit after which any compensation dispute has to be referred to the Lands Tribunal not to be pursued (perceived risk that acquiring authorities might place undue pressure on claimants to settle quickly for sums less than their proper entitlement in order to avoid being forced to refer case to Tribunal);

- original proposal to extend power to amend compulsory purchase order on confirmation also not pursued, on basis that the necessary notification and objection procedure would offer little advantage over remaking the order;
- improving efficiency of appeal process including reducing time for appeal to three months.

We look forward to further consultation in due course.

Procedural rules

12. We were consulted on a number of sets of procedural rules for inquiries and hearings. The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002 (S.I. 2002/1223), like the proposals for new Parliamentary Procedures discussed above, flowed from an earlier consultation in 1999. The main differences from the ordinary planning inquiry procedure rules are:

- registration of participants;
- requirement for pre-inquiry meeting, and inspector enabled to hold meetings other than pre-inquiry meetings;
- inquiry timetable to be agreed by Secretary of State and not to be varied without his consent;
- power to appoint technical adviser to assess expert evidence and report to inspector on areas of disagreement;
- power to appoint mediator to assist parties reach agreement or to define and narrow areas of disagreement;
- power for inspector to disallow or curtail cross-examination if permitting it or allowing it to continue would result in the timetable not being adhered to.

We were concerned by the rigidity of the timetabling provisions. While accepting the need to limit cross-examination to a strict time period in order to stick to the timetable, we think that refusing to permit cross-examination at all in such circumstances is draconian and could penalise people who were in no way responsible for the slippage. In our view, if the timetable can only be saved by disallowing cross-examination then the proper course would be for the Secretary of State to consent to a variation of it. However, we were unable to secure an amendment to the draft.

13. We were also consulted on proposed rules for rights of way inquiries and hearings. These are not at present governed by statutory procedural rules. We are generally strongly in favour of such rules. They greatly assist in promoting certainty and an effective process. However, rights of way inquiries are concerned with public rights. Ordinary members of the public, who are rarely experts and very seldom represented, should have the opportunity to have their say without being constrained or disadvantaged by over-technical procedures. We expressed concerns on this score which we trust will be taken into account before rules are made.

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14. Other rules on which we were consulted included new rules for enforcement appeals. These were in line with equivalent recent rules for planning appeals. The same was broadly true of various proposed appeal procedures under the Countryside and Rights of Way Act 2000, consultation on which was largely handled by our Secretariat.

Commonhold and Leasehold Reform Act 2002

15. The Commonhold and Leasehold Reform Act finally received Royal Assent in May 2002, an earlier Bill having fallen with the dissolution of Parliament in May 2001. We described the effect of the legislation on leasehold valuation tribunals in last year's Annual Report (Ch.7, paras.1-2). We shall take a keen interest in its implementation.

10 Social Security and Pensions


The Appeals Service

1. The Appeals Service has continued to improve standards of service to its customers. The numbers of cases outstanding at the end of the year reduced from 70,000 in 2000 to 62,000 in 2001; and waiting times for appeals to be heard remained at 13 weeks. When our Chairman addressed the Appeals Service's Annual Conference for Regional and District Chairmen in Harrogate he congratulated the audience on the improvements resulting from improved case management arrangements.
2. Some of the Chairmen in Harrogate reported their increasing concerns about safety issues, particularly when sitting alone at hearings. This is a serious matter which we aim to monitor closely over the coming year.
3. Also of concern to us has been the growing evidence of the failure by the Department of Work and Pensions' Agencies, particularly the Benefits Agency, to provide presenting officers at appeal hearings. Presenting officers fulfil a valuable "amicus curiae" role at hearings and their increasing absence is highly regrettable, particularly in those cases where the appellant is in attendance. The presence of a Presenting Officer also emphasises to the appellant that he or she is appearing before the tribunal on an equal footing to the department, whereas the absence of a Presenting Officer can suggest that the Tribunal and the department are one and the same.
4. One of the members from our Scottish Committee had the opportunity to attend the opening in Stirling of new Appeals Service premises for central Scotland, the sixth new premises opened in Scotland in recent years (and one of 28 across Great Britain over the past year), as part of the Appeals Service's programme of estate modernisation. Our colleague reported favourably on the new premises, which are situated locally beside rail and bus services, and offer greater accessibility to disabled people. The new premises also include other facilities to make hearings accessible to disabled people, such as hearing loop systems, dedicated waiting rooms and special provision for medical examinations.

Housing Benefit and Council Tax Benefit Appeals

5. We reported last year on the transfer of responsibility for Housing Benefit/Council Tax Benefit appeals from local authorities to the Appeals Service in July 2001. Since then we have observed two sets of hearings, where we learned that there has not been the anticipated increase in workload that the Appeals Service expected when it took over these cases, having received 5,800 cases to the end of March 2002 as opposed to the estimated 10,000.

President's Report on Standards of Decision-making

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6. The President's first Report on standards of decision-making, which was based on feedback from District Chairmen and medically qualified panel members on sample appeals cases, highlighted a number of important issues for the Department of Work and Pensions' consideration, including:
 - the vital role played at hearings by Presenting Officers;
 - the positive advantage to appellants of attending hearings, which often produces additional evidence shedding new light on the original decision, sometimes enabling the tribunal to amend the decision in the appellant's favour;
 - the need for decision makers to address mental health issues adequately;
 - the phenomenon whereby appellants may be reluctant to supply information to the Agencies when an appeal is ongoing, but then produce it at a hearing (which suggests to us that there may be scope for Agencies resolving more cases without the need for a tribunal hearing).
 7. We would expect the Department and its Agencies to consider carefully and act upon the issues raised and are pleased to note in the President's second Report, received in July, that the Agencies are working closely with the Appeals Service on the Presenting Officer issue. We acknowledge that the President's Report is naturally restricted to those cases which are taken to appeal; there may be other shortcomings in the adjudication process which, no doubt, the Agencies are alert to through their own monitoring arrangements.

Social Security and Child Support Commissioners

8. We welcomed the continuing development of the Commissioners' web site, which was re-launched in April this year under its own domain name of www.osspsc.gov.uk. The web site contains a wealth of useful information concerning the Commissioners, including advice on procedures for bringing an appeal, Commissioners' practice and procedure notes, and useful links to other jurisdictions including the Appeals Service and the Social Fund Commissioners. The site also provides a useful source of access to highlighted decisions of the Commissioners (cases identified as being of general significance). This is a significant development, particularly in the light of our comments in previous reports about shortcomings in the arrangements for the reporting and publication of Commissioners' decisions.

New case management arrangements

9. The Commissioners have introduced new case management procedures to encourage improvements in the quality of written submissions and to remove unnecessary delays. This is intended to be achieved through directions from the Commissioners as to the key points that need to be covered in submissions, the procedure which appears appropriate for the case, and the types of submissions expected from the parties.

Waiting times

10. The new case management procedures already appear to be having some impact, particularly on waiting times from receipt of an appeal to the hearing which have fallen from 41 weeks in 2000 to 39 weeks in 2001. The Commissioners' office advise that, as at December 2001, the average waiting time stood at 25.3 weeks. This would suggest that the Commissioners are well on track to meet the April 2002 target of 26 weeks from receipt of an appeal to the despatch of a Commissioner's decision.

Pensions Appeal Tribunals

11. We reported last year the measures in hand to reduce waiting times for bringing an appeal to the Pensions Appeal Tribunals (PATs). The Lord Chancellor has set a target to reduce the average time to 20 weeks by April 2003. Last year's average of 82 weeks from receipt to hearing of an appeal has reduced to 64 weeks for the period ending December 2001. Whilst there is still some considerable way to go to meet the Lord Chancellor's 20 week target, this improvement is clearly a step in the right direction.
12. During a meeting with our Chairman, Dr Concannon, the President of the PATs in England and Wales, reported that an expected increase in workload, as a result of the changes brought about by provisions in the Child Support, Pensions and Social Security Act 2000, had not occurred. Although the planned establishment of a PATs user group had not taken place by the time of their meeting, it was still intended. We support this initiative and would urge that it is taken forward. We have been pleased to note the significant improvement in the operation of PATs under the leadership of Dr Concannon, and have been particularly impressed by the high standard of induction and training given to PATs members.
13. We have also urged the Lord Chancellor's Department to tackle the long overdue production of new procedural rules for the PATs. We understand that proposals for amendments to the rules are currently being considered by officials in LCD.

Appendix A: Membership of the Council and Scottish Committee

The past year has seen a number of changes to our membership. Rex Davie CB retired on 21 December 2001. Rex had served as a member of the Council from November 1995. Rex soon established himself as an amiable and diligent member of the Council, contributing significantly to the Visits (as its chair) and Property & Land committees and the deliberations of the former Tribunal Standards and Tribunals' Performance issues groups (chairing the latter). We were very pleased to welcome in his place Sandy Russell, who was appointed on 1 February 2002.

We bid farewell to three members whose appointments all came to an end on 31 August 2002: John Eames, Sam Jones CBE DL, and Ian Irvine CA (also a member of the Scottish Committee) will all be missed for their much valued efforts in taking forward the work of the Council. They each brought with them invaluable expertise in their specialist fields: John in social security; Sam in planning and local government; and Ian in taxation. They will be tough acts to follow. We welcome, with effect from September 2002, Mrs Ros Hepplewhite and Ms Penny Letts who replace Mr Eames and Mr Jones and Mrs Elizabeth Cameron who replaces Mr Irvine.

Council Membership at 31 July 2002



The Rt. Hon. the Lord Newton of Braintree OBE, DL: Chairman of the Council from 1 October 1999. Lord Newton was a Member of Parliament from 1974-97. During that period he held many Ministerial offices including Secretary of State for Social Security (1989-92). Lord President of the Council and Leader of the House of Commons (1992-97).



Mr R John Elliot DKS: Solicitor. Chairman Lindsays WS, Edinburgh since 1994. Deputy Keeper of Her Majesty's Writers to the Signet since January 1999. Member of the Review Board (part of the Accountancy Foundation) 2000 to date. President of the Law Society of Scotland 1997-98. Member, Age Concern Management Group. Chairman of the Scottish Committee. Member of the Council since 1998 and of the Legal committee.



Mrs Carolyn Berkeley JP: Justice of the Peace since 1989. Chair Enfield Primary Care Trust since April 2001. Chair of Enfield Community Care NHS Trust 1998-2001. Lay Inspector OFSTED 1995-99. Non-Executive Director and Mental Health Manager, Barnet Healthcare NHS Trust 1995-97. Member of Social Security Appeal Tribunals 1995-97. Member of the Council since April 1999, Chair of the Education committee and member of the Health and Standards & Performance committees.

Mr Michael Brown JP: Partner in Clifford Chance 1978-95, and Justice of the Peace since 1996. Chairman of Community Housing Association, London 1996-98. Currently a non-executive Director of the Oxfordshire Mental Healthcare NHS Trust and of West Oxfordshire Housing Ltd. Deputy Chairman of the Appeal Committee of the Association of Chartered Certified Accountants and member of the Professional Conduct Panel of the Royal Institute of Chartered Surveyors. School Governor. Member of the Tribunals Committee of the Judicial Studies Board. Member of the Council since May 1996, Chairman of the Training committee and member of the Education, Legal and Standards & Performance committees.



Mr John Eames: Social security caseworker/supervisor at Bath Citizens Advice Bureau since April 2000. Trainer and lecturer in social security law. Visiting lecturer at the University of the West of England, Bristol. Member of the Disability Appeal Tribunal 1992-96. Member of the South Western Legal Services Committee 1998-2000. Adviser on social security appeals policy to Russian Federation Ministry of Labour & Social Development from 2001. Member of the Council since September 1996, Chairman of the Social Security committee and a member of the Health and Standards & Performance committees.



Mrs Anne Galbraith: Volunteer worker and latterly Chair of Newcastle Citizens Advice Bureau 1967-87. Founder of Newcastle CAB Tribunal Assistance Scheme. Chair of the NHS Prescription Pricing Authority. Former lecturer in welfare and employment law at the University of Northumbria. Member of the Council since September 1997, Chair of the Health committee and member of the Education, Training, Social Security and Standards & Performance committees.



Mrs Susan Howdle: Former lecturer in law at the University of Sheffield. Vice-President of the Methodist Conference 1993-94, and Chair of MHA Care Group. Vice-President of the Yorkshire Rent Assessment Panel 1991-98. Part-time Chair of the Social Security Appeal Tribunals 1996-98. Member of the Council since April 1998 and of the Social Security, Property & Land, Training and Standards & Performance committees.



Mr Ian Irvine CA: Chartered Accountant. Former Managing Director of George Outram and Co. Non-Executive Director of Scottish Opera Ltd and trustee of North Glasgow Hospitals University NHS Trust. Member of the Council and the Scottish Committee since September 1996, and of the Social Security and Standards & Performance committees.



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 Westcountry Ambulance Service NHS Trust. Member of the Council since September 1996, Chairman of the Property & Land committee and member of the Education and Standards & Performance committees.





Mr Stephen Mannion QPM: Scottish Area Commander of the British Transport Police from 1992-1999 following a career with Strathclyde Police from 1960-1992, where he reached the rank of Assistant Chief Constable. Awarded the Queen's Police Medal for Distinguished Service in 1997. Lay member of the Employment Tribunal Service from 1999 to August 2001. Member of the Council and of the Scottish Committee since August 2001, and of the Property & Land Committee.



Mr Douglas Readings: Barrister practising in Birmingham, he has regularly conducted cases before a variety of tribunals and planning inquiries. Assistant Recorder since 1991, Recorder since 2000. Member of the Council since September 1997, Chairman of the Legal committee, member of the Education, Training and Standards & Performance committees.



Professor Geneva Richardson: Professor of Public Law, Queen Mary, University of London. Member of the Mental Health Act Commission 1987-92. Chair, Prisoners' Advice Service 1994 to date. Chair of the Expert Committee on Reform of Mental Health Legislation 1998-9. Member of the Medical Research Council 2001 to date. From October 2001 Trustee, Nuffield Foundation. Member of the Council since February 2001 and of the Health, Legal and Standards & Performance committees, and the Disability Working Group.



Mr Emrys Roberts: Chief Officer, South Gwent Community Health Council 1974-93. Leader, Merthyr Tydfil Borough Council 1976-79. Secretary of the Association of Welsh Community Health Councils 1988-92. District Health Manager, Gwent Health Authority 1993-96. Treasurer, Rhymni Valley MIND. Member of the Council since February 1999 and of the Social Security, Health and Standards & Performance committees.



Mr Alexander W Russell: Civil service career, successively in the Scottish Departments, mainly on planning, housing and roads and PPS to the Secretary of State for Scotland; in the Civil Service Department as Head of the Machinery of Government Division; Head of the Financial Management Unit; and latterly in HM Customs and Excise where his final post before retirement was Deputy Chairman. Advisor to Cabinet Office on efficiency issues. Board member of the Simpler International Trade Processing Organisation. Strategic consultant on public administration in applicant states to join the EU. Member of the Council since January 2002 and of the Property & Land and Standards & Performance committees.



Mr Patrick Waring: Freelance consultant who advises Universities and business organisations about obtaining funding from the European Commission. Background in the Armed Services as a Royal Navy pilot. Member of the Council since November 1997 and of the Health, Property & Land and Standards & Performance committees, and the Disability Working Group.

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



Scottish Membership at 31 July 2002

Mr Irvine's appointment as a member of the Council and Scottish Committee came to an end on 31 August 2002. His successor is Mrs Elizabeth Cameron. In addition to those who were also Council members, the other Scottish Committee members at 31 July 2002 were:

Mrs Barbara Bruce: Consultant providing post-qualifying training for solicitors. Deputy Convenor of the Peterhead Bay Authority. Trustee of Grampian Primary Care NHS Trust. Member of the Scottish Committee since 1998 and co-opted member of the Council's Standards & Performance committee.



Mr Douglas Graham: Solicitor in private practice with wide experience in employment law, Employment Tribunals and community organisations. Chair of Audit Committee and member of Board and Scotland Committee of the Community Fund (National Lottery Charities Board). Member of the Scottish Land Fund Committee of the New Opportunities Fund. Member of the Scottish Committee since 1 May 2000 and co-opted member of the Council's Training and Standards & Performance committees.



Mrs Audrey Watson: Solicitor with the legal services section of West Lothian Council, responsible for training JPs. Depute Clerk of Court and Depute Clerk of the Peace. Project co-ordinator for the District Courts Association. Consultant providing training in relation to the practice and procedure of the District Courts. Member of the Scottish Committee since August 2001.



Mrs Mary Wood: Former senior Governor in the Scottish Prison Service, involved in developing training in the new Prison Service Code of Conduct. Deputy Chair of the Water Commissioner's West of Scotland Consultative Committee until its disbandment in April 2002. Manager, Ayrshire Centre, Marriage Care. Part-time resource worker with the Richmond Fellowship Scotland and Citizen's Advocacy Support Services volunteer. Member of the Committee since 1 July 2000 and co-opted member of the Council's Training and Standards & Performance committees.



Appendix B: The Council's Committees



Set out below are the Council's current committees and their spheres of interest. Committees meet to discuss current consultation issues and workplans, often on the day of the monthly Council meeting, and also transact a great deal of business by correspondence. They report back to the full Council as necessary.

Education committee: School Admission and Exclusion Appeal Panels, Schools Adjudicators, Special Educational Needs and Disability Tribunal.

Social Security committee: Appeals Service, Social Security and Child Support Commissioners, Pensions Appeal Tribunals.

Health committee: Health Authority Discipline Committees, Mental Health Review Tribunals, Family Health Services Appeal Authority, Family Health Services Appeal Authority (Special Health Authority), Care Standards Tribunal.

Property & Land committee: Town and country planning, highways, and other related subjects which may involve public inquiries or similar procedures, Lands Tribunal, Rent Assessment Committees, Valuation Tribunals.

Legal committee: Matters having a strong legal content, including the scrutiny of primary and subordinate legislation.

Standards & Performance committee: Advising the Council on issues concerning tribunal standards, feedback to tribunals and the Council's visits programme.

Training committee: Training for tribunal judiciary and administration, liaison with the Judicial Studies Board, training for Council members.

In addition, smaller groups of members are occasionally established, including those which worked on the framework of standards, reviewed the Council's working methods and how best to raise the Council's profile.

Appendix C: The Council's Secretariat



Secretariat at 31 July 2002

Patricia Fairbairn Secretary to the Council

Alexander Hermon legal adviser

Ray Burningham policy adviser and administrator

Paul T Smith policy adviser

Angela Gittens office manager and policy assistant

Martin McGovern policy assistant

Simon Butterworth policy assistant

David Sier policy assistant

Florence Akinbi office supervisor and visits manager

Lisa Chilver personal secretary

Yemi Balogun visits officer

Nadia Van Niekerk office assistant

Secretariat of the Scottish Committee at 31 July 2002

Marjorie MacRae Secretary

Gordon Quinn assistant Secretary

Julia Hewitt administrative assistant

Appendix D: The Council's work 2001/2002

Statutory Instruments

Listed below are the Statutory Instruments (excluding Orders under the Road Traffic Act 1991) considered by the Council and the Scottish Committee and made during the year 2001/2002.

The Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2001	S.I. 2001/3744
The Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002	S.I. 2002/1920
The Access to the Countryside (Provisional and Conclusive Maps) (England) Regulations 2002	S.I. 2002/1710
The Family Health Services Appeal Authority (Primary Care Act) Regulations 2001	S.I. 2001/3743
The Family Health Services Appeal Authority (Procedure) Rules 2001	S.I. 2001/3750
The Family Health Services Appeal Authority (Procedure) (Amendment) Rules 2002	S.I. 2002/1921
The Financial Services and Markets Tribunal (Legal Assistance) Regulations 2001	S.I. 2001/3632
The Financial Services and Markets Tribunal (Legal Assistance Scheme - Costs) Regulations 2001	S.I. 2001/3633
The Immigration and Asylum Appeals (Procedure) (Amendment) Rules 2001	S.I. 2001/4014
The Immigration Services Tribunal (Amendment) Rules 2002	S.I. 2002/1716
The Lands Tribunal (Fees) (Amendment) Rules 2002	S.I. 2002/770
The Mental Health Act 1983 (Remedial) Order 2001	S.I. 2001/3712
The Money Laundering Regulations 2001	S.I. 2001/3641
The Patents (Amendment) Rules 2002	S.I. 2002/529
The Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002	S.I. 2002/247
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 2001	S.I. 2001/3207
The Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002	S.I. 2002/816
The Registered Designs (Amendment) Rules 2001	S.I. 2001/3950
The Registered Designs (Fees) (Amendment) Rules 2001	S.I. 2001/3951
The Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002	S.I. 2002/1379

The Special Educational Needs and Disability Tribunal (General Provisions and Disability Claims Procedure) Regulations 2002	S.I. 2002/1985
The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002	S.I. 2002/1223
The Trade Marks (Amendment) Rules 2001	S.I. 2001/3832
The Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002	S.S.I. 2002/255
The Transport Tribunal (Amendment) Rules 2001	S.I. 2001/4041
The Transport Tribunal (Amendment) Rules 2002	S.I. 2002/643
The Value Added Tribunals (Amendment) Rules 2001	S.I. 2001/3073

Visits

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

Tribunals

Appeals Service (5) Hampshire, Lancashire, London, Northamptonshire, Oxfordshire
Appeals Service (Scotland) (9) Aberdeen, Dundee, Dunfermline, Edinburgh (2), Glasgow, Inverness, Irvine, Kilmarnock
Asylum Support Adjudicators London
Children's Hearings (Scotland) (6) Glasgow, Inverness, Dundee, Glenrothes, Selkirk, Tranent
Criminal Injuries Compensation Appeals Panel (2) Bristol, London
Criminal Injuries Compensation Appeals Panel (Scotland) Glasgow
Director General of Fair Trading (2) London, Cardiff
Education Appeal Committees (Scotland) (8) Edinburgh, Elgin, Falkirk, Glasgow, Inverness, Kilmarnock, Peebles, Perth
Employment Tribunal (3) Bedfordshire, Devon, South Yorkshire
Employment Tribunal (Scotland) (3) Edinburgh, Glasgow, Aberdeen
Family Health Services Appeal Authority East Sussex
General Commissioners of Income Tax (2) Hampshire, Oxfordshire
Health Authority Discipline Committees (12) Cornwall, Dorset, Gloucestershire, Greater Manchester, Hampshire, Lancashire, London, Merseyside, Somerset, Staffordshire, West Midlands (2)
Immigration Adjudicators (2) Cardiff, West Yorkshire
Immigration Adjudicators (Scotland) Glasgow
Immigration Appeal Tribunal (3) London (2), West Yorkshire
Immigration Appeal Tribunal (Scotland) Glasgow
Lands Tribunal London

Mental Health Review Tribunal (2) Hertfordshire, West Midlands
NHS - Discipline Committee (Scotland) (2) Glasgow, Dundee
NHS - National Appeal Panel (Scotland) Renfrew
Occupational Pensions Regulatory Authority East Sussex
Parking Adjudicators (2) Hampshire, London
Pensions Appeal Tribunal (2) Devon, London
Pensions Appeal Tribunal (Scotland) Edinburgh
Police Appeal Tribunal (Scotland) (2) Perth, Dundee
Protection of Children Act (Care Standards) Tribunal London
Registered Homes Tribunal Tyne & Wear
Rent Assessment Panels (2) North Yorkshire, Surrey
Rent Assessment Committee (Scotland) Castle Douglas
School Admission Appeal Panels (12) Berkshire, Cambridgeshire, Cardiff, Derbyshire, Dorset, East Sussex, Essex, Lancashire, London, Powys, West Yorkshire, Wiltshire
School Exclusion Appeal Panels (5) Berkshire, Kent, London, Nottinghamshire (2)
Scottish Parking Appeals Service (Scotland) Glasgow
Special Education Needs Tribunal (2) Merseyside, Wiltshire
Traffic Commissioners Durham
Valuation Tribunals (2) Durham, Leicestershire
Valuation Appeal Panel (Scotland) Inverness
VAT and Duties Tribunal (2) London, Cardiff

Inquiries

Local Plan Inquiry Devon
Public Local Inquiry (Scotland) (2) Ayr, Dundee
Rights of Way Inquiry Cornwall

Conferences and Training Seminars

Access to Justice Seminar (Scotland) Edinburgh
Appeals Service - training events (2) Greater Manchester, West Yorkshire
Appeals Service - conference Northamptonshire
Children's Hearings - training event (Scotland) Edinburgh
School Admission and Exclusion Appeal Panels - training events (3) Berkshire, Hertfordshire, North Yorkshire
Mental Health Review Tribunal - training event Berkshire
NHS National Appeal Panel - training event (Scotland) Edinburgh
Pensions Appeal Tribunal - training event North Yorkshire
Pensions Appeal Tribunal - training event (Scotland) Edinburgh
Schools Admissions Adjudicators (2) London, Somerset
Scottish Legal Aid Board Edinburgh
Social Security and Child Support Commissioners London
VAT and Duties Tribunal / Special Commissioners of Income Tax - user groups (Scotland) Edinburgh

Meetings

Apart from routine meetings held by our committees and the former Performance Standards, Performance Issues and Working Methods groups, we had the following meetings during the course of the year:

Council

Dr Jonathan Spencer Director General, Policy, Lord Chancellor's Department
Belinda Crowe and Donald Selmes officials from the Tax Appeals Reform Project in the Lord Chancellor's Department

Health committee

Margaret Burn, Rose Mooney and Sue McCarry from the MHRT secretariat in the Department of Health

Andrea Humphrey, Fran Mente and Mark Jenking-Rees from the Mental Health Policy Division in the Department of Health

Paul Burns from the Family Health Services Appeal Authority (Special Health Authority)

Legal committee

Robin Bellis an external legal consultant working on the review of the Council's Model Rules

Education committee

Felicity Taylor and Margaret Jones from Information for School and College Governors (ISCG)

David Nice from the Commission for Local Administration in England

Professor John Coldron and Kathy Stephenson from Sheffield Hallam University

Chairman

Our Chairman has attended 2 conferences in Canada, and similar events held in the UK by the Traffic Commissioners and the Appeals Service. He also met the Presidents of the newly formed Finance & Tax and Care Standards Tribunals at inaugural events. He attended the meetings of the LCD Tribunals for Users Programme's Strategy Board and other working groups, and held separate meetings with LCD officials on related issues. Apart from those he met at these events and the Council's own Conferences, the Chairman held separate meetings with:

His Honour Judge Henry Hodge OBE Chief Adjudicator, Immigration Appeals

The Rt. Hon. Mr Justice Sullivan Chairman of the Tribunals Committee of the Judicial Studies Board

Dr Harcourt Concannon President of the Pensions Appeal Tribunals

The Rt. Hon. Mr Justice Collins and Mark Ockelton President and Chief Executive of the Immigration Appeal Tribunal

Sir Peter Newsam Chief Schools Adjudicator

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

The table below shows expenditure during the financial year ended 31 March 2002 and the 2001 figures for comparison.

£	Council on Tribunals		Scottish Committee	
	2000/2001	2001/2002	2000/2001	2001/2002
Staff Salaries	358,151	414,016	51,904	54,695
Member's Retainers	194,993	213,069	30,766	29,772
Administrative Costs	128,575	162,016	15,882	21,247

The Council on Tribunals' retainers include the salaries of the Council and Scottish Committee Chairmen and retainers paid to members of the Council who also serve on the Scottish Committee.

The Council and Scottish Committee Chairmen's salaries were last increased in April 2002 to £44,973 and £22,486 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 August 2002 to £10,219 and £8,219 respectively.

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

1. The Council was set up by the Tribunals and Inquiries Act 1958 and now operates under the Tribunals and Inquiries Act 1992.
2. The Council is to consist of not more than 15 or less than 10 members appointed by the Lord Chancellor and the Scottish Ministers. In addition, the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) 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 Scottish Ministers, and three or four non-members of the Council appointed by them. The Parliamentary Ombudsman is also an ex-officio member of the Committee.
4. The Council has 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 matters referred to the Council, or matters the Council may consider to be of special importance, with respect to administrative procedures which involve or may involve the holding of a statutory inquiry by or on behalf of a Minister.
6. The term "statutory inquiry" means (i) an inquiry or hearing held in pursuance of a statutory duty, or (ii) a discretionary inquiry or hearing designated by an order under section 16(2) of the Act. The relevant order is the Tribunals and Inquiries (Discretionary Inquiries) Order 1975 (S.I. 1975/1379) as amended.

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

Appendix G: Business Plan 2002-2003

1. Introduction

The Council is currently carrying out work in accordance with its priorities agreed in March 2001. It is continuing to address the aims of its Change Programme, which it has described in its recent Annual Reports. The Council is planning its work taking into account the probability of additional or changed functions which will follow on the implementation of the Tribunals for Users Programme when that has been agreed, which itself follows on the Leggatt Review of Tribunals. The Scottish Committee of the Council sets its own work plan which also supports the aims of the change programme.

2. Our Statutory Functions

The functions of the Council are set out in Section 1 (a) to (c) of the Tribunals and Inquiries Act 1992. The Council was created by the Tribunals and Inquiries Act 1958 following the "Franks Report on Administrative Tribunals and Enquiries" which was published in 1957.

3. Our Key Purpose

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

The Council seeks to ensure that tribunals and inquiries:

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

4. Our Strategic Objectives

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

- a. To oversee the performance of tribunals and inquiries against common standards and to draw attention to matters of particular importance or concern;

- b. To promote the accessibility of tribunals and inquiries to all their users through fair, open, and proportionate and straightforward procedures and high quality, user friendly information and guidance;
- c. To promote the provision of training for all tribunal and inquiry judiciary and administrators;
- d. To promote modern, user friendly, efficient and effective tribunal and inquiry administration;
- e. To promote a culture of excellence in tribunals and inquiries through collaboration and sharing of best practice among judiciary and administrators.

5. Our Key Priorities 2001 to 2004

We have agreed the following key priorities for our work during the period 2001 to 2004. Each of our tasks and activities is linked to these.

- a. To develop and publish standards of performance against which the Council will measure the tribunals under its supervision;
- b. To develop and publish a policy on the provision of feedback to the tribunals;
- c. To raise awareness of the Council's work and its views within Government and elsewhere;
- d. To pursue improvements in the provision of training for the tribunals' judiciary in partnership with the Judicial Studies Board;
- e. To undertake an internal fundamental review of the Council's working practices, to help us better pursue our objectives.

6. Supporting Tasks 2002 to 2003

6.1 Framework of Standards *(Key Priority a)*

We will publish a Framework of Standards for Tribunals by Spring 2002. A draft for consultation was published in October 2001. It was discussed at a conference of tribunal Chairs and Presidents in November, and approximately thirty-five organisations submitted written comments. These are being incorporated into a final draft to be considered by the Council for publication in the second quarter of 2002.

6.2 Guidance on Access to Tribunals for People with Disabilities *(Key Priority b)*

We will publish detailed guidance on this subject by summer 2002. The development work will be carried out together with the Disability Rights Commission and will include a wide ranging consultation to ensure that the standards take account of the views of all interested parties.

6.3 Hosting of Events and Conferences *(Key Priority c)*

We will bring together Tribunal Presidents and Chairs during late 2002 or early 2003 to discuss the issues then current. These will include the Model Rules of Procedure and the way forward on Sir Andrew Leggatt's report etc.

6.4 Feedback After Visits *(Key Priority b)*

We will develop by December 2002 a framework of verbal and written feedback to tribunal Chairs and Presidents after visits by Council Members. This will include appropriate training and the setting up of protocols etc.

6.5 Council on Tribunals Website *(Key Priority c)*

We will continue to develop the website as a means of communication and for raising the profile of the Council's work and that of its Scottish Committee. This will include more regular updates on the Council's activities and further links to other organisations both in the UK and abroad.

6.6 International Contacts *(Key Priority c)*

We will continue to build on the International contacts already made as set out in the Council's annual report. Our Chairman will take part in a further conference in Canada in 2002 or 2003.

6.7 Relationship with Judicial Studies Board *(Key Priority d)*

We will build on our relationship with the Judicial Studies Board in the joint efforts to ensure improvements in the provision of training for tribunals' judiciary and will enter into a Memorandum of Agreement by the end of 2002.

6.8 Review of Council working practices *(Key Priority e)*

We will conduct a fundamental review of our working practices and agree a schedule of delegation in respect of the appropriate level at which our work should be undertaken.

7. Tasks Supporting the Statutory Duties (as Laid Down in The Tribunals and Inquiries Act 1992)

7.1 Visits *(Key Priorities a & c)*

We will complete an agreed programme of 88 visits to tribunals and inquiries under our jurisdiction in our Annual report period ending 31 July 2002. Our visits programme includes two areas of targeted visits - to School Admission and Exclusion Appeal Panels and to Health Authority Discipline Committees - for the purpose of providing more detailed feedback through the Special Reports set out below. A new programme of visits will be developed for the reporting year commencing on 1 August 2002. The Council will be asked to consider the degree to which that programme might also target particular tribunal systems. In addition to the formal programme of visits Members of the Council will contribute to training events and seminars for the judiciary and staff of the tribunal systems under its supervision and to their user groups.

7.2 Model Rules of Procedure *(Key Priority a)*

We will publish revised Model Rules of Procedure for Tribunals by December 2002. These will replace those published in 1991 and a consultant has been engaged to bring them up to date. They will be published in draft to allow a three month consultation closing in September 2002, with publication of the definitive version by the target date.

7.3 Code for Consultation *(Key Priority c)*

We will review and revise our code for Consultation in the light of the Leggatt report and in consultation with the Lord Chancellor's Department by March 2003. The code sets out, for the use of departments, the procedures and preferred timescales where the Council is required to be consulted (or where it is desirable that the Council be consulted). It was last updated in February 2001 to reflect changes since the passing of the Tribunals and Inquiries Act 1992.

7.4 Special Reports *(Key Priority c)*

We will publish special reports on the following subject areas:

1. School Admission and Exclusion Appeal Panels;
2. Health Authority Discipline Committees.

7.5 Consultation on Secondary Legislation Etc *(Key Priority c)*

We will respond as required to consultations on procedural rules and other secondary legislation affecting the tribunals and inquiries under its supervision. In its 2000/2001 reporting year the Council was consulted in relation to 27 such items. The workload is wholly dependant on the demands of the Departments required to consult the Council. As Government moves to deliver the commitments given in the Queen's Speech for the current session of Parliament the Council would expect those numbers to increase significantly in the current and following reporting years.

7.6 Collection and Collation of Data from Tribunals *(Key Priority c)*

We will carry out the collection of annual caseload and sittings data from tribunals and other bodies under the Council's supervision for inclusion in the Council's annual report by 31 August 2002

7.7 The Council's Annual Report *(Key Priority c)*

We will produce an annual report for the period ending 31 July 2002 to be laid before Parliament in accordance with established practice and published in November 2002.

8. The Committees of the Council

Our work will continue to be supported by the Council's committees. They will deal with business within their respective spheres of interest, reporting to the Council as necessary.

The current committees are:

- Education committee;
- Social Security committee;
- Health committee;
- Property & Land committee;
- Legal committee;
- Training committee;
- Standards & Performance committee;
- Working Methods Group;
- Profile Raising Group.

9. Other Activities

9.1 Effective Secretariat Support/Corporate Governance *(Key Priority c)*

Our Secretariat will support the Council in the discharge of its Statutory Functions, Key Purpose and Strategic Objectives. It will provide advice, by way of Council and Committee papers and by the collection of data to allow the Council to consider and respond to both formal statutory consultations and informal requests for advice. It will manage and facilitate the visits programme in accordance with the priorities set by the Council and provide all necessary budgeting, accounting (including consideration of risk assessment) and general clerical support. It will comply with Cabinet Office guidance wherever this applies to Council activities and ensure that its own activities and those, on which it advises the Council, are in line with the Government's Modernising Government agenda. It will comply with the Lord Chancellor's commitment to accommodate new internal control mechanisms and partake in the training that the Department will provide in this respect by April 2003. It will undertake activities in the name of the Council in all areas delegated by the Council.

9.2 Move to New Accommodation *(Key Priority e)*

We will plan and carry out a move of the offices of the Council and Secretariat to new accommodation in Chancery Lane by late spring/early summer 2002. Open plan offices for the Secretariat will facilitate more modern and effective working methods and allow more efficient use of new technology.

9.3 Diversity *(Key Priority c & e)*

We will support the Lord Chancellor's Department in the achievement of its Equality and Diversity Action Plan. Our activities will contribute particularly to the goals relating to:

- Policy Making;
- Assessing Service Users Needs;
- Improving Services for all Customers;
- Specific Customer Service Issues.

10. Relationship to the Lord Chancellor's Strategic Objectives

The work plan set out above will allow us to participate in the achievement of the strategic objectives of the Lord Chancellor's Department for achieving justice, particularly:

- To provide a fair, swift and effective system of justice which provides confidence in the rule of law; helps reduce crime, the fear of crime, and the economic consequences of crime; and gives value for money;
- To make civil and family law clearer and more easily enforceable giving priority to key Government objectives in tackling social and economic issues;
- To improve the lives of children and help build and sustain strong families through providing a legal and procedural framework which sustains family relationships, and, when they do break down, to resolve disputes with the least distress to those affected, especially the most vulnerable;
- To uphold the independence of the judiciary - especially through the appointment of sufficient judges, magistrates, and other judicial post holders of the right calibre to match needs, and through promoting a partnership with the judiciary for delivering justice effectively.

Appendix H: Membership of the joint working group of the Council and the Disability Rights Commission

Lord Newton of Braintree Chairman of the Council on Tribunals

Professor Genevra Richardson Council on Tribunals

Paddy Waring Council on Tribunals

Paul Smith Council on Tribunals (Secretariat)

Martin McGovern Council on Tribunals (Secretariat)

Nick O'Brien Disability Rights Commission

Jonathan Holbrook Disability Rights Commission

Jenny White Disability Rights Commission

Janine Hunt Disability Rights Commission

Rose Mooney Mental Health Review Tribunals

Rob Day Appeals Service

Michael Homfray-Davies Employment Tribunals

Peter Wells Employment Tribunals

Lynn Adams Employment Tribunals

David Schumm Employment Tribunals

Shanta Patel Special Educational Needs Tribunal

Linda Rose Special Educational Needs Tribunal

Frank Warriner Pensions Appeal Tribunal

Clive Bassant NACAB

Alison Green NACAB

Rosemarie Gunstone Medway Council

John Gibbons Judicial Studies Board

Philip King Law Society

Richard Fox Court Service

Appendix I: Tribunals and some inquiries within the jurisdiction of the Council

This appendix lists the tribunals and certain inquiries within the Council's jurisdiction under the Tribunals and Inquiries Act 1992 at 31 July 2002 and is divided into the following sections:

- Tribunals under the direct supervision of the Council;
- Tribunals under the direct supervision of the Council's Scottish Committee;
- Some inquiries within the jurisdiction of the Council and Scottish Committee.

Links to websites devoted to many of the listed tribunals and inquiries can be found at the Council's website (www.council-on-tribunals.gov.uk).

Tribunals under the direct supervision of the Council

Agriculture/Fishing/Forestry/Food

Agricultural Arbitrators appointed (otherwise than by agreement) under Sch.11 to the Agricultural Holdings Act 1986. **Agricultural Land Tribunals** established under s.73 of the Agriculture Act 1947. **Controller of Plant Variety Rights** and any officer authorised to exercise the functions of the Controller under Sch.1 to the Plant Varieties Act 1997. **Dairy Produce Quota Tribunal** for England and Wales re-constituted under Reg.7(1) of the Dairy Produce Quotas (General Provisions) Regulations 2002. **Forestry Committees** appointed in England and Wales under s.16, 17B, 20, 21 or 25 of the Forestry Act 1967. **Meat Hygiene Appeals Tribunal** constituted in accordance with regulations under Part II of the Food Safety Act 1990. **Plant Varieties and Seeds Tribunal** referred to in s.42 of the Plant Varieties Act 1997. **Sea Fish Licence Tribunal** established under s.4AA of the Sea Fish (Conservation) Act 1967.

Competition/Fair Trading

Competition Commission Appeal Tribunals established under s.48 of the Competition Act 1998. **Director General of Fair Trading** in respect of his functions under the Consumer Credit Act 1974 and the Estate Agents Act 1979, and any member of his staff authorised to exercise those functions under Sch.1 to the Fair Trading Act 1973.

Criminal Injuries Compensation

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

Education

Admission Appeal Panels constituted in accordance with Sch.24 or paragraph 3 of Sch.25 to the School Standards and Framework Act 1998. **Exclusion Appeal Panels** constituted in accordance with Sch.18 to the Schools Standards and Framework Act 1998. **Independent Schools Tribunal** constituted under s.476 of, and Sch.34 to, the Education Act 1996. **Registered Inspectors of Schools Tribunal** constituted under Sch.2 to the Schools Inspections Act 1996. **Schools Adjudicators** appointed under s.25 of the Schools Standards and Framework Act 1998. **Special Educational Needs Tribunal** constituted under s.333 of the Education Act 1996.

Employment/Industry

Employment Tribunals for England and Wales, established under s.1(1) of the Employment Tribunals Act 1996. **Industrial Arbitration Tribunal** established under Sch.3 to the Industry Act 1975. **Industrial Training Levy Exemption Referees** established by the Industrial Training (Levy Exemption References) Regulations 1974. **Police Appeals Tribunals** constituted under the Police Act 1996 and the Police Act 1997. **Reserve Forces Appeal Tribunals** constituted under Part IX of the Reserve Forces Act 1996. **Reserve Forces Reinstatement Committees and Umpires** appointed under Sch.2 to the Reserve Forces (Safeguard of Employment) Act 1985.

Finance/Revenue

Financial Services and Markets Tribunal under s.132 of the Financial Services and Markets Act 2000. **General Commissioners** (for England and Wales) acting under s.2 of the Taxes Management Act 1970. **Insolvency Practitioners Tribunal** referred to in s.396 of the Insolvency Act 1986. **National Lottery Commission** in respect of their functions under s.10 and 10A of and Sch.3 to, the National Lottery etc. Act 1993, and any member, employee or committee of that Commission authorised under Sch.2A to that Act to exercise any of those functions. **National Savings Bank and National Savings Stock Register Adjudicator** appointed under s.84 of the Friendly Societies Act 1992. **Section 706 Tribunal** for the purposes of the Income and Corporation Taxes Act 1988. **Special Commissioners** appointed under s.4 of the Taxes Management Act 1970. **VAT and Duties Tribunals** for England and Wales and for Northern Ireland, established under Sch.12 to the Value Added Tax Act 1994.

Health and Social Services

Health Authorities and Health Authority Discipline Committees established under Reg.3 of the National Health Service (Service Committees and Tribunal) Regulations 1992 (as amended). **Mental Health Review Tribunals** constituted or having effect as if constituted under s.65 of the Mental Health Act 1983. **Family Health Services Appeal Authority** constituted under s.49S of the National Health Service Act 1977. **Care Standards Tribunal** constituted under s.9 of the Protection of Children Act 1999.

Immigration/Asylum

Asylum Support Adjudicators established under s.102 of the Immigration and Asylum Act 1999. **Immigration Adjudicators** established under s.57 of the Immigration and Asylum Act 1999. **Immigration Appeal Tribunal** established under s.56 of the Immigration and Asylum Act 1999. **Immigration Services Tribunal** established under s.87 of the Immigration and Asylum Act 1999.

Information

Information Commissioner appointed under s.6 of the Data Protection Act 1998. **Information Tribunal** constituted under s.6 of the Data Protection Act 1998, in respect of its jurisdiction under s.48 of that Act.

Land/Housing

Commons Commissioners and assessors appointed under s.17(2) and (3) of the Commons Registration Act 1965. **Lands Tribunal** constituted under s.1(1)(b) of the Lands Tribunal Act 1949. **London Building Acts Tribunals** constituted in accordance with s.109 of the London Building Acts (Amendment) Act 1939. **Rent Assessment Committees** constituted in accordance with Sch.10 to the Rent Act 1977 (including Leasehold Valuation Tribunals and Rent Tribunals). **Valuation Tribunals** established by regulations under Sch.11 to the Local Government Finance Act 1988.

Patents/Designs/TradeMarks/Copyright

Comptroller-General of Patents, Designs and Trade Marks and any other officer authorised to exercise the functions of the Comptroller under s.62(3) of the Patents and Designs Act 1907 (includes Design Right, Licence of Right, matters under Copyright, Designs and Patents Act 1988 and Registered Designs Act 1949). **Copyright Tribunal** constituted under s.145 of the Copyright, Designs and Patents Act 1988.

Road Traffic/Transport/Aviation

Aircraft and Shipbuilding Industries Arbitration Tribunal established under s.42 of the Aircraft and Shipbuilding Industries Act 1977. **Civil Aviation Authority** established under s.2 of the Civil Aviation Act 1982. **Parking Adjudicators** appointed under s.73(3)(a) of the Road Traffic Act 1991. **Traffic Commissioners** for any area constituted for the purposes of the Public Passenger Vehicles Act 1981. **Transport Tribunal** constituted under Sch.4 to the Transport Act 1985.

Social Security and Pensions

Appeals Service tribunals constituted under Chapter I of Part I of the Social Security Act 1998. **Fire Services Pensions Appeal Tribunals** constituted under s.26 of the Fire Services Act 1947. **Occupational Pensions Regulatory Authority** established by s.1 of the Pensions Act 1995. **Pensions Appeal Tribunals** for England and Wales constituted under s.8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Act 1943. **Pensions Compensation Board** established by s.78 of the

Pensions Act 1995. **Pensions Ombudsman** established under Part X of the Pensions Schemes Act 1993 in respect of his functions under or by virtue of s.146(1)(c) and (d) of that Act. **Police Pensions Appeal Tribunals** appointed under s.1 of the Police Pensions Act 1976. **Social Security and Child Support Commissioners** appointed under Sch.4 to the Social Security Act 1998 and s.22 of the Child Support Act 1991 and any tribunal presided over by such a Commissioner.

Other

Adjudication Panels for England and for Wales case tribunals or interim case tribunals appointed under s.76 of the Local Government Act 2000. **Antarctic Act Tribunal** established under Reg.11 of the Antarctic Regulations 1995. **Foreign Compensation Commission** constituted under s.1 of the Foreign Compensation Act 1950. **Horse Race Betting Levy Appeal Tribunal for England and Wales** established under s.29 of the Betting, Gaming and Lotteries Act 1963. **Justices and Clerks Indemnification** any person appointed under s.54(6) of the Justices of the Peace Act 1997. **Mines and Quarries Tribunals** for the purposes of s.150 of the Mines and Quarries Act 1954. **Misuse of Drugs Tribunal** in England and Wales constituted under Part I of Sch.3 to the Misuse of Drugs Act 1971. **Wireless Telegraphy Appeal Tribunal** established under s.9 of the Wireless Telegraphy Act 1949.

Tribunals under the direct supervision of the Council's Scottish Committee

Agriculture/Fishing/Forestry/Food

Agricultural Arbiters appointed otherwise than by agreement under s.61 of or Sch.7 to the Agricultural Holdings (Scotland) Act 1991. **Dairy Produce Quota Tribunal for Scotland** re-constituted under Reg.7(1) of the Dairy Produce Quotas (General Provisions) Regulations 2002. **Forestry Committees (Scotland)** appointed in Scotland for the purposes of s.16, 17B, 20, 21 or 25 of the Forestry Act 1967. **Meat Hygiene Appeal Tribunal** constituted under s.26 of the Food Safety Act 1990.

Education

Education Appeal Committees set up under s.280 of the Education (Scotland) Act 1980. **Independent Schools Tribunal for Scotland** constituted under s.100 and 103 of and Sch.2 to the Education (Scotland) Act 1980. **Self-governing Schools** appeal committees constituted by virtue of s.7 of and para 2(b) of Part II of Sch.1 to the Self-governing Schools (Scotland) Act 1989.

Employment/Industry

Employment Tribunals for Scotland established under s.1(1) of the Employment Tribunals Act 1996. **Police Appeal Tribunal for Scotland** established under s.55 of the Police and Magistrates' Courts Act 1994.

Finance/Revenue

General Commissioners (for Scotland) acting under s.2 of the Taxes Management Act 1970. **VAT and Duties Tribunals for Scotland** established under Sch.12 to the Value Added Tax Act 1994.

Health and Social Services

Children's Hearings constituted and arranged in pursuance of the Children (Scotland) Act 1995. **Discipline Committees** of Health Boards or a Joint Committee of Health Boards being constituted in accordance with regulations made under the National Health Service (Scotland) Act 1978. **National Appeal Panel for Entry to the Pharmaceutical Lists Scotland** convened in accordance with Part 1 of Sch.4 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995. **National Health Service Tribunal Scotland** constituted under s.29 of the National Health Service (Scotland) Act 1978.

Land/Housing

Crofters Commission constituted under s.1 of the Crofters (Scotland) Act 1993. **Lands Tribunal for Scotland** constituted under s.1(1)(a) of the Lands Tribunal Act 1949 and established in Scotland on 1 March 1971. The principal justification for the Scottish Tribunal was sections 1 and 2 of the Conveyancing and Feudal Reforms (Scotland) Act 1970. **Rent Assessment Committees (Scotland)** constituted in accordance with Sch.4 to the Rent (Scotland) Act 1984. **Valuation Appeal Committees** constituted in accordance with s.29 of the Local Government (Scotland) Act 1994 and s.81 and 82 of the Local Government Finance Act 1992.

Road Traffic/Transport/Aviation

Scottish Parking Appeals Service appointed under s.73 of the Road Traffic Act 1991. **Traffic Commissioners (Scotland)** appointed under the Public Passenger Vehicles Act 1981 in respect of functions concerning taxi fares under the Transport Act 1985.

Social Security and Pensions

Pensions Appeal Tribunals for Scotland constituted under s.8 of the War Pensions (Administrative Provisions) Act 1919 or under the Pensions Appeal Tribunal Act 1943. **Police Pensions Appeal Tribunal for Scotland** appointed under s.1 of the Police Pensions Act 1976.

Other

Betting Levy Appeal Tribunal for Scotland established under s.29 of the Betting, Gaming and Lotteries Act 1963. **Misuse of Drugs Tribunal for Scotland** constituted under part 1 of Sch.3 to the Misuse of Drugs Act 1971.

Some inquiries within the jurisdiction of the Council and Scottish Committee

Planning (England and Wales)

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

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

Planning (Scotland)

Enforcement Notice Appeals under s.130 of the Town and Country Planning (Scotland) Act 1997. **Planning Appeals** under s.47 of the Town and Country Planning (Scotland) Act 1997. **Local Plans**.

Public Paths

Definitive Map Orders under the Wildlife and Countryside Act 1981. **Public Path Orders** under ss.26, 118 and 119 of the Highways Act 1980, and 257 and 258 of the Town and Country Planning Act 1990.

Other

Appeals to the Secretary of State from determinations and decisions of the Director General of Fair Trading under the Consumer Credit Act 1974 (determinations) and the Estate Agents Act 1979 (decisions). **Inquiries under reg.10 of and Sch.3 to the NHS (Service Committees and Tribunal) Regulations 1992** being appeals to the Secretary of State from decisions of Health Authorities [delegated to the Family Health Services Appeal Authority (Special Health Authority)]. **Inquiries under the NHS (Pharmaceutical Services) Regulations 1992 as amended** being appeals to the Secretary of State from decisions of Health Authorities.

Appendix J: Tribunal and Inquiry Data

This appendix comprises statistical data about the tribunals and inquiries listed in Appendix I. The statistical information shown is supplied to us by the tribunal systems themselves or their sponsoring Departments, and relates to the calendar year 2001 except where otherwise stated. Where a dash '-' is shown data is either irrelevant or unavailable. Tribunals appearing in Appendix I that have neither received nor decided any cases during the sample period do not appear in the tables below. Tribunals that have been unable to provide information are included in the table with a footnote to that effect. This appendix is divided into the following sections:

- Tribunals under the direct supervision of the Council;
- Tribunals under the supervision of the Council's Scottish Committee;
- Some inquiries within the jurisdiction of the Council and Scottish Committee;
- Breakdown of cases received and decided in GB 2001.

Summary of terms used

Judiciary: number of chairs and members in the Tribunal's 'pool'.

Days Sat: total number of days that panel or arbiter sat to consider cases.

Cases: cases outstanding at the start of the sample period (brought forward); new cases received during the sample period (received); cases withdrawn before reaching the hearing stage (withdrawn); cases decided within the sample period (decided); and cases outstanding at the end of the sample period (carried forward).

Waiting Times: average weeks between an appeal being received and the case being heard (receipt to hearing); and average days from the date of the hearing to the despatch of the written decision (hearing to despatch).

Success Rate: % of total cases decided in favour of the application either in part or in whole.

Oral Hearings: % of total cases considered heard at 'oral' (rather than 'paper') hearings.

Tribunals under the direct supervision of the Council

	Judiciary	Days Sat	Cases					Waiting Times		Success Rate	Oral Hearings	
			brought forward	received	withdrawn	decided	carried forward	receipt to hearing	hearing to despatch			
Agriculture/Fishing/Forestry/Food												
Agricultural Arbitrators ¹	68 2	-	-	244 22	-	-	-	-	-	-	-	England Wales
Agricultural Land Tribunals ²	238 37	15 5	264 37	145 22	82 16	31 5	296 38	- 83 wks	13 dys 16 dys	- 100%	29% 100%	England Wales
Forestry Committees	3	-	0	1	0	0	1	-	-	-	-	
Meat Hygiene Appeal Tribunal	4 0	2 0	1 1	2 1	2 1	1 1	1 0	12 wks	15 dys	0% 100%	100%	England Wales
Competition/Fair Trading												
Competition Commission Appeal Tribunals	15 1 4	13 0 2	0 0 0	5 0 1	0 0 0	4 0 0	1 0 1	4.6 wks - 12 wks	39 dys - 70 dys	60% - 0%	100% - 100%	England Wales Scotland
Director General of Fair Trading	5	440	88	103	21	79	90	34.3 wks	107.4 dys	38%	47%	
Criminal Injuries Compensation												
Criminal Injuries Compensation Appeals Panel ³	137	643	8,771	3,443 160 426	451 11 70	3,034 97 525	8,512	57.3 wks 48 wks 64.6 wks	-	63% 85% 48%	85.5% 65% 86%	England Wales Scotland
Education												
Independent Schools Tribunal ⁴	14	0	0	4	1	0	3	-	-	-	-	
Registered Inspectors of Schools	-	0.5	1	0	0	1	0	32 wks	13 dys	0%	0%	
School Admission Appeal Panels ⁵	-	-	-	67,894 14,508 8,315	17,943 2,368 987	45,016 11,724 7,131	-	-	-	37% 23% 26%	-	Comm./Vol.Cont. Foundation Vol. Aided/Aided Parent
School Exclusion Appeal Panels ⁶	-	-	-	1,095	112	983	-	-	-	32%	-	
Schools Adjudicators ⁷	14	-	-	107	8	69	13	-	-	-	-	
Special Education Needs and Disability Tribunal	152	226	786	2,767	1,468	1,304	781	15 wks	7 dys	80%	100%	
Employment/Industry												
Employment Tribunals	325	24,808	-	112,086	58,040	29,425	-	21 wks	-	12%	100%	England/Wales
Police Appeals Tribunals ⁸	-	-	-	-	-	-	-	-	-	-	-	
Reserve Forces Reinstatement Committees and Umpires ⁹	2	1.5	1	0	0	1	0	17 wks	28 dys	0%	100%	

Tribunals under the direct supervision of the Council (continued)

	Judiciary	Days Sat	Cases					Waiting Times		Success Rate	Oral Hearings	
			brought forward	received	withdrawn	decided	carried forward	receipt to hearing	hearing to despatch			
Finance/Revenue												
General Commissioners ¹⁰	2,062	2,688	-	51,629	9,911	10,743	-	-	-	-	30%	England
	194	168	-	1,469	247	305	-	-	-	-	27%	Wales
Insolvency Practitioners Tribunal	20	3	1	1	0	2	0	14 wks	36.5 dys	0%	50%	England
National Savings Bank and Savings Stock Register	1	2	1	0	0	1	0	24 wks	43 dys	-	100%	Scotland
Section 706 Tribunal ¹¹	9	-	-	26	-	26	-	1-2 wks	1 day	-	0%	England
Special Commissioners	17	138.5	219	195	78	64	272	26 wks	30 dys	-	98%	
VAT and Duties Tribunal	127	960	3,690	2,866	2,182	658	3,716	40 wks	60 dys	-	98%	England/Wales
Health and Social Services												
Care Standards Tribunal ¹²	77	120	40	82	17	98	21	29 wks	18 dys	41%	100%	England
Health Authority Discipline Committees ¹³	-	-	-	-	-	-	-	-	-	-	-	
Mental Health Review Tribunal ¹⁴	802	253	6,078	20,368	6,430	11,580	2,650	see note	6 dys	11.6%	100%	England
	63	232	107	1,122	474	611	144	see note	see note	15%		Wales
National Health Service Tribunal	23	29	6	5	5	3	3	3 wks	6 dys	66%	100%	England
	-	-	1	0	0	0	1	-	-	-	-	Wales
Immigration/Asylum												
Asylum Support Adjudicators	7	736	0	1,345	556	789	0	1 wk	2 dys	44%	57%	
Immigration Adjudicators ¹⁵	450	18,899	18,440	66,924	4,248	56,509	25,249	6 wks	29 dys	24%	96%	England/Wales
	25	943	-	1,701	37	1,022	-	4 wks	20-25 dys	-	100%	Scotland
Immigration Appeal Tribunal ¹⁵	75	2,695	1,566	25,998	150	21,862	4,171	-	25 dys	18%	97%	England/Wales
	10	19	-	47	3	50	-	-	-	-	-	Scotland
Immigration Services Tribunal	14	3	-	4	1	1	2	12 wks	1 day	0%	100%	
Information												
Information Commissioner ¹⁶	-	-	1,543	8,875	0	8,670	1,748	-	-	-	-	Requests for Assessment
	-	-	2,588	52,642	0	53,074	2,156	-	-	-	-	Notifications
	-	-	-	-	1	4	-	-	-	-	-	Enforcement
Information Tribunal	9	2	2	2	3	1	0	-	-	100%	100%	England
Land/Housing												
Commons Commissioners and Assessors	1	2	1	5	0	2	4	~12 wks	28 dys	-	100%	England
Lands Tribunal	5	246	636	515	391	139	621	-	28 dys	-	98%	England/Wales
Rent Assessment Committees	371	-	3,661	7,270	2,298	6,608	2,025	14 wks	-	-	-	England
	37	68	61	172	25	143	65	12 wks	14 dys	-	75%	Wales
	44	50	72	384	46	400	10	-	14 dys	-	-	Scotland
Valuation Tribunals ¹⁷	1,680	-	602,355	386,307	328,014	33,546	627,102	20 wks	7-21 dys	-	99%	England
	234	481	29,356	21,485	21,721	1,706	27,414	12 wks	7-14 dys	-	-	Wales

Patents/Designs/TradeMarks/Copyright

Comptroller-General of Patents, Designs and Trade Marks ¹⁸	4	-	85	62	17	39	91	9 wks	30 dys	72%	-	Patents	<i>inter-partes</i> <i>ex-parte</i>
	20	-	-	20	-	20	-	6-7 wks	20 dys	-	75%		
	4	-	13	8	6	2	13	8 wks	20-30 dys	45%	16%	Designs	<i>inter-partes</i> <i>ex-parte</i>
	2	-	-	3	-	3	-	6 wks	10-15 dys	-	100%		
	17	-	3,600	1,802	1,617	337	3,448	30 wks	98 dys	see note	-	T. Marks	<i>inter-partes</i> <i>ex-parte</i>
	19	-	-	2,674	-	2,674	-	12 wks	7-14 dys	-	-		
Copyright Tribunal	10	10	25	2	3	1	23	-	-	-	100%		

Road Traffic/Transport/Aviation

Civil Aviation Authority	4	8	4	11	3	8	4	12 wks	5 dys	0%	100%		
Parking Adjudicators (National Parking Adjudication Service) ¹⁹	19	-	225	3,231	3	3,075	236	8 wks	3 dys	72%	31%	England (excl. London) Wales	
			19	80	1	95	4			86%	32%		
Parking Adjudicators (Parking and Traffic Appeals Service)	42	281	6,793	39,974	12,986	25,793	7,988	11 wks	1 day	59%	24%	London	
Traffic Commissioners	12	1,358	16	9,588	655	8,606	343	20 wks	5 dys	87%	-	England	
	-	156	9	693	62	562	78			76%	-	Wales	
	2	184	37	775	33	739	40			93%	-	Scotland	
Transport Tribunal	8	15	21	84	29	52	20	14 wks	15 dys	-	100%	England	
		10	-							-	100%	Scotland	

Social Security and Pensions

Appeals Service	2,133	30,028	78,106	237,618	21,254	286,638	62,139	13.4 wks	17 dys	42%	92%	England/Wales	
	-	-	9,731	34,388	2,695	42,158	8,008	12.3 wks	-	46%	-	Scotland	
Occupational Pensions Regulatory Authority	10	29	23	50	1	100	21	14 wks	7-14 dys	56%	4%	England	
			0	3	0	1	1			Wales			
			4	4	0	6	2			Scotland			
Pensions Appeal Tribunal	122	1,166	3,554	3,123	342	4,339	2,338	64 wks	5 dys	30%	100%	England/Wales	
Pensions Compensation Board	3	0	3	5	0	0	8	-	-	-	-	England	
Pensions Ombudsman ²⁰	-	-	-	-	20	105	-	-	-	-	-		
Social Security and Child Support Commissioners ²¹	17	3,787	2,925	2,477	83	4,132	2,614	39 wks	-	78.3%	8%	England/Wales	
	10	-	547	1,550	18	1,676	403	-	-	-	5.9%	Scotland	

¹ Cases are party/party arbitrations. The President of the Royal Institute of Chartered Surveyors simply appoints the arbitrator.

² Due to the foot and mouth outbreak, most oral hearings were postponed as they would normally include a farm visit.

³ Success rates based on oral hearings only.

⁴ 3 outstanding appeals are stayed pending resolution of a criminal trial.

⁵ Figures refer to the 2000/2001 school year. Admission authorities: Local Education Authorities for Community (Comm.) and Voluntary Controlled (Vol. Cont.) schools and governing bodies for Foundation, Voluntary Aided (Vol Aided) and Aided schools.

⁶ Figures are provisional and refer to the 2000/2001 school year.

⁷ Figures refer to the 2000/2001 school year. 18 of the referrals received were Multiple Objections (objections from different sources regarding the same set of admission arrangements).

⁸ No data available.

⁹ Judiciary figure refers to Umpires. Committees are appointed on an ad hoc basis from the pool of Employment Tribunal Chairmen.

¹⁰ Figures given for cases received is number of cases listed. As a case may be listed at more than one meeting, this figure is significantly higher than the actual number of cases received.

¹¹ No appeal reached the hearing stage. A prima facie case was found in all 26 references.

¹² Care Standards Tribunal came into existence on April 1 2002. Figures shown relate to the former Registered Homes and Protection of Children Act Tribunals.

¹³ The Department of Health has been unable to provide data as a result of the re-organisation of the NHS that has taken place over the course of 2002.

¹⁴ Waiting Times are as follows. England receipt to hearing: 8 weeks (non-restricted); 20 weeks (restricted); 7 days (section 2). Wales receipt to hearing: 8.5 weeks (non-restricted); 12.5 weeks (restricted); 6 weeks (restricted recall); 7 days (section 2) hearing to despatch: 2 days (section 2); 6 days (all other cases).

¹⁵ Figures refer to the period April 2001 to March 2002.

¹⁶ Figures refer to the period April 2000 to March 2001. The Council's jurisdiction is confined to the Commissioner's non-executive functions.

¹⁷ Figures for Wales refer to period April 2001 to March 2002. Waiting Times from receipt to hearing refer to Council Tax Valuation Appeals.

¹⁸ Patents There were 12 oral inter partes hearings, each of which may have decided several cases. 1 inter partes and 6 ex partes hearings were held in Wales. Trade Marks Success rates: oppositions allowed 39% (refused 61%); revocations allowed 67% (refused 33%). 11 inter partes and 183 ex parte hearings were held in Wales, 83 ex parte hearings were held in Scotland.

¹⁹ Judiciary figures refer to a combined England/Wales pool.

²⁰ The Council's jurisdiction over the Pensions Ombudsman is confined to cases involving disputes of fact and law (as opposed to complaints of maladministration).

²¹ Success rate for England Wales breaks down as follows: Appeals 98.6%; Applications 55.1%.

Tribunals under the direct supervision of the Council's Scottish Committee

	Judiciary	Days Sat	Cases					Waiting Times		Success Rate	Oral Hearings
			brought forward	received	withdrawn	decided	carried forward	receipt to hearing	hearing to despatch		
Agriculture/Fishing/Forestry/Food											
Agricultural Arbiters	-	-	19	24	9	2	32	-	-	-	-
Education											
Education Appeal Committees	-	-	-	76 915	- 313	- 600	- 2	-	-	-	-
Exclusions Placing Requests											
Employment/Industry											
Employment Tribunals for Scotland	36	2,432	-	10,240	4,246	2,006	-	22 wks	-	17%	100%
Police Appeal Tribunal for Scotland	82	0	0	2	0	1	1	17 wks	26 dys	0%	100%
Finance/Revenue											
General Commissioners (for Scotland) ¹	409	232	-	2,386	771	841	-	-	-	-	28%
VAT and Duties Tribunal for Scotland	17	88	238	238	143	87	246	20 wks	14 dys	23%	90%
Health and Social Services											
Children's Hearings ²	2,273	10,260	-	56,003	44,242	11,761	-	4 wks	5 dys	100%	100%
Discipline Committees	-	-	16	10	2	5	19	30 wks	125dys	40%	100%
National Appeal Panel for Entry to the Pharmaceutical Lists	54	10	2	18	0	15	5	14 wks	4 dys	20%	67%
National Health Service Tribunal Scotland	2	-	2	0	1	0	1	-	-	-	-
Land/Housing											
Crofters Commission	8	17	2	9	0	9	2	9 wks	35 dys	25%	100%
Lands Tribunal for Scotland	4	35	366	139	267	48	190	20 wks	41 dys	88%	48%
Rent Assessment Committees (Scotland)	44	50	72	384	46	400	10	6 wks	28 dys	-	83%
Valuation Appeal Committees	294	181	85,333	13,761	48,739	289	50,066	45 wks	6 dys	19%	95%
Road Traffic/Transport/Aviation											
Scottish Parking Appeals Service	4	92	151	2,488	24	2,114	501	4+ wks	5 dys	23%	30%
Traffic Commissioners ³	-	-	-	-	-	-	-	-	-	-	-
Social Security and Pensions											
Pensions Appeal Tribunals for Scotland	23	79	34	333	22	300	45	9 wks	5 dys	20%	73%

¹ Figure given for cases received is number of cases listed. As a case may be listed at more than one meeting, this figure is significantly higher than the actual number of cases received.

² Waiting time receipt to hearing originates at Reporter's decision to convene a hearing.

³ See entry in section 'Tribunals under the direct supervision of the Council'

Some inquiries within the jurisdiction of the Council and Scottish Committee

	Judiciary	Days Sat	Cases					Waiting Times		Success Rate	Oral Hearings	
			brought forward	received	withdrawn	decided	carried forward	receipt to hearing	hearing to despatch			
Planning (England and Wales)												
Enforcement Appeals (England) ¹	359	5,149	-	3,437	989	1,018	-	18 wks 24 wks 17 wks	18 dys 52 dys 23 dys	23% 30% 31%	49%	Written Representation Local Inquiry Hearings
Enforcement Appeals (Wales) ¹	16	-	134	156	83	119	92	24 wks 41 wks 41 wks	-	60%	54%	Written Representation Local Inquiry Hearings
Local Plans	148	-	47 2	57 3	-	28 1	69 4	-	-	-	-	England Wales
Planning Appeals (England) ¹	359	5,149	5,825	16,373	1,599	10,714	5,809	13 wks 20 wks 14 wks	18 dys 56 dys 27 dys	34% 55% 41%	27%	Written Representation Local Inquiry Hearings
Planning Appeals (Wales) ¹	16	-	228	708	92	600	226	14 wks 29 wks 19 wks	-	46% 57% 56%	30%	Written Representation Local Inquiry Hearings
Planning (Scotland)												
Enforcement Notice Appeals	-	-	30	104	18	1 66	49	-	-	-	-	Ministers/Local Authorities Reporters
Local Plans	-	-	11	23	0	0 2	32	-	-	-	-	Ministers/Local Authorities Reporters
Planning Appeals	-	-	266	671	56	8 579	294	-	-	-	-	Ministers/Local Authorities Reporters
Public Paths												
Definitive Map / Public Path Orders	32	176 12	257 -	325 -	16 -	297 -	289 -	34 wks -	56 dys -	-	51% 57%	England Wales
Other												
Appeals to the Secretary of State under the Consumer Credit Act 1974 from determinations of the Director General of Fair Trading ²	21 11 10	5 0 0	5 0 0	9 0 0	3 0 0	6 0 0	5 0 0	22 wks - -	74 dys - -	50% - -	100% - -	England Wales Scotland
Inquiries under reg.10 of and Sch.3 to the NHS (Service Committees and Tribunal) Regulations 1992	55	17	13	21	7	17	10	15 wks	49 dys	24%	88%	
Inquiries under the NHS (Pharmaceutical Services) Regulations 1992 as amended ³	69	103	106	342	234	135	79	15 wks	35 dys	-	100%	

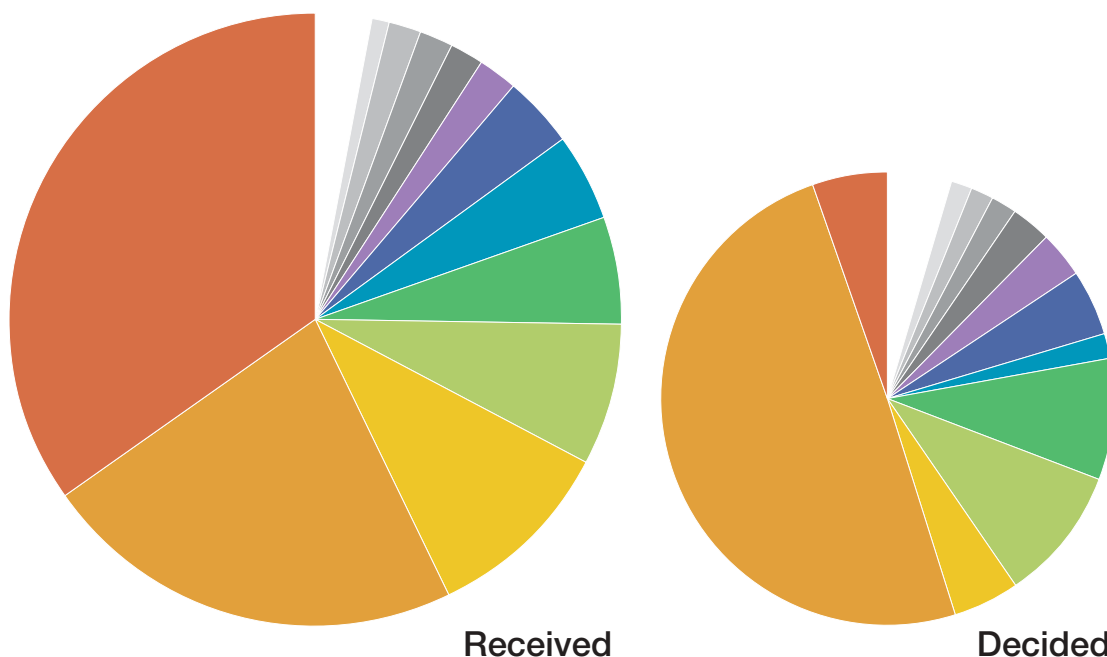
¹ Figures given for Judiciary and Days Sat are combined figures covering Planning and Enforcement Appeals in England and Wales respectively. Figures for Enforcement Appeals (Wales) refer to period April 2001 to

March 2002 and Success Rate figure for same refers only to claims upheld in full – a further 19% of claims were not quashed and may have been partially upheld.

² Judiciary drawn from a combined pool of 23.

³ Last year's Report incorrectly gave cases carried forward as 21. This figure should have been 106.

Cases Received and Decided in GB 2001¹



Valuation Tribunals ²	421,789	35,541
Appeals Service	272,006	328,796
Employment Tribunals	122,326	31,431
School Admission Appeal Panels ³	90,717	63,871
Immigration Adjudicators ⁴	68,625	57,531
Children's Hearings (Scotland)	56,003	11,761
Parking Adjudicators ⁵	45,773	31,057
Immigration Appeal Tribunal ⁴	25,145	21,912
Planning Inquiries ⁶	21,532	18,962
Mental Health Review Tribunal	21,490	12,191
General Commissioners of Income Tax ⁷	20,654	10,743
Traffic Commissioners	11,056	9,907
Other ⁸	36,115	30,403
Total	1,213,321	664,267

¹ Figures are derived from the data shown in the preceding tables. Figures for the Information Commissioner are excluded as the Commissioner's functions do not compare readily with those of other bodies under the Council's supervision.

² Includes figures for the Scottish Valuation Appeal Committees.

³ Figures are for the 2000/2001 school year.

⁴ Figures refer to period April 2001 to March 2002.

⁵ Includes figures for the Scottish Parking Appeals Service.

⁶ Figures are a compilation of data for Enforcement, Local Plan and Planning inquiries throughout GB.

⁷ 'Received' figure is an estimate derived by summing cases withdrawn and cases decided.

⁸ The non-availability of data from some tribunals means that these figures are an estimate.

Appendix K: Previous Annual and Special Reports

Annual Reports

1959 (39-81-1)	1973-74 (HC 289)	1987-88 (HC 102)
1960 (39-81-2)	1974-75 (HC 679)	1988-89 (HC 114)
1961 (39-81-3)	1975-76 (HC 236)	1989-90 (HC 64)
1962 (39-81-4-65)	1976-77 (HC 108)	1990-91 (HC 97)
1963 (39-81-5-64)	1977-78 (HC 74)	1991-92 (HC 316)
1964 (39-81-6-65)	1978-79 (HC 359)	1992-93 (HC 78)
1965 (39-81-7-66)	1979-80 (HC 246)	1993-94 (HC 22)
1966 (SBN 11-390007-4)	1980-81 (HC 89)	1994-95 (HC 64)
1967 (HC 316)	1981-82 (HC 64)	1995-96 (HC 114)
1968 (HC 272)	1982-83 (HC 129)	1996-97 (HC 376)
1969 (HC 72)	1983-84 (HC 42)	1997-98 (HC 45)
1970-71 (HC 26)	1984-85 (HC 54)	1998-99 (HC 30) £14.00
1971-72 (HC 13)	1985-86 (HC 42)	1999-2000 (HC 23) £23.00
1972-73 (HC 82)	1986-87 (HC 234)	2000-01 (HC 343) £26.70

Special Reports

Recommendations arising from the “Chalkpit” case (handling of new factual evidence after a public enquiry 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 (Cm 3559, 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)

Tribunals: their Organisation and Independence 1997 (Cm 3744, Appendix A to the Council's Annual Report for 1996-97)

Mental Health Review Tribunals 2000 (Cm 4740) £5.10

Except where prices are quoted, the reports are out of print.

Recent reports are available on the Council's website:

www.council-on-tribunals.gov.uk