Council on Tribunals

Users support workshop
Tuesday 19 October 2004, Millbank Tower

A workshop to explore and share views on the users issues in the White Paper 'Transforming public services: complaints, redress and tribunals'

Introduction

The key aims of the workshop were to:

- Identify the role to be played by the advice sector in providing support and assistance to users in resolving disputes and bringing cases before tribunals
- Identify the key issues for 'supporting the user'

Forty-six delegates attended, representing a wide range of user groups and organisations, from Advice Services Alliance, Child Poverty Action Group and the Law Commission to the National Autistic Society, Solicitors Pro Bono Group and Welfare Rights organisations. Eight members of the CoT were also in attendance, including the Chairman, Lord Newton of Braintree.

If you would like to comment on any aspect of the workshop, or share your views about any of the issues discussed, or even take part in any future workshop, please telephone: 0207 855 5200 or email: enquiries@cot.gsi.gov.uk.

The programme – the morning

Lord Newton, C**hairman of the CoT** welcomed the delegates, explaining the role of the CoT and the proposals for strengthening that role with the evolution of an administrative justice council (AJC). The CoT had an important role in facilitating the development of the AJC and in developing a stronger relationship with the user community.

This workshop would be the first of a series of similar events that would take place across the UK.

Penny Letts, **a member of the CoT** outlined the format and focus of the day. There were two key areas of focus:

- **Supporting users:** advice, information and support to help with disputes
- **Proportionate dispute resolution** (PDR): the broader picture and alternative strategies

In order to make best use of the time, giving delegates as much opportunity as possible to share their views and discuss issues in the white paper, the

programme included two breakout sessions, each group facilitated by a member of the CoT. With each speaker there was an opportunity for wider group discussion and more questions and discussion at the plenary session before the close of the day.

1. Transforming public services: complaints, redress and tribunals

Paul Stockton, Head of Administrative Justice at the DCA

According to the *Solicitor's Journal*, the white paper heralded "the biggest shake up of tribunals and administrative justice ever". The Legal Action Group (LAG), under the headline 'Unchartered waters: no compass?', said it was "an ambitious position statement on the future of dispute resolution".

What has happened since the white paper's publication?:

- A Senior President designate, Lord Justice Carnwath, has been appointed
- Peter Handcock has been appointed Chief Executive designate
- There is a new minister – Baroness Cathy Ashton has replaced Lord Geoffrey Filkin
- Work on the merger of legislation and administration is underway
- Work on the bigger administrative justice landscape has also begun

What happens next?:

- The DCA will use the occasion of the CoT's annual conference in November to make an announcement about latest developments
- The DCA will announce its five year strategy in December 2004, which will include Proportionate Dispute Resolution and tribunal reform
- Work on the NAO Report into Citizens' Redress has been outsourced to the LSE's Public Policy Group
- The Clementi Report into the regulation of the legal profession is expected to be published by the end of the year
- The fundamental legal aid review is due to report early next year
- A formal launch of the new tribunals service in shadow form is expected by 1 April 2005

The new administrative justice service:

- Its mission will be to "resolve disputes in the best way possible and stimulate improved decision-making so that disputes do not happen as a result of poor decision making"

It is not just about tribunals, but will promote:

- Better decisions
- Better information for tribunal users and potential users
- A more co-ordinated approach to redress
- Alternatives to current processes
- PDR – proportionate to what is at stake

- Enhanced advice – the new tribunal service working in partnership with advice providers

And today? We want to:

- Look for new ideas
- Find the best way to support users and potential users across the whole tribunal landscape
- Explore better, more effective ways to spend the money on frontline services, not just correcting errors; nearly half a billion pounds is currently spent on running the tribunal system, providing redress rather than providing the public with frontline services
- Look for achievable ideas we can pilot now

Many people had been suspicious about the white paper, even disappointed by its content. But there was real momentum behind it and an opportunity to make a difference and change the current system for something better.

Comments and questions:

Sarah Clarke, Child Poverty Action Group – What is meant by 'enhanced advice'? DCA was genuinely looking for ideas and schemes to enhance the advice currently available for users, and to target advice better.

What extra funding is available for developing and implementing new approaches? Small sums of money could be earmarked to 'try out new things'. However, there was no additional money per se in the short term as it was not currently part of government's spending priorities. It was a question of spending what was currently available more effectively.

Tony Wall, DCA - the Legal Services Commission (LSC) might offer an additional source of funding in providing 2nd tier resources to frontline advisers.

Teresa Perchard, Citizens Advice – What about the government's spending review and the amount currently being spent by the LSC? There are essentially three sources of available money: £100k to fund small scale pilots; £200m for legal aid and £280m on running tribunals. Less money should be spent on administering tribunals and more on helping users through the administrative justice system. The starting point for making this happen was the ideas generated by delegates and their colleagues and peers.

Martin South, Legal Services Commission - if the money put in by local authorities to fund advice services was pooled together, thereby combining financial resources, it would provide a better overall service. However, the important thing was to generate the ideas first and the funding issues could be resolved at a later stage.

Lord Newton, Council on Tribunals - it is of considerable interest and concern to the Council that users should have adequate support. The CoT

was sceptical towards the suggestion in the Leggatt Review that users should be able to go to tribunals either on their own or with very little help.

Martin Partington, the Law Commission - Appendix 5 in the white paper includes a housing dispute resolution case study, describing the general ambitions of the AJS. The Law Commission has begun work on a housing dispute project, about which further information can be found on its website: www.lawcom.org.uk.

Bernard Quoroll, Council on Tribunals – How can DCA fulfil its ambition to give a lead to local authorities and government departments in changing and improving the system? DCA has not made much progress to date, but were starting to talk to departments and local authorities. The NAO report added impetus and a remit for feedback was part of the establishment of the new AJS. They want to ‘gear up’ the tribunal service to give feedback in a more systematic and beneficial way. In terms of persuading government departments, there was still some way to go.

Yvette Genn, Council on Tribunals – How can the decision making of doctors in hospitals or employers in the workplace be improved in order to have a positive impact on, for example Mental Health Review Tribunals and Employment Tribunals? The DCA work could not make a huge impact on this area. They were primarily concerned with improving bureaucratic decision making.

Gillian Catherau, Camden Welfare Rights - there is a need for more and better information in advance so that claimants and their advisers could negotiate before the case got to tribunal stage and even prevent it from doing so.

Lord Newton, Council on Tribunals - it all comes back to the need to improve initial decision making, and this was one of the key thrusts of the white paper. The best way to reform the tribunal system was for users and advisers to give continuous feedback on the issues.

2. The White Paper proposals: supporting the user

Adam Griffith, Advice Services Alliance

ASA had two key reservations about the white paper: it is too general and somewhat contradictory about the need for advice and representation.

The white paper talks about disputes in the same way you might talk about disputes with neighbours, as if they could all be resolved with better communication between the parties. This implies a degree of equality between the parties, which is not the case - most instances involve a vulnerable party against the state.

The white paper posits a world where better run, informal tribunals reduce the need for advice and representation, whereas the reverse could be argued, with the need for advice and representation expanding.

Social Security tribunal hearings have seen a fall in the presence of presenting officers at hearings – now at 24 per cent. The President of Appeal Tribunals has highlighted how this changes the dynamics of the tribunal, making it appear to be part of the decision making body rather than the appellant body.

The LSC has consulted on proposed changes to legal aid, which could remove entitlement to legal aid from people with equity in their homes. If the changes are implemented there will be even more pressure on the advice sector.

The Adler and Gulland literature review of users' experiences, commissioned by the then LCD and published by the CoT in November 2003, found that applicants struggle to represent themselves and use advisers whenever they can. There is little support for the proposition that better run tribunals would enable individuals to appear by themselves, without representation.

The future role of the advice sector for tribunals will be to advise potential applicants, as they do now. Changes in the law mean the need for advice remains, and may well increase. Employers and the State will continue to make wrong decisions.

44% of benefit appeals are about DLA or attendance allowance. 45% of initial decisions contain errors, with little improvement after reconsideration. The quality of medical reports is also a concern. Clearance time targets set by the department adversely affect the quality of decisions and the number of appeals has probably been increased as a result of the reduction in the time allowed to file an appeal.

More than half of all DLA appeals are successful and more than 30,000 DLA decisions are corrected each year. This clearly demonstrates problems with original decisions, with the tribunal forming a different view in favour of the appellant.

The white paper's assertion that representation should be reduced does not take account of how difficult cases actually are. There are many different ways the same evidence can be viewed. Deficient medical evidence can also be a significant factor. Appellants need more, not less representation.

There is a need for an expansion of resources for the advice sector. The ASA makes no special claim for the advice sector over, for example, solicitors. However, the advice sector is providing the advice needed and with more money could offer even better support for tribunal users.

Teresa Perchard, Citizen's Advice.

Sixty-five years old, Citizen's Advice (CA) has 3,200 different locations and deals with about five million 'problems' from welfare rights to housing issues. As well as face to face consultations at the bureaux's offices, by telephone and email, advisers also do home visits. There is a well used website. In the area of mental health services, CA has over 100 specific projects. There is a specialist, independent advocacy service that is being developed as part of NHS direct. LSC investment has also enabled the development of specialist areas in debt and welfare benefit.

As well as giving advice to individuals, CA has a role in advocating and lobbying for change on a wider scale. The organisation advises people about their rights to appeal; offering representation before and during the tribunal process. It relies on local authority funding, although this is discretionary and currently in decline.

Most of CA's work is in the area of benefits, employment and immigration. All new volunteer advisers receive training. CA also runs a second tier support service, although this is currently oversubscribed.

With its wealth of experience and expertise, CA clearly has a prominent role to play in the debate.

A recent Legal Services Research Centre study discussed the growing number of adults experiencing problems with civil laws. There is evidence of increasing numbers of unfair and wrong decisions being made. Currently, tribunals are the only means of redress, but it is a complex and daunting process. It will be the first time most appellants have come into contact with the judicial system. The policy perception that there are large volumes of unfounded cases is not borne out by the evidence.

People going through this process need encouragement and support. Hazel Genn's latest research (not yet published) into black and ethnic minority experiences, has found that many people are confused by the process.

It is crucial for the tribunal system to break down the barriers and really understand and deal with those issues that are most important for the individual. For example, loss of income, reputation, well being and so on.

Two illustrative examples of why change was crucial to bring about better decisions and processes - in two incidences, 15 years apart, a doctor's ill-informed decision in making a medical assessment had denied two people disability benefit.

In the first, a doctor asked a woman to walk up and down her garden. She was eager to show what she was able to do and did as the doctor asked, despite the pain it caused her during and after the 'test'. The doctor had an authoritarian manner and dismissed the case.

In the second incident, a man suffering from asthma was contacted at 7pm on the Saturday evening to say the doctor would call on him at 8am the following morning. The man's condition meant it would be difficult for him to be ready in time. When the doctor arrived, he made the man walk up and down the stairs. The man was too afraid to object and the doctor failed his case.

In other cases concerning the unsatisfactory nature of some doctors' reports, an individual had failed an assessment because the doctor decided that wearing trainers meant he could walk; and an old lady, in going to church on a Sunday – the only day she left her house – the doctor inferred that she could get out and about.

It was not clear whether the machinery to make these changes happen was tough enough or even sufficiently resourced enough to achieve the huge change that was necessary to improve the system for users.

As well as examining those cases going to tribunal, was important to look at the bigger picture and include those cases not reaching tribunal stage.

Access was another area in need of improvement and simplification. Tribunals need more user-friendly procedures, that have a responsive approach to the user perspective.

CA did not agree with the 'anti-hearing agenda' and the threat of costs. There was also an issue about the enforceability of decisions. New technology could help in overcoming the problem of getting people to tribunals. CA regularly uses video conferencing, which can be made to work well.

Notwithstanding all the positive changes that may be brought about through tribunal unification, independent advice and representation are non-negotiable and need real resources.

A tribunal of law is complex and individuals need to be properly equipped with high quality representation. Fundamental inequalities exist where citizens who need representation are not in a position to receive it. The issue of funding for representation cannot be ignored and needs to be secured for the long term.

The reform agenda and many of the ideas in the white paper were to be welcomed. However, the government needs to broaden its thinking and look at other issues in addition to representation and decision making.

The programme - the afternoon

Bernard Quoroll introduced the afternoon sessions looking at the white paper's proposals for proportionate dispute resolution and resolving disputes.

3. The White Paper proposals: PDR and resolving disputes

Nony Ardill, Legal Action Group

LAG endorsed the white paper's 'whole system' approach. Currently, the framework of law in terms of setting up rights and responsibilities is too complex; there are strong arguments in favour of the simplification and codification of the law. There are also concerns about the current standards of administrative decision making.

The Administrative Review Council of Australia was an example of best practice that could serve as a model for the UK to learn from. The Australian Review Council produced guidelines for an administrative law framework, covering the principles of natural justice etc. and the mechanisms for reviews. The guidelines focus on training for primary decision makers.

The white paper discusses the important role of discretion for the decision maker. However, too much discretion can lead to a presumption against it being used in the applicant's favour - for example, in the case of asylum seekers, there is a culture of 'disbelief' in the Home Office.

There is scope for developing a range of resources for dispute resolution. However, evidence-based cases need to be differentiated from cases involving disagreements about points of law. The latter should be heard by proper judicial staff. But where issues of credibility are involved, there might also be a need for an oral hearing.

Many disputes lend themselves to compromise, but when they do not mediation may not be the best option. Mediation is not necessarily a cheaper or quicker option. There needs to be recognition of the imbalance of power between decision makers and those deciding on hearings. She urged caution in expanding the role of the tribunal judiciary to include mediation; there is need for appropriate training and clearly defined roles.

It is important to have a separation between decision makers and those deciding on hearings to ensure the relationship does not become too cosy. Tribunals and government departments do not always share the same objective, so although feedback from tribunals is important they must have distinctly separate roles.

Ombudsmen schemes are generally inquisitorial in their nature so there is a need to look at the viability of these as well.

There was some concern about an unconscious shift from the language of rights to the language of redress; moving from public to private methods of resolution, which raised a number of questions:

- Will justice be seen to be done?
- What about consistency and feedback from decision makers?
- What about test cases?
- What are the implications of having a more fragmented approach?

- Are we moving away from oral to documentary evidence?
- Is there a shift in decision making towards non-judicial staff?
- Who will decide how any particular dispute is resolved – the appellant/user/ administrative justice staff?
- Will it be an informed choice?
- When is the decision taken - after the appeal is lodged or will various resolution processes present themselves afterwards?
- Can we be sure that the question of resources is not having an undue influence on the system of resolving disputes?

All these questions need to be considered sooner rather than later as the white paper develops and is implemented.

John Wright, Independent Panel for Special Education Advice

IPSEA is a parent-led charity receiving 9,000 calls a year from parents of children with special educational needs, 4,000 being new cases. Special Educational Needs (SEN) are defined as a learning difficulty/disability that prevents a pupil's access to school or the curriculum.

The Education Act 1996 embodies a legal framework that has been stable for 21 years. This suggests that the room for error from decision makers should now be small. The key duties for the LEA under the Act are to identify children with SEN, assess their needs and produce a statement of SEN. This is a legally enforceable contract specifying what is needed in order to fulfil it.

Parents can appeal to the SENDIST if: the LEA refuses to assess the child; it does not issue a statement; it does not specify the needs required; the parents disagree with the decision or the provision allocated.

The main problem with the system was local authorities not specifying provision under part three of the statement that guaranteed entitlement to assistance. In 1992, the audit commission reported that education officers wrote vague statements in order to avoid a fixed commitment to provide provision for the children, and in doing so, subverted the point of the law.

Although the SENDIST has dealt very well with the appeals, its remit is only to deal with individual children and its decisions do not create precedent. Often local authorities will act in the same way in other cases even where it was previously found to be wrong in law. The authority is free to carry on as before because so many parents do not go to tribunal.

IPSEA was heartened by both the Leggatt Review and the white paper, which highlighted the problem of original decision making. The tribunal is not in a position to 'police' local authorities from continuing to make illegal decisions. However, tribunals should have the power to sanction local authorities. It will not be satisfactory for the new tribunal service to simply publish its views if a local authority knowingly fails to follow its legal duty.

Tribunals should be given the ‘teeth to bite’ in all cases, not just the individual ones before them. The system is not protecting those parents who will not take their case to a tribunal.

If it was apparent to the tribunal from the papers provided that the local authority had made a wrong decision, it should be sent back to be dealt with properly before proceeding to a hearing (if one is still required). Or, following a hearing, the tribunal should be required to publish and enforce its decision, with costs awarded against the local authority for consistently flouting the legislation.

Comments and questions:

Bernard Quoroll, Council on Tribunals - the problem for local authorities was that they were working in effect within an informal rationing system where the budget was ring fenced. LEA's did not set out to deprive children if their entitlement and were not entitled to avoid their statutory duty. At the same time the required provision was often very expensive and had to be paid for from the budget for all school children. There was a need for a more holistic approach to resolve funding problems.

John Wright, IPSEA - the law was based on a needs led approach, and costs should not be part of the equation. The law requires adequate provision, not the best possible; but the LEA must properly assess the child’s needs and find appropriate provision, without reference to cost.

Penny Letts, Council on Tribunals – What is the process of conciliation in SEN cases and how does this work in practice? The experience of the IPSEA was that conciliation was ‘conceptually mismatched’ for this type of dispute. It may be appropriate where there is an element of negotiation, for example at an employment tribunal. Negotiation reflects the balance of power and skill of negotiators; it is not based on the child’s needs.

Plenary discussion

Sue Bucknall, Solicitors Pro Bono Group - DCA and LSC have been working closely together and there was £150 million worth of free legal advice available. Although the original Leggatt Review mentioned pro bono work, it was absent from the white paper.

Angie Lee Foster, National Autistic Society - about a third of all appeal decisions were not implemented by LEAs, which meant that parents had to go back into the system again to get redress.

Tony Redmond, Local Government Ombudsmen - when the ombudsmen make recommendations it is up to local authorities to decide whether to implement them. In 99% of cases the recommendations were adopted. Local authorities accepted the reasons for the ombudsmen’s findings and by virtue of its report realised that it is ‘the right thing to do’. If an authority did not implement the recommendations, it was not necessarily maladministration.

Teresa Perchard, Citizens Advice - the idea of having a stronger focus on decision making should benefit more than the individual whose case was being assessed. She supported a broader advocacy role for the CoT to ensure compliance.

Paul Stockton, DCA - the white paper would give tribunals powers that would have an impact on enforcing decisions. Local authorities were susceptible to a different range of pressures; links between the tribunal system and co-ordinated approaches with other organisations, such as the ombudsmen system, would have a positive impact.

Breakout groups

Below is a summary of the main points and further questions that arose from the breakout discussions. Each of the five groups discussed one of five questions in each of the morning and afternoon sessions.

Morning questions

1. What practical steps can information and advice providers take to ensure decision makers get things right?

- Train first level decision makers more thoroughly
- Put information into an understandable format
- Clarify the questions that doctors are required to ask and involve family members
- Make clear to doctors the purpose of the questions
- Do not underestimate personal contact with claimants; decision makers should attend the tribunal hearing
- Influence decision makers by telling them the true cost and impact of their decisions
- Give claimants more information about what they need to provide in order to progress their case and why it is needed
- Ensure advice and guidance is available in a variety of formats; both paper and non-paper based
- Develop a more systematic approach to training decision makers
- Prevent officials becoming ‘hardened and cynical’
- Employ the right, empathetic staff in the first place
- Promote good practice across tribunals and instil common approach
- Design processes in collaboration with the right advice agencies
- Keep ‘customers’ as the centre of focus at all times

2. What three things would help users resolve their disputes more easily and why?

- Better reasons for decisions

- Better access to decision makers
- Better quality decision making
- Help claimants understand what the ‘problem’ is
- Reduce the complexity of the benefits system
- Better use of revision powers
- Ensure the tribunals receive the right paperwork at an early stage in the process

3. How can information and advice about tribunals and other methods of dispute resolution be improved and what role should advice and voluntary sector organisations play?

- Communication:
    - Decision, reasons, options available
- Advice on process
- Guidelines for representatives
- Credibility of evidence provided
- Timescale
- Paperwork

4. How can the advice and voluntary sector’s role be enhanced to better meet the needs of tribunal users – both those wishing to help themselves and those less confident or able to get through the process unaided?

- The voluntary sector has a lot of recognition, but not sufficient resources
- Could do more with increased resources:
    - Increase capacity
    - Provide more advice and representation
    - Provide expert evidence
    - Offer users support that reflects the seriousness of their case
    - Re-examine how advice is provided
- Funds could be directed towards creating better information and basic information for socially excluded groups

- Utilise legal aid better to help the most extreme cases

- Consider the issue of disabled users who have difficulty accessing venues

- Prevent the tribunal system from being ‘dumbed down’ to let users represent themselves in a way that would undermine the significance of the legal system of which they are a part

- It is not the case that ADR will mean claimants need a reduced level of advice and representation; need to ensure the question of resources is not having a negative impact on the question of disputes

5. What is the best means of obtaining feedback from tribunal users (whether or not they go through providers of advice) and ensuring their views are conveyed to the new service/CoT/AJC at the appropriate level?

- Need feedback from people who have not used the services and why – there’s particular interest in potential users, those who do not bother, are put off or do not know about the service

- Need to ask potential users about the process and obtaining advice

- Need to be aware that answers may depend on outcome of tribunal, could bias the feedback

- The ‘type’ of appellant depends very much on the nature of the tribunal; in some the majority of appellants are ‘well heeled’, in others they are predominantly from ‘socially excluded’ groups

- There is a lack of knowledge about users; need large scale, properly funded research

- Need some form of systematic feedback from users; appellants could be asked to fill in feedback form before leaving the tribunal

- SENDIST is a good example of obtaining feedback; it uses surveys to gauge parental satisfaction

- The government is already engaged in some research, for example through customer surveys; focus groups etc.

- Need to put in place institutional and formal user groups

- There are already tribunal user groups in existence

- Part of the agenda should be to identify user groups

- It is possibly a cultural issue that leads appellants to 'give up' – we are used to being told what to do and accepting decisions of those 'in authority'

- A website would be a good arena for people to lodge comments

- It would need to be a non-government site to gain 'trust'

- Need to explore other means of getting information across and encouraging feedback, for example distributing CD Roms

- 'Advice Now' uses its website as a springboard for media coverage, for example there is currently a common law marriage campaign explaining to co-habiting couples that they do not have same rights as married couples

- Need informal and imaginative approach to awareness raising

- It is important that the message is clear and simple as we need to engage with different levels of literacy

- There is a problem for users just knowing what is available

- A TV campaign might work, for example in the same way as the government's Family Tax Credit campaign

- Could it be included in school curriculum? Schools could be involved in projects similar to one in Hastings, where pupils were given the task of finding out about sources of information locally

- Using a SENDIST example, 99 per cent of parents go to teachers for advice, even though they are not trained to give it

- The Ombudsmen Service has a different approach to different groups of people and various points of service delivery

- Need a radical simplification of advice, for example a single 'gateway', similar to NHS Direct, but 'away' from government

- The key thing for users is that they need to know about the advice available and that the advice is independent, and perhaps most importantly they have to have to will to take action

Afternoon questions

1. **What are the three biggest barriers faced by tribunal users and how can they be removed?**

    a. Ignorance of rights

b. Fear of losing
c. Lack of information about what is happening and signposting to sources of advice

But there are others:

- Physical barriers
- Complexity issues – process and law
- Low awareness of tribunals, or previous bad experience

Possible solutions:

- Single entry point to tribunals
- Profile raising campaign
- Support at tribunals, as a 'friend' not necessarily representing appellant
- Increased funding for better representation and using what already exists more effectively, for example triage services
- Domiciliary visits – they are available, but not always publicised
- Explore use of video links

2. **What other dispute resolution mechanisms can be used to deal with disputes currently dealt with at tribunals and what needs to be changed to make them work effectively?**

   - If clearer decisions are made in the first place, there would not be a need to look at alternatives
   - Need to improve the rapport between advisers and departments
   - Unsure if an additional layer is necessary; perhaps we need to 'get back to basics'
   - The solution lies in better communication

3. **What role should advice and voluntary sector organisations play in helping users to access appropriate and proportionate dispute resolution?**

   - Need to recognise that PDR is more popular in certain areas than others; users are sometimes pleased to use these avenues

- Conciliation works best if it is employed early on

- Mediation is best if user is legally represented; often user not sure what to ask

- A single point of entry would be beneficial

- Mediators can sometimes have a limited breadth of knowledge

- Needs to be clear communication of:
    - all the options
    - timescale
    - next steps

- The financial ombudsman is a good model of a proactive approach

4. **Should there be a one-stop shop that acts as a centre for advice, guidance and a gateway to all dispute resolution services, and if so, how should it be provided?**

- Need distinction between advice process and points of the case; need to separate advice from the tribunal system

- Need to be careful not to mix up the different roles; do not mix up 'judge and jury'

- Needs to be inclusive

- Helpline maybe of more benefit than an advice line

- Advice on process can be improved

- Need advice on merits of the case on a local basis

- Need enhanced central resources

5. **Are there categories of cases where expert help or representation might be the only option to enable an individual to put their case? If so, what might be the criteria to identify such cases?**

- There is a question around definition of expert help

- How do you categorise complex law and definition?

- Complexities in more than one area; law (for example, benefits) and procedure (for example, employment)

- Need recognition of multicultural society

- Should it be constrained to categories?
- Depends on type and level of representation needed
- When do you decide on how complex a case is?
- What is involved in putting your case across?
- The key is presentation and the ability to ‘shoe horn’ the problem
- If well prepared, do you need to always be at the hearing?
- There could be complex legal arguments on the day
- Users need really good information and advice services
- A ‘easy’ guide for all user representatives, with examples would make the application process more consistent
- Need to ‘go back to basics’ and set a minimum standard of articulation
- The challenge is to identify the categories, but can this be done, is not everyone entitled to representation?
- Categories could fall into services, people and stages of advice
- Perhaps it needs a combination of criteria: likelihood of success; ability; income; costs against benefits etc.
- Need to spend money on preventing the problem from happening in the first place
- SENDIST/IPSEA provides information but ‘needy’ parents want one to one help and personal contact with adviser
- Local authorities should be required to provide advice services to a specified level
- Could provide expert help at tribunal venues, but would this encourage the ‘experts’ to look for reasons to adjourn?
- Tribunals welcome competent representation
- How can cases be identified to go forward in a specialist category?
- The main single criteria is the ability to present the case and that depends on the individual recipient