Housing Benefit Reviews

An evaluation of the effectiveness of the review system in responding to claimants dissatisfied with housing benefit decisions

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Any views expressed in this report may not necessarily be those of the Department or of any other Government Department.
Contents

List of Tables and Figures vi
Acknowledgements vii
Summary viii

Chapter 1 INTRODUCTION
- The origins of the housing benefit review system 1
- The housing benefit review system 2
- Evaluating the housing benefit review system 2
- Research design and methods 4
- Structure of the report 6

Chapter 2 STATISTICS ON HOUSING BENEFIT REVIEWS
- DSS statistics: 19824988 8
- DSS statistics: HBMIS 8
- Internal reviews 8
- Review Boards 8
- SPRU survey of a sample of authorities 9
  - Review Board statistics since April 1988 10
- Conclusion 11

Chapter 3 INTERNAL REVIEWS
- Introduction 12
- Access 13
  - Local authority publicity and information 14
  - Housing benefit officers as a source of appeals information 17
  - The role of local authority housing officers in generating reviews 18
  - The role of local advice agencies 19
  - Distinguishing between review requests and other queries 19
- The main issues taken to review 21
- Processing 22
  - Influences on decision making 24
  - Communicating decisions 26
- Recording and monitoring 27
- The outcomes of internal reviews 28
- Claimant satisfaction 28
- The cost of internal reviews 29
- Summary and evaluation 29

Chapter 4 REVIEW BOARDS
- Introduction 32
- Access 32
- The main issues taken to Review Boards 36
- Composition and training of Review Boards 37
- Organising the Review Board 39
- The conduct of hearings 41
- Decision making by Review Boards 45
- Recording decisions 47
- Communicating decisions 47
- The outcomes of Review Boards 48
- Impact on housing benefit administration 49
- Costs 50
- Further review beyond the Review Board 50
- Summary and evaluation 50

Chapter 5 OPTIONS FOR THE FUTURE OF HOUSING BENEFIT REVIEWS
- Introduction 55
- Shortcomings of the housing benefit review system 55
- Independence 56
- The ‘low numbers’ question 57
- Options for change 58
- Strategic options: 59
  - 1. The internal review as a separate stage of appeal 59
  - 2. Options for the appeal body 61
    - Retaining the Review Board 61
      - Changes necessary if the Review Board is to be retained 63
      - Training for Review Board members 63
      - The composition and chairing of the Review Board 63
      - The provision of legal advice to the Review Board 64
      - The location and facilities of the Review Board 64
      - The standards of documentation for Review Boards 64
      - Delays in appeals reaching hearings 65
An independent tribunal

Cost implications of an independent tribunal

An 'Inspectorate' for housing benefit

3. A further tier of appeal

4. Monitoring housing benefit reviews

Other options not contingent on major structural change

Claimant access to the review system

'Review' versus 'appeal'

DSS guidance

Representation at appeals

Summary

Chapter 6 CONCLUSION

APPENDICES

Appendix A Extract from the Housing Benefit (General) Regulations 1987

Appendix B Extract from Housing Benefit Guidance Manual

Appendix C Local Authority Associations Code of Practice

Appendix D Extract from Housing Benefit Management Information System Return F881911

Appendix E Previous research on housing benefit reviews

Appendix F Sampling strategy and achieved sample for the telephone survey

Appendix G Fieldwork methods and samples

Appendix H Workshops for local authority housing benefit officers

Appendix I Postal survey of Review Board members


Appendix K Workshop exercise on options for changes to the Housing Benefit Review system

REFERENCES
List of Tables and Figures

Table 2.1 Number of Review Boards in Great Britain in a sample of local authorities, 1982-90
Table 2.2 Number of Review Boards held in a sample of local authorities 1988/89 and 1989/90
Table 3.1 Sources of advice reported by 88 claimants, by authority
Table 3.2 Reasons for internal review requests, by authority
Table 3.3 Outcome of internal reviews in claimant interview sample, by authority
Table 3.4 Outcome of internal reviews in two fieldwork authorities
Table 4.1 Main issues taken to Review Boards in the workshop authorities, April 1988-March 1990
Table 4.2 Number of Review Board cases heard by councillors
Table 4.3 Length of service of Review Board panel members
Table 4.4 Training of Review Board members
Table 4.5 Most recent training received by Review Board members
Table 4.6 Time taken for cases to reach Review Board hearing
Table 4.7 The impact of professional representation: the views of councillors and housing benefit officers
Table 4.8 Factors taken into account in Review Board decision making: the views of councillors and housing benefit officers
Table 4.9 The influence of the Review Board legal adviser: the views of councillors and housing benefit officers
Table 4.10 Outcomes of Review Board hearings (250 sample)
Table 4.11 Effect of attendance at hearing of the appellant and representatives
Figure 1: Number of Review Boards held in a sample of local authorities 1982-90
Figure 2: Scattergram of local authorities caseload against number of Review Boards held in 1988/89 and 1989/90
Figure 3: Time taken by claimants interviewed in fieldwork authorities to receive reply to internal review requests
Figure 4: Claimants’ knowledge of further appeal and Review Boards
Figure 5: One-stage and two-stage appeals

Appendices

Table F1 Target sample used for telephone survey
Table F2 Achieved sample in telephone survey
Table G1 Achieved sample of 54 local authorities - Primary and secondary stratification (Number of authorities)
Table G3 Claimant tenure, by authority
Table H1 Local authorities attending workshops
Table I1 Review Board member survey: Number of authorities and number of councillors replying
Table I2 Characteristics of respondents to Review Board member survey
Table K1 Strategic Options: ranking of preferences
Table K2 Strategic Options: aggregate scores for desirability and feasibility
Table K3 Other options: distribution of scores for desirability and feasibility
Figure G Appeals progress of interview sample
Figure K1 Option A: Two stage appeal/Review Board
Figure K2 Option B: One stage appeal/Review Board
Figure K3 Option C: Two stage appeal/Independent Tribunal
Figure K4 Option D: One stage appeal/Independent Tribunal
Figure K5 Option E: Two stage appeal/Inspectorate
Figure K6 Option F: One stage appeal/Inspectorate
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Summary

Chapter 1 Introduction

• In 1988 the DSS commissioned SPRU to undertake a study of the housing benefit review system. The objectives were to provide a description of the operation of the system in selected authorities, to elicit the views of participants of its effectiveness and efficiency, to gather statistical information, to set out policy options for change if found to be necessary and to advise on appropriate methods of continued monitoring (para. 1.2).

• The review system has two tiers, comprising an initial administrative review by officers (internal review) and a further review by a committee of local councillors (the Review Board) (1.9-1.11).

• The system was introduced in the final stages of the passage through Parliament of the Social Security and Housing Benefits Bill 1982. It was the result of a compromise between those arguing for a fully independent appeals structure and the local authority associations, who in taking on the administration of a new benefit, wished to retain control over decision making (1.4-1.8).

• Since its introduction the review system has been the subject of continued criticisms, principally that it lacks independence and also that the low numbers of recorded Review Boards indicate that claimants are unaware of or lack confidence in its operations (1.20).

• To provide a framework for evaluation we adopted a set of criteria developed from the literature on administrative tribunals which grew out of the influential Franks Committee Report in 1957. These criteria are not a simple checklist because there are complex (and sometimes contradictory) interactions between them, but the evaluation takes into account the following factors: accessibility, accountability, accuracy, consistency, cost, courtesy, expertise, freedom from technicality, impartiality, independence, participation, and promptness (1.22).

• Recognising that each of the groups of participants will have different perspectives on the effectiveness and efficiency of the review process, the research was designed as a pluralistic evaluation (1.24).

Chapter 2 Statistics on Housing Benefit Reviews

• The DSS has operated two successive systems for collecting statistical data on the review system from local authorities since 1982. The first method produced very low returns and was abandoned in 1986 (2.3).

• A new method, adopted in 1988 as part of the Housing Benefit Management Information System (HBMIS), has achieved a higher response rate. However, the research found wide discrepancies between authorities in the way they defined and recorded reviews, such that the data on internal reviews supplied for HBMIS is largely unusable (2.4-2.7).

• The data on Review Boards held is more reliable, but the questions asked on the HBMIS F8819/1 form do not provide the actual total of Review Boards held, only the number requested and the number held within the statutory time limit (2.8-2.9).

• As an alternative to HBMIS, and in order to assess the changes in the level of Review Boards held since 1982, data was collected from a representative sample of local authorities (2.10).

• This survey showed that the number of Reviews held has risen more than five-fold.
since April 1988, after a steady increase between 1982 and 1988. The success rate for claimants has also risen. Up to 1988 this fluctuated mainly between 30 and 37 per cent, but since 1988 it has stood at 45 per cent (2.12-2.13).

- The aggregate figures conceal wide variations between authorities. Two of the authorities in the sample had held more than 250 Review Boards since 1982, but no others had held more than 100. At the other extreme, six authorities had never held a Review Board (2.14).

- The figures for the last two years show that most authorities still hold very few Review Boards. Over a third of the sample had held less than five and 27 per cent had held none at all (2.16).

- Smaller authorities tend to hold fewer Review Boards, but the level of appeals activity cannot be predicted from the size of an authority's caseload. Some large authorities have held few Review Boards and a few small authorities have held a much larger number (2.21-2.22).

Chapter 3 Internal Reviews

- The housing benefit review system differs from the appeal systems for other social security benefits in that claimants are required to enter written requests for review twice, in order to have their case heard by the relevant appeal body (3.2-3.3, 3.130).

- Official data on internal reviews is unreliable because of the inconsistent ways in which authorities define and record reviews, but it is estimated that over 95 per cent of claimant queries and grievances are dealt with at internal review and do not progress to the Review Board (3.4).

Access

- Claimants’ knowledge of their rights of review and the procedures involved is very limited. This is not an absolute barrier to access because most claimants know they can approach the council if they have a problem, but it can affect the way queries are treated (3.9-3.15).

- Most authorities supply the minimum of information and publicity on review rights and much of this is widely regarded as ineffective. A few authorities provide well-designed appeals leaflets and forms which generate a relatively higher level of review requests (3.16-3.31).

- Other important sources of information on review rights include local advice agencies, housing and rent arrears officers, and housing benefit officers themselves. The latter perform a key ‘gatekeeper’ role, in which access to reviews can be affected by individual officers’ views of claimants and the prevailing attitude towards appeals in the authority (3.37-3.45, 3.46-3.50, 3.51-3.52).

What constitutes an internal review is imprecisely defined in law. This causes difficulties for officers in distinguishing review requests from other queries. In some authorities letters from claimants specifically requesting reviews or appeals are not properly treated as invoking the first stage of the review process (3.53-3.63, 3.117).

- Many officers do not see the internal review as in any way problematic. Rather it is regarded as a routine administrative task with no distinct status beyond that of ‘checking’ assessments (3.60).

The main issues taken to internal review

- Inconsistent definitions of internal review make it difficult to state precisely what issues most commonly come to review. Based on officers’ definitions in replies to review requests, the main problems taken to review in the fieldwork claimant sample were disputes over reduced benefit following the April 1988 changes, backdating, assessment of income, overpayment recovery, exceptional circumstances payments and assessment of capital. Since then, rent restrictions have also become a major issue (3.65-3.75, 3.118).

Processing reviews

- The way reviews are carried out reflects the size and type of authority, and the attitude of senior officers and councillors towards appeals rights. In the smaller rural authorities reviews are usually the responsibility of the officer in charge, whereas in many of the larger urban authorities decision making is more likely to be delegated either to the original assessment team or, conversely, in a few authorities, to a review panel of senior officers (3.77-3.79, 3.121).
• Some local authorities have institutionalised unlawful practices such as the `double' internal review, where claimants writing for further review have this request considered again by officers before they are given the chance to have their appeal heard by a Review Board (3.80-3.83, 3.129).

The gathering and checking of information for reviews can be perfunctory. Claimants are often unaware of what evidence they can provide which might support their case. This can undermine the accuracy of decision making. In general claimants have little opportunity to participate in the review process (3.84-3.85, 3.122).

• There is no statutory duty on authorities to conduct internal reviews within a specified time and in some authorities there can be excessive delays (3.96-3.98, 3.123).

• The detail and quality of explanations of decisions on internal review vary considerably between authorities. In some cases written replies to internal review requests are phrased in ways which some officers reported as being specifically intended to deter claimants from seeking further review (4.9-4.12).

Recording and monitoring

• There is very little systematic recording of internal reviews and where they are recorded, there is a marked inconsistency in the way authorities define them. Few authorities have any systems for monitoring the standards of internal review processing and decision making (3.99-3.102).

Outcomes of internal review

• The majority of local authority determinations are upheld by officers at internal review (3.103-3.107).

• Claimants are mostly unaware of what is involved in an internal review and how decisions are made. Satisfaction is often as dependent on the courtesy with which they are treated as on the outcome of their review (3.108-3.111, 3.125).

• The lack of clarity about what constitutes an internal review, and the requirement to write again for a Review Board hearing, have allowed officers considerable power to control or filter the cases which might go forward to further review (3.129).

Chapter 4 Review Boards

• Review Boards are unique within the welfare benefits system, in that second-stage appeals on housing benefit are heard by local councillors from the authority responsible for administering the benefit.

• Most officers and councillors accepted that Review Boards were not, and could never be, truly independent of the authority. However, councillors claimed that they could, in practice, act independently. Claimants, however, had almost no concept of the Review Boards being independent. This led some claimants to believe that there would be little point in taking their appeals further (4.128).

Access

• Officers exercise considerable control over the volume and type of cases which go forward to Review Boards. This is exercised in different authorities by supplying information on appeal rights selectively, by making Review Boards sound forbidding or pointless, or alternatively by positive encouragement (4.7-4.12, 4.16-4.21, 4.55, 4.131-4.132).

• Most authorities do not insist that claimants request a hearing within the four week statutory time limit or specify the grounds for their appeal (4.22-4.24).

• The research identified a number of factors which influence claimants' decision making on 'take-up' of appeals (4.130). These include:
  - the perception of the determination as incorrect or unjust (4.29)
  - the financial impact of the amount of benefit in dispute (4.29)
  - the claimant's attitude towards receiving housing benefit (4.29)
  - the claimant's attitude towards the local authority (4.26-4.27, 4.29)
  - knowledge of appeal rights and procedures (4.5-4.6, 4.29, 4.129).

The main issues taken to Review Boards

• The main subjects of appeal in the fieldwork authorities were backdating, overpayment recovery, and exceptional circumstances payments. This pattern was broadly similar to that of the 250 cases in the survey of authorities attending the workshops, except that rent restriction has more recently become one of the major issues (4.31).
In general the concentration of appeals around a few main issues reflects those areas of the legislation which allow the greatest scope for differing interpretation and which can have the largest financial impact on claimants (4.32).

Composition and training

- It is common for authorities to select members from the committees responsible for the administration of housing benefit, although some authorities have specifically chosen not to. Half of the Review Board members responding to the questionnaire served on the committee which was responsible for housing benefit in their authority, and one or more member served on the relevant committee in two thirds of the authorities (4.33-4.36, 4.133).

- Only a minority of Review Board members have received any training either on housing benefit or on tribunal procedure. Most of the training which has been provided took place before April 1988 (4.40-4.41, 4.143).

Organising the Review Board

- Only a minority of Review Board hearings take place within the statutory six week limit. In the survey of 250 Review Board cases, only 17 per cent took place within this period (4.47, 4.135).

- Delays can be caused by communication problems between departments, difficulties with convening the required number of councillors, time taken for officers to look at a case again or seek legal advice, or claimants' own unavailability. Generally there is a lack of urgency shown by local authority officers and the statutory time limit does not have any major impact. Claimants sometimes find the delays stressful, both financially and emotionally (4.48-4.51).

- The quality of papers prepared for Review Board hearings varies between authorities. Some prepare comprehensive annotated documents with a summary of the authority's case, whereas others merely put together photocopies of claim forms and correspondence (4.52-4.53, 4.134).

The conduct of hearings

- Review Board hearings are almost always held in council committee rooms. This can be intimidating for claimants and undermines councillors' attempts to be seen as independent of the authority (4.58-4.59, 4.136).

- Claimants attend their hearings in about 70 per cent of cases. In the survey of 250 hearings only 25 per cent of appellants were professionally represented (4.61).

- The role of the Chair is crucial in determining the conduct of the Review Board. Hearings tend to follow broadly the pattern suggested in local authority associations guidance, but they can be marred by poor chairing. At times, informality can allow proceedings to degenerate into disorder where the main points of the case are lost (4.62-4.64, 4.137, 4.139).

- Review Boards vary in the effectiveness with which they establish the relevant facts of a case. Their task is made easier or more difficult according to the competence of the housing benefit officers presenting the authority's case, and on the proficiency of the Board's legal adviser (4.75-4.76, 4.142).

- Claimants' satisfaction with Review Board hearings depended as much on their treatment by councillors and local authority staff as on the outcome of the appeal. Most claimants were satisfied, though there were a number of cases where councillors and officers were criticised for biased, unfriendly or aggressive behaviour (4.70-4.72, 4.77, 4.140-4.141).

- Those advice agency workers who were able to make comparisons from their experience generally found Review Boards less legally competent, more inconsistent, and more unpredictable in their decision making than Social Security Appeal Tribunals (4.86).

Decision making

- In general, Review Board members make an effort to be impartial, but decisions are sometimes influenced by extraneous factors, such as local authority policies, the character, deservingness or demeanour of the appellant, or the political views of Review Board members. In most cases, the financial cost to the authority does not play a significant part in decisions (4.91-4.96, 4.103-4.104, 4.145).

- Review Boards sometimes make decisions in favour of claimants which are beyond their powers under the regulations (4.97).

- In general Review Board members are not sufficiently knowledgeable about the housing benefit regulations to make decisions without
the advice of the authority's legal adviser, or to assess the reliability and validity of that advice. There is a danger of some Review Boards becoming over-reliant on this advice (4.98-4.101).

- Legal advisers have to balance potentially conflicting roles as neutral advisers to the Board and representatives of the authority. Generally they succeed in maintaining this balance, but sometimes their neutrality can be compromised where housing benefit officers consult them before hearings. Their presence at hearings can also undermine the impartiality of the Review Board in the eyes of claimants and representatives (4.56-4.57, 4.81, 4.102, 4.144).

Recording of decisions

- Few Review Boards fulfil the statutory requirement that Chairs record in writing their decisions, findings of fact, and reasons. Often this task is performed by the legal adviser or the clerk, and the Chair may not even see the record (4.105, 4.146).

Communicating decisions

- The quality of explanations of decisions sent to claimants varies considerably between authorities. Some set out clearly the main points of the case, the findings of fact, the relevant law and the reasons for the decision. Others contain brief confirmation of the decision without explanation of how it has been reached (4.108-4.109, 4.146-4.147).

- Although Review Boards almost always make decisions on the day of the hearing, few claimants are sent the written decision within the seven day period specified in the regulations (4.107).

The outcomes of Review Boards

- Analysis of the 250 cases from the workshop authorities suggests that around 40 per cent of Review Board appellants succeed in having the authority's determination revised in their favour. This varies, however, depending on who attends the hearing. The success rate when no one attended was 25 per cent, compared with 40 per cent when the claimant attended alone and 51 per cent when the claimant was professionally represented (4.111-4.115).

Impact on housing benefit administration

- In general, Review Board decisions appear to have little impact on day to day administration. Although most officers and members rejected any notion of decisions acting as precedent, there were examples of officers seeking guidance from Review Boards as to how they should treat similar cases in the future (4.117-4.118, 4.122-4.123).

- On occasions, comments or criticisms by Review Board members have led to changes and improvements in administrative practice and in preparation of cases for hearings (4.119-4.120).

The costs of Review Boards

- Authorities do not account for the costs of holding Review Board hearings separately from other administration and none in the study were able to offer any estimates of the full costs involved (4.124).

Further review

- Claimants dissatisfied with the decision of the Review Board may, in certain limited circumstances, ask for the decision to be set aside and the case heard again by a fresh Review Board, or may challenge the decision on a point of law by judicial review in the High Court. Both the fieldwork and the workshops suggested that claimants rarely exercise these rights (4.125).

Chapter 5 Options for the future of the housing benefit review system

In view of the shortcomings identified in the research, changes to the review system are desirable if housing benefit is to have an appeal system which meets the criteria adopted for evaluation (5.3-5.4).

- One of the main criticisms mounted of the review system has been that it lacks independence. Most participants in the study, including Review Board members, agreed that the Review Board could not be seen as independent of the authority, but most members felt they acted impartially. Claimants' views varied in the extent to which independence was an issue, but for some the identification of the Review Board with the Council was an explicit reason for not pursuing their problem beyond the internal review (5.5-5.13).
A further criticism has been that the low numbers of Review Boards held indicate that the system is ‘not working’. For several reasons, low numbers in themselves cannot answer the question of whether either first-tier decision making or an appeal system is working effectively. Nevertheless, there was a wide discrepancy in the number of appeals heard in otherwise similar authorities. The present review arrangements allow local authorities considerable scope for avoiding Review Board hearings (5.14-5.21).

Options for change

- Possible changes fall mainly into two broad categories—‘strategic’ options, concerning the basic structure of the review system, and other more ‘operational’ changes, which could take place within the existing structure or which are desirable under any structure (5.22).

- The strategic options address four main questions:
  - Should the internal review be retained as a separate stage of the review process?
  - Should housing benefit appeals be heard by a Review Board of local councillors or by another body fully independent of the authority?
  - Should there be a tier of appeal beyond the Review Board, as with other social security benefits?
  - Should the Review Board come under the jurisdiction of an external monitoring body, and if so which body? (5.23).

The internal review as a separate stage of appeal

- Housing benefit claimants, unlike claimants of other social security benefits, have to make two representations in writing before their grievance can be heard by the appeal body. Where a social security claimant appeals, the case is reviewed in the local office, or, where appropriate, in the central office. If the decision cannot be revised fully in the claimant’s favour, the case is forwarded to the appeal tribunal without reference back to the claimant (5.27-5.28).

- Introducing a one-stage appeal into housing benefit would bring it in line with other social security benefits. It would make it more difficult for claimants to be put off making further appeals after the internal review (5.29).

- Disadvantages include a greater number of fruitless appeals going forward to the Review Board, a higher level of unattended hearings, and the problem of dealing with determinations revised partly in the claimant’s favour. One possibility would be to offer claimants the opportunity to withdraw appeals, but place the onus on them to opt out, rather than have to opt in by entering a second appeal (5.30-5.35).

- Irrespective of whether the two-stage appeal is retained, there are a number of ways in which review processing could be improved. These include local authorities designating and training specific senior officers to deal with reviews, stipulating that all claimants should be offered an interview as part of the review process, and imposing a statutory time limit for processing reviews (5.36-5.43).

Options for the appeal body

- There are three main options for the appeal body: retaining the Review Board, transferring appeals to an independent tribunal or introducing an Inspectorate similar to that set up for the social fund (5.44).

- There are several arguments in favour of keeping the appeal system within local government. These stem mainly from the relationship between local authorities and housing benefit claimants, the links between housing benefit administration and local housing policy, and the subsidy arrangements with central government (5.45-5.52).

- If Review Boards are retained, there are a number of ways in which their operations could be improved, though not all these options would be easy to implement. Possible changes might include:
  - a requirement that all Review Board members should receive appropriate and recognised training (5.54-5.57)
  - introducing legally qualified or independent Chairs for Review Boards (5.58-5.60)
  - introducing independent legal advisers for the Board (5.61-5.62)
  - a requirement that Review Board hearings should be held in premises other than council committee rooms (5.63-5.65)
  - introducing standard pro formas for appeal documents and records of decisions (5.66-5.68)
measures designed to reduce delays: for example, streamlining procedures, having set days for Review Board meetings, or introducing a subsidy penalty for hearings unreasonably delayed (5.69-5.71)

- If housing benefit appeals were to be transferred to an independent tribunal, there would be two main options: a new body could be set up along the lines of the Northern Ireland Housing Benefit Review Boards, or an existing body such as the Valuation and Community Charge Tribunal (VCCT) or the Social Security Appeal Tribunal (SSAT) could expand its responsibilities (5.79-5.80, 5.82, 5.86).

- There are arguments for and against all these options. There seems little purpose in establishing a new body if one exists already equipped to take on housing benefit appeals. The main problems with the Review Board system might best be solved by transferring housing benefit appeals to SSATs. They have the most directly relevant expertise, they have a programme of training and monitoring through OPSSAT and have legally qualified Chairs. They also come under the jurisdiction of the Council on Tribunals (5.80-5.91).

$ Possible disadvantages of changing from Review Boards to SSATs include longer distances for appellants to travel, negative associations of SSATs with the DSS, and the loss of the local connection between councillors and constituents (5.92).

- If independent tribunals replaced Review Boards, agreement would need to be reached with local authorities about the allocation of costs of administration and preparation of cases, and the cost of decisions which were not met by maximum subsidy from central government (5.93-5.97).

- An Inspectorate for housing benefit, similar to that for the social fund, would receive little support from local authority officers and may be inappropriate for a benefit based on legal entitlement rather than the exercise of discretion (5.98-5.99).

A further tier of appeal

- Housing benefit claimants currently have a limited right of appeal beyond the Review Board to the High Court. There is a lack of equity with other social security claimants who can appeal to the Social Security Commissioners. This difference has also hindered the development of a useful body of case law on housing benefit. There is a strong argument that a further tier of appeal should be introduced for housing benefit, which would be open to both claimants and local authorities themselves. The most obvious body to fulfil this role would be the Social Security Commissioners (5.100-5.105, 5.107-5.111).

Introducing the right of appeal to the Social Security Commissioners would be a major reform to the housing benefit appeal system. It raises a number of issues which would need to be addressed; for example, the administrative arrangements for local authorities wishing to take cases to the Commissioners, how to distribute the burden of costs, and how best to disseminate case law (5.106).

Monitoring housing benefit reviews

- At present the review system is subject to no external scrutiny beyond the audit procedures within local authorities. Social security appeals, however, are subject to scrutiny by the Chief Adjudication Officer and OPSSAT. There is a strong argument that independent scrutiny is required for both stages of housing benefit reviews in order to improve consistency of decision making (5.112-5.116).

- A clearer definition of reviews and a redrafting of the relevant section of the HBMIS returns is also required to improve the collection of statistical data (5.117).

Other options not contingent on major structural change

- Irrespective of whether internal reviews are retained in their present form and of whether councillors continue to hear appeals, there are other aspects of the review system which could be improved (5.118).

- Access to appeals could be improved by all authorities providing appeal information leaflets and application forms. These could be locally or nationally produced, and the DSS could issue model leaflets and pro forma documents with a guidance pack on appeals (5.119-5.122, 5.125).

- The word ‘review’ could be replaced in legislation with ‘appeal’. The concept of ‘appeal’ is more appropriate to an entitlement-based benefit and is more familiar to claimants. Such a move would also bring housing benefit in line with other benefits and would avoid confusion with the rolling ‘reviews’ of cases which local authorities carry out routinely to check continued entitlement (5.123, 5.124).
The research suggests that representation is important for claimants at Review Boards and can increase their success rate. Only around a fifth of housing benefit appellants are professionally represented. Authorities could take a more positive stance on the provision of information about representation and could liaise with welfare rights and advice agencies to ensure that all appellants have the opportunity to be represented (5.126-5.130).

Chapter 6 Conclusion

The political context in which the housing benefit review system was introduced led to the creation of an appeal structure unique among welfare benefits. The speed with which the debate was conducted also meant that many of the details were imprecisely defined (6.5-6.6).

Consequently local authorities have been left to conduct reviews with a degree of autonomy which results in inconsistent and inequitable treatment of claimants’ grievances (6.9).

• The view of the researchers is that, on balance, there is not sufficient justification for claimants having to appeal twice in order to be heard by the appeal body. We see a move towards one-stage appeal model, with the opportunity for claimants to withdraw appeals, as being in the best interest of housing benefit claimants (6.10).

• We also consider that challenges to housing benefit decisions should properly be thought of as ‘appeals’ not ‘reviews’, and consider it in the interests of all parties for this to be clarified in law (6.11).

• We have identified a range of problems with Review Boards composed of local councillors and we have discussed a number of measures which, if adopted, would improve their performance and their standing. Nevertheless, we doubt whether even substantial changes within the existing structure can compensate for Review Boards’ inherent lack of independence (6.12-6.16).

• We are conscious of the advantages for some claimants in some local authorities of the present system, and of the arguments in favour of keeping the appeals structure within local government, but on balance we feel that housing benefit claimants would be best served if their appeals were heard by independent tribunals (6.17-6.19).

Social Security Appeal Tribunals are well placed to take on this task and there seems little to be gained by establishing a new organisation purely to hear housing benefit appeals (6.20, 6.26-6.29).

• This move would also have the advantage of bringing a further tier of appeal and an established machinery of scrutiny to housing benefit-important features which it currently lacks (6.21-6.25).

e Since the introduction of housing benefit in 1982, the review system has stood isolated from the mainstream of social security. We believe there is a compelling need for change to a system flawed in its structure and operation. This need will become more pressing if the recent upward trend in housing benefit appeals continues (6.30).
Introduction

1.1. The housing benefit review system provides the opportunity for claimants to challenge housing benefit determinations made by local authorities. The two tier system, introduced in the Social Security and Housing Benefit Act 1982, comprises an initial administrative review by local authority officers (which we shall call the ‘internal review’) and a further review by a ‘Review Board’ comprising local authority councillors.

1.2. In 1988 the DSS commissioned SPRU to undertake a study of the operation of the review system. The objectives of the research were:

i. to provide a detailed description and understanding of how the housing benefit review system operates in selected local authorities;

ii. to elicit the views of participants in the system as to the effectiveness and efficiency of the review procedures;

iii. to gather statistical information on the operation of the system;

iv. to set out policy options for change if found to be either necessary or desirable in the light of (i) to (iii) above;

v. to advise on the most appropriate mechanisms for the continued monitoring of the housing benefit review system.

1.3. In the rest of this introduction we first outline the historical development of housing benefit reviews and its current legal framework. We then discuss how, in general, an appeals system might be evaluated, and describe the research design and the methods employed for the various phases of the study. Finally we explain the structure of the report.

The origins of the housing benefit review system

1.4. The passage of the Social Security and Housing Benefits Bill through Parliament in 1981 and early 1982 is well documented by Partington and Bolderson (1984). Their account reveals that appeal rights for dissatisfied claimants did not feature in the government’s original plans for the reform of housing benefit. The issue was raised only when the Bill was in Committee stage.

1.5. Before 1982 there had been no national appeals structure for the rent and rate rebate schemes previously administered by local authorities. There were wide discussions in Committee, therefore, on what form the appeal procedures should take, the constitution of an appeal body, how independent of the local authority an appeal body should be, where control over the appeal arrangements should lie, what an acceptable cost would be, how equity between claimants could be ensured, and so on.

1.6. Pressure groups such as SHAC, Shelter, NACAB and CPAG favoured an independent appeals structure, and hence pressed for housing benefits to be brought within the jurisdiction of the then Supplementary Benefit Appeal Tribunal (SBAT). In contrast, the representatives of local authority interests, led principally by the Association of Metropolitan Authorities (AMA), argued against an independent appeals body. This position was based partly on concerns about how the administrative costs of the scheme would be met, and partly on the argument that it would be an infringement of local democracy if external independent bodies could overrule the decisions of the publicly accountable local authority.

1.7. Various options were considered, including the right of claimants to have any decision reviewed by the relevant local authority only; the right to a further appeal (after review by the local authority) to a SBAT, and the right to a further appeal to a committee of the local authority and thence to the Secretary of State.

1.8. The structure eventually accepted by the government comprised the present two tiers: internal review by local authority officers,
followed by a further review by local authority committee (to be known as the Housing Benefit Review Board). These arrangements became part of the 1982 Act and were fleshed out later in Regulations.

**The housing benefit review system**

1.9. For England, Scotland and Wales the rules governing the housing benefit claimant's rights of review are Regulations 77 to 87 inclusive and schedules 6 and 7 of the Housing Benefit (General) Regulations 1987 (SI 1987, No. 1971) as amended. They are reproduced in full as Appendix A to this report.

1.10. Before deciding whether to request a review a claimant has the option of requesting a written statement from the local authority of the reasons for that determination. The request must be in writing and the local authority must respond within 14 days or as soon as possible afterwards (Reg. 80).

1.11. In the first stage of the review process proper a claimant may request a determination to be reviewed by the local authority (Reg. 79(2)). The request must be made in writing within six weeks of the date of notification of the original determination, but the regulation does not place any specific obligation on the claimant to state reasons. The local authority must review the determination in the light of those representations, but there is no time limit specified within which the local authority must carry out this review.

1.12. Schedule 6 of the Regulations specifies what information local authorities should include in their notices of determination. The notice of a first determination should include a statement of the right to request a review and the notice of determination following this review should include a statement of the right to further review.

1.13. If a claimant is dissatisfied with the outcome of the internal review, Regulation 81 provides the right to a further review by a Housing Benefit Review Board. The claimant must lodge a request for further review in writing within four weeks of the date on which the redetermination was sent and must state grounds for challenging the decision.

1.14. The Review Board must comprise at least three local councillors appointed by the authority (Schedule 7), or two councillors if all parties agree (Reg. 82(7)) and must hear the case within six weeks, or as soon as practicable, of the review request being lodged (Reg. 82(1)).

1.15. The procedures at the hearing are not prescribed but at the discretion of the Chair (Reg. 82(2)(a)). Appellants have the right to present written submissions to the Review Board (Reg. 82(2)(b)), be heard in person, be accompanied by another person, if desired, to call witnesses, and to put questions to anyone giving evidence (Reg. 82(2)(c)).

1.16. The Chair of the Review Board must record the Board's decision in writing, including all reasons and findings of fact (Reg. 83(4)), and send a copy to all affected parties within seven days of reaching its decision, or as soon as practicable afterwards (Reg. 83(5)).

1.17. Claimants may challenge the decision of Review Boards by judicial review in the High Court (the Court of Session in Scotland).

1.18. Separate guidance on the powers, duties and procedures of Review Boards has been published by the DSS as part of its Housing Benefit Guidance Manual (see Appendix B), and by the local authority associations (see Appendix C).

1.19. In Northern Ireland the Department of the Environment administers rate rebates for owner occupiers whilst the Housing Executive is responsible for all other housing benefit claims. The Department appoints a panel of Review Board members for each of the six regions of the Housing Executive and selects a group from this panel to act as Chairs. In contrast to the rest of the UK, Review Boards in Northern Ireland comprise three members only and are not composed of local councillors. The Housing Executive employs clerks with responsibility for the administration of the Review Boards. Apart from these important structural differences the review procedures are essentially the same throughout the UK. However, this study was restricted to examining the review system in England, Scotland and Wales.

**Evaluating the housing benefit review system**

1.20. We have examined the literature on the housing benefit review system to provide the context for its evaluation. The two principal themes to emerge from the small body of published material that has appeared since 1982 concern the structure of the review system and the practice of carrying out internal reviews and Review Board hearings. The main structural issues have been the alleged lack of independence of Review Boards and the lack of any external control or
scrutiny. In their operation of the review system local authorities have been criticised for failing to publicise claimants’ rights adequately and for adopting practices which effectively prevent them from progressing to a Review Board hearing. Review Boards themselves have been reproached for their procedural standards and their standards of decision making. A more detailed discussion of this literature can be found in Appendix E.

1.21. To provide us with a framework for evaluation that we can apply empirically, we have explored the literature on administrative tribunals and administrative justice, from the Pranks Committee Report (1957) to the recent report by JUSTICE-All Souls (1988). From these various sources we have developed a set of criteria which can be used in the evaluation of the housing benefit review systems (or of any appeals system). These are all normative principles which, we argue, appeals systems should embody in their structures, their procedures and practices.

1.22. The criteria that we have used in this study are as follows:

- **Accessibility**—The review system should be simple for all claimants to use. It should be well publicised, and easy for claimants to enter without specialist knowledge or skills. It should be perceived as an effective, quick and non-confrontational means of resolving disputes. Claimants should not be hindered, discouraged or prevented from entering and progressing through the review system. We have looked at how much housing benefit claimants know of their rights, how easy they find it to enter the review process and what obstacles they find in their way.

- **Accountability**—Local authority officers and Review Board members should be accountable for the decisions they make to individual claimants. This requires them to provide not only fully reasoned and comprehensible decisions after an internal review or Review Board hearing but to keep claimants informed of the progress of reviews. We have assessed whether housing benefit claimants know of their rights, how easy they find it to enter the review process and what obstacles they find in their way.

- **Accuracy**—Accuracy can be defined as ‘... the correspondence of the substantive outcome of an adjudication with the true facts of the claimant’s situation and with an appropriate application of the relevant legal rules to those facts’ ( Mashaw, 1974, p.774). Few housing benefit decisions are clear cut; most involve some degree of judgement or interpretation. We have considered whether the decisions reached at internal review or Review Board appear to be justified on the evidence.

- **Consistency**—Housing benefit is a national scheme. Claimants in similar circumstances should therefore be able to expect comparable outcomes to their review requests, regardless of where they live or who deals with their case. We have looked at whether claimants can expect to have their reviews treated consistently both within and among the different authorities.

- **Cost**—Public funds are not limitless. Public officials who are responsible for the administration of the review system should strive to achieve its objectives at a reasonable cost. We present the evidence that exists on the direct financial costs of carrying out internal reviews and holding Review Boards.

- **Courtesy**—Claimants should be able to expect to be treated with courtesy and respect in all their dealings with administrative agencies. We assess the personal treatment of appellants by housing benefit officers and by Review Boards.

- **Expertise**—One of the advantages claimed for administrative tribunals over the Courts is their ability to act informally, free from the technicalities of Court proceedings, such as the rules of evidence. We assess the extent to which Review Boards are able to maintain a balance between the desire for informality and the need to elicit the facts of a case.

- **Impartiality**—The essence of impartiality is that any sentiments of bias or prejudice on the part of the decision maker must have no bearing on the outcome of decision making. We have tried to assess the extent to which bias and prejudice affects housing benefit decisions.

- **Independence**—It is a fundamental principle of natural justice that bodies hearing appeals should be independent of the parties before them. We consider the question of independence in the housing benefit review system and try to assess how important independence is for appellants, housing benefit officers, and for members of Review Boards.
Participation—Claimants should be able to take an active role in the processing of their review requests. We look at the opportunities they have to present all the evidence they wish to support their cases, and respond to the evidence of others at both the internal review and the Review Board stages.

Promptness—Claimants should be able to expect that their reviews are processed within a reasonable time and certainly, in most cases, within any statutory time limits that exist. We have collected data on the speed with which reviews are dealt with, and for Review Board compared these times with the statutory requirement.

1.23. These criteria should not be seen as a simple checklist; evaluation is unfortunately not such a straightforward exercise. Although the criteria can be considered as separate analytically, in reality there are complex interactions between them. Some of them are closely linked with others in a mutually reinforcing relationship (such as independence and impartiality), whilst for others there may exist a tension between the two (for example, speed and accuracy). We have used these criteria as a way of underpinning our evaluation of the various stages of the review process.

Research design and methods

1.24. Each of the participants in the review process will have differing views as to the effectiveness and efficiency of the system. It was therefore decided that the research design adopted must be one of pluralistic evaluation, recognising that evaluation can only take place from a number of perspectives.

Design

1.25. The research design comprised five main elements.

a. A preliminary telephone survey of a stratified sample of local authorities. The aim was primarily to collect sufficient data on the administration of housing benefit and the nature and extent of review activity to enable the informed selection of authorities for later fieldwork.

b. Fieldwork in six local authority areas. During visits of approximately four weeks in each area, qualitative interviews were conducted with appropriate local authority officers; councillors who sat as Review Board members; housing benefit claimants who had lodged review requests; and advice agency workers who had experience of the review system. In addition, Review Boards held in the six authorities were observed.

c. A postal questionnaire to local councillors in a representative sample of authorities. The aim was to complement the fieldwork data with information on the attributes, experience and attitudes of Review Board members.

d. Workshops for housing benefit officers from a representative sample of fifty-four local authorities. The aim was to present the initial analysis of the fieldwork data for comment, to gather further factual information on the operation of internal reviews and Review Boards, to discuss ideas, and to test support for possible options for the reform of the system.

e. A survey of Review Board activity since 1982 in a representative sample of local authorities, including the collection of data on a selection of Review Board cases in the period April 1988 to April 1990.

Methods

1.26. We present below brief summaries of the methods used in this study. They are intended to provide sufficient background for understanding the rest of the report. Further details, including the sampling strategies adopted, the instruments used, and the achieved responses for each of the five parts of the study are included in Appendices F-K.

(a) The telephone survey

1.27. A telephone survey of local authorities was conducted to collect sufficient information on the operation of the review system to be able to select six suitable authorities for later fieldwork. As Chapter 2 will explain, the existing information held centrally was inadequate for the purpose.

1.28. The telephone survey gathered basic data on the reported number of requests made for an internal administrative review and for Review Board hearings and their outcomes. In order to put these data into context information was also sought on the size of the authorities' housing benefit workloads. Other questions sought information on the administrative arrangements in each authority for the processing of claims and review requests.

1.29. The sampling frame adopted was that used by Walker et al in their study of housing benefit reforms in the mid-1980s (Housing Benefit: Discussion about Reforms, 1987). Successful interviews were conducted with 54 of their representative sample of 70 authorities. Appendix F describes the sampling more fully.
1.30. The choice of the six fieldwork authorities was based on their Review Board experience, their current housing benefit caseload, and their geographical location. They were also selected to include an equal number under Labour and Conservative political control (for a full description of the stratification adopted, see Appendix G).

1.31. Authority A was a north-western metropolitan district under Labour control. In 1989 its housing benefit caseload was 14,300, of whom 50% were council tenants, 36% owner occupiers, and 14% private or housing association tenants. Benefits were administered by 30 staff divided between the Housing Department, which dealt with council and private tenants, and the rates section of the Finance Department, which dealt with rate rebates for owner occupiers.

1.32. Authority B was a Midlands metropolitan district, also under Labour control, with a caseload in 1989 of 31,000, made up of 61% council tenants, 30% owner occupiers, and 9% private and housing association tenants. Housing benefits were administered for all claimants by 50 staff within the Finance Department.

1.33. Authority C was a north-eastern non-metropolitan district under Conservative control. In 1989 its benefit caseload was 8,500 of whom 35% were council tenants, 47% owner occupiers, and 18% private or housing association tenants. The small housing benefits section was based in the Finance Department and comprised 12 staff.

1.34. Authority D was a large northern metropolitan district under Labour control. The 1989 housing benefit caseload was 90,000, with 57% per cent council tenants, 22% owner occupiers and 22% private and housing association tenants. Benefits were administered by 144 staff within the Housing Department.

1.35. Authority E was a small non-metropolitan district in the south-east, under Conservative control. Its housing benefit caseload in 1989 was 6,000. Fifty-two per cent of claimants were council tenants, 24 per cent owner occupiers, and 24 per cent private tenants. The Housing Department administered the claims of council tenants and employed four staff, while eight staff of the Finance Department dealt with the remainder of the caseload.

1.36. Authority F was a Conservative-controlled London borough. The housing benefit caseload in 1989 was 30,000, of whom 58% per cent were council tenants, 10% owner occupiers, and 32% private tenants. The housing benefit section was located in the Finance Department and employed more than 100 staff, though unlike the other authorities, computer operators and payments staff worked within the section and account for 11 posts.

1.37. The following data were collected in each authority:
- interview transcripts (claimants, officers, councillors, and advice agency workers);
- notes and background data (for example, age, housing tenure, household type) from the case papers of each claimant interviewed;
- observation notes of the work of housing benefit departments;
- observation notes from 31 Review Board cases (and the relevant case papers);
- miscellaneous local authority documents (for example, policy documents, statistics, management reports, and committee minutes).

(c) Review Board member questionnaire

1.38. The target population for the Review Board member questionnaire consisted of all those councillors who had been chosen to serve on the Review Board panel of the local authorities selected to attend the workshops (see paras. 1.41 to 1.43 below). The survey was conducted in April and May of 1990. 404 questionnaires were sent out to councillors from 60 authorities and 184, from 54 authorities, were returned (a response rate of 46 per cent). It is likely that the number of replies was affected by the local authority elections at the beginning of May. Appendix I describes the characteristics of the respondents more fully.

1.39. Two questionnaires were designed, one for those councillors who had actually heard a housing benefit review, and the other for those who had not yet sat on a Review Board. They are included as Appendix I to this report and differ in that questions relating to Review Board experience have been omitted or amended as appropriate. Each questionnaire was in three sections. Section A requested details of Review Board experience and training; section B asked for personal biographical information (for example, age,
sex, and employment status) and details of membership of other tribunals; section C comprised a number of questions on councillors' attitudes towards the operation of Review Boards in their authority.

1.40. Completed questionnaires were received from 124 councillors with some Review Board experience and 60 from councillors with no Review Board experience. Appendix I presents descriptive statistics on the responses. The highest number of responses from a single authority was eleven and the lowest zero. The interpretation of the responses to some questions is therefore problematic. The answers to some factual questions, about training for example, could be biased towards authorities with large Review Board panels and high numbers of respondents. We have therefore identified in the main text where there is the potential for this kind of bias. For other sections of the questionnaires, such as the attitudinal questions, the number of councillors on the panel will not influence individual responses. On these questions we are confident to generalise from our sample.

(d) Workshops with housing benefit officers

1.41. Invitations to the workshops were sent to the same representative sample of 70 authorities used for the telephone survey. For any authority which declined the invitation, we approached an authority equivalent in terms of its location, workload and tenure pattern as a replacement. Sixty-two authorities agreed to attend but eight authorities withdrew at short notice and could not be replaced. The final attendance was 54.

1.42. Three workshops were held, each taking place over two days. The first day was devoted to gathering information on and discussing the operation of internal reviews and Review Boards in the participant authorities. The second day was devoted to identifying the strengths and weaknesses of the current arrangements, and to considering a range of policy options for the future generated partly by the researchers and partly by the participating officers.

1.43. The main technique employed over the two days was small group discussions involving between five and seven housing benefit officers. Two questionnaires were completed during the workshops. The first was based on the postal questionnaire previously sent to Review Board panel members and explored officers' attitudes towards the review system. The second required officers to scale the desirability and feasibility of a range of policy options for the future (see Appendix K).

(e) Review Board activity survey

1.44. The local authorities invited to participate in the workshops were also sent an advance questionnaire requesting two types of information on Review Board activity. First, information was sought on the number of Review Boards held and the number of decisions in the claimant's favour for each year since the inception of the review system in 1982. The data are presented in Chapter 2. Second, authorities were asked to complete a pro forma for the ten most recent Review Board cases heard in the two years since April 1988. The pro forma required details of the dates of the review request and the Review Board hearing, the substance of the request, who attended the hearing and its outcome. Data were collected on 250 Review Board cases and are presented in Chapter 4.

Structure of the report

1.45. Chapter 2 presents the statistical information on the operation of the housing benefit review system collected from a representative sample of local authorities, and discusses the value of the information generated on reviews by the DSS's Housing Benefit Management Information System (HBMIS). Chapters 3 and 4 present our findings on the operation of internal reviews and Review Boards respectively. Chapter 5 presents a discussion of the main issues of the structure and operation of the housing benefit review system as a whole, and discusses a range of policy options for the future. Chapter 6 presents the conclusions of the study.

References to sources in the report

1.46. Verbatim quotations from individual interviews, questionnaires, and workshop discussions are included in the main text of the report to illustrate the words and phrases that people use when talking about housing benefit appeals. In order to maintain anonymity the type of respondent is identified as, for example, 'claimant', 'Councillor', 'advice worker' etc. If the source is from one of the local authorities visited during fieldwork we refer to 'Authority A', 'Authority B' etc. Otherwise we refer to the type of authority from which the source comes; for example 'Scottish district', 'London borough', 'District council' etc. The quotations should be read only in the context of the main text. The presence, absence or length of quotations
should not be interpreted as indicating the relative importance of the points made.

*Use of the terms 'review' and 'appeal' in the report*

1.47. As will become apparent from the main body of this report there are few examples from the various phases of the study of individuals making a distinction between the terms 'review' and 'appeal'. Most people used 'appeal' when describing the review system and others treated the terms as interchangeable. We have followed this dominant trend and refer to both reviews and appeals in the report as seems appropriate.

*A note on community charge benefit*

1.48. Community charge replaced domestic rates in April 1989 in Scotland and April 1990 in England and Wales. As a consequence rate rebates ceased to exist and were replaced by community charge benefit although the rules of eligibility were largely unchanged. Claimants have the same rights to request reviews against community charge benefit decisions as they have for housing benefit. The identical rules are in Regulations 65 to 74 and Schedules 5 and 6 of the Community Charge Benefits (General) Regulations 1989 (SI 1989, No. 1321).

1.49. Because the fieldwork was carried out in England in the summer of 1989 the local authorities visited had, at that point, had no experience of community charge benefit reviews.

1.50. Although local authorities could, if they wished, constitute separate Review Boards to hear community charge benefit cases none of the officers attending the workshops thought this likely. We are confident therefore that the findings and conclusion from this study will be as relevant to community charge benefit reviews as they are to housing benefit reviews.
2 Statistics on Housing Benefit Reviews

2.1. One of the objectives of this project was to collect statistical data on the operation of the housing benefit review system. This chapter discusses the official statistics collected by the DSS since 1982 and presents the results of a statistical survey of a representative sample of local authorities carried out in May 1990 as part of this project.

2.2. The DSS's Housing Benefit Management Information System (HBMIS) was introduced in April 1988, a few months before the start of this project. HBMIS collects a wide range of data on housing benefit administration which are used to calculate the amount of subsidy each local authority will receive from central government. It includes the statistical return F88/9/1 on reviews (included as Appendix D to this report). Hence, we decided to await the first output of HBMIS for 1988/89 rather than duplicate the collection of data. However, as we explain below, the first output made available to us towards the end of 1989 proved problematic. It was decided, therefore, to carry out a separate statistical survey of the representative sample of local authorities invited to the workshops.


2.3. Since the introduction of unified housing benefit in 1982 the DSS has operated two successive systems for collecting data on the review system. Between 1982 and 1986, local authorities were required to complete statistical returns on the numbers of internal reviews and Review Boards held, and their outcomes. The initial response from local authorities was very low (19 per cent in the first year) and by the year 1985/86 the rate of return had declined to only five per cent. The DSS therefore abandoned this method and data was not collected between 1986 and 1988.

DSS statistics: HBMIS

2.4. Since April 1988, official statistics on the housing benefit review system have been collected as part of the HBMIS. Although a far greater number of authorities have supplied information on internal reviews and Review Boards, there are serious doubts about the validity of some of the data.

Internal reviews

2.5. The evidence from the telephone survey, the fieldwork and the workshops (presented in Chapter 3) shows clearly that there is a wide variation between authorities in the way internal reviews are defined and recorded. The result is that there are serious discrepancies in the data supplied on the HBMIS returns. Our examination of the early output for 1988/89 shows, for example, six authorities recording as few as one internal review for the year. (There are also many returns of zero, but it is not clear from the computer printout how many of these are true zeros and how many represent a non-response.) At the other extreme, two local authorities each reported over 4,000 internal reviews.

2.6. There are other indications that the returns are unreliable. For example, two authorities report that they held 1,500 and 4,300 internal reviews respectively but did not revise their original determination in a single case. In contrast, a Scottish district records that it made revised decisions in all 130 of its internal review cases.

2.7. The discrepancies in the internal review data supplied by local authorities for HBMIS are so large that we have concluded that they are unusable.

Review Boards

2.8. The data on Review Boards are more reliable since it is relatively easy for local authorities to count the number of Review Boards held during the year. However, there are still problems with the information which HBMIS yields. For example, questions 6 and 7 of F88/9/1 (see Appendix D) ask authorities to...
give the number of Review Boards requested and the number held within six weeks. We cannot deduce from the responses to these questions how many Review Boards were actually held in total, because it is not uncommon for claimants to withdraw their review requests, or for the local authority to revise its decision before a hearing.

2.9. Before the HBMIS figures on Review Boards can be considered reliable, improvements in the statistical return F88/9/1 are necessary to ensure that the information generated is a true reflection of Review Board activity.

SPRU survey of a sample of authorities

2.10 In May 1990, the local authorities which had been invited to attend the workshops were asked to supply data on the number of Review Boards held in each year since the start of the housing benefit review system and the number of Boards at which the decision of the local authority was revised in the claimant’s favour. Because of the problems of definition and recording of internal reviews revealed by the telephone survey and the fieldwork, it was decided that no useful purpose would be served by attempting to collect this data.

2.11. Table 2.1 below presents, for our sample of authorities, the numbers of Review Boards held and the number of decisions in the claimant’s favour in the first eight years the review system has been operating.

Table 2.1: Number of Review Boards in Great Britain in a sample of local authorities, 1982-90

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Review Boards</th>
<th>Number of decisions revised in claimant’s favour</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982/83</td>
<td>39</td>
<td>15</td>
</tr>
<tr>
<td>1983/84</td>
<td>40</td>
<td>28</td>
</tr>
<tr>
<td>1984/85</td>
<td>40</td>
<td>41</td>
</tr>
<tr>
<td>1985/86</td>
<td>43</td>
<td>67</td>
</tr>
<tr>
<td>1986/87</td>
<td>43</td>
<td>84</td>
</tr>
<tr>
<td>1987/88</td>
<td>45</td>
<td>133</td>
</tr>
<tr>
<td>1988/89</td>
<td>47</td>
<td>339</td>
</tr>
<tr>
<td>1989/90</td>
<td>48</td>
<td>633</td>
</tr>
</tbody>
</table>

Source: Returns from representative sample of local authorities

1 Number of local authorities supplying data

2.12. The table shows that the number of Review Boards held in the early years was small but increased gradually between 1982 and 1988. Since April 1988, however, the number has risen more steeply. Figure 1 below charts this rise in the 39 local authorities able to supply us with data for the whole of the period 1982-90.

2.13. Table 2.1 shows how the success rate of claimants at Review Boards also seems to have risen substantially since April 1988. With the exception of 1983/84 the success rate in the first six years only varied between 30 and 37 per cent, whereas the figures for the last two years are both 45 per cent.

Figure 1: Number of Review Boards held in a sample of local authorities 1982-90
2.14. Within the broad picture shown by Table 2.1, there are wide variations in the numbers of Review Boards held by individual authorities in the sample. Since the review system began in 1982 the highest number of Review Boards held in a single authority stood at 294. Another authority had held 271 but apart from these no authority had held more than 100. At the other end of the scale, six authorities in the sample had never held a Review Board.

Review Board statistics since April 1988

2.15. The steep rise in the number of Review Boards since April 1988 suggests that it would be useful to look at the last two years separately from the previous six. Table 2.2 below shows numbers of Review Boards for the years 1988/89 and 1989/90.

Table 2.2: Number of Review Boards held in a sample of local authorities 1988/89 and 1989/90

<table>
<thead>
<tr>
<th>Number of Review Boards</th>
<th>1988/89</th>
<th>1989/90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero</td>
<td>20</td>
<td>18</td>
</tr>
<tr>
<td>1-5</td>
<td>19</td>
<td>15</td>
</tr>
<tr>
<td>6-10</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>11-25</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>26-50</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>51+</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Total^1</td>
<td>47</td>
<td>48</td>
</tr>
</tbody>
</table>

Of the 54 local authorities in the sample, 47 supplied data for 1988/89, and 48 for 1989/90.

2.16. Table 2.2 shows that, despite the growth in Review Boards held over the last two years, most local authorities still hold very few. Nineteen authorities in 1988/89 and fifteen authorities in 1989/90 held five or fewer. Furthermore, a substantial proportion, 20 authorities in 1988/89 and 18 in 1989/90, held none at all. Taking the two years together, 13 of the 48 authorities who supplied information had not held a Review Board since April 1988.

2.17. One hypothesis that might explain the wide variation between authorities is that the number of Review Boards is proportional to the size of the authority's caseload. Figure 2 below plots the total number of Review Boards held between April 1988 and March 1990 against the size of each authority's caseload at 31 March 1990.

As Figure 2 suggests, there is no statistically significant correlation between size of caseload and number of Review Boards held. Despite this, it appears that, in general, the smaller authorities (under 10,000 caseload) tend to hold few Review Boards, although there are obvious exceptions such as the authority with a caseload of around 58,000 which held only six Review Boards from 1988-1990.

One aim of selecting a representative sample of local authorities was to allow us to estimate the amount of Review Board activity in Great Britain as a whole. However, for a number of

Figure 2: Scattergram of local authorities caseload against number of Review Boards held in 1988/89 and 1989/90

\^The data from three authorities have been excluded from the diagram because they did not fit within the scales used. One authority had a caseload of 143,000 (and had held 45 Review Boards). Two other authorities had held 250 and 270 Review Boards (their caseloads were 97,000 and 79,000 respectively).
reasons the results we have obtained suggest that we should be cautious in any attempts to generalise. First, the distribution of Review Boards among authorities is extremely skewed. As we have already mentioned most authorities hold very few, but there are a small number of authorities who hold comparatively huge numbers. The two authorities with the most Review Boards in the last two years account for 520 (53 per cent) of the total of 972 Review Boards held in the 48 authorities supplying data.

2.20. Second, if the pattern of Review Boards from our sample reflected the position in the 466 local authorities in Great Britain we would expect to find a total of 19 authorities holding very large numbers of hearings (ie over 100 each year). However, from the initial output from the HBMIS, only two of the 291 authorities who had sent their returns recorded over 100 Review Boards, where we would have expected to have found twelve. This discrepancy makes us cautious about calculating from our data an estimated total number of Review Boards held in the whole country. Because two of the authorities in our sample record numbers of Review Boards far in excess of the others we think that the estimate would be higher than the true figure. Nevertheless, if we do perform the calculation from the figures in Table 2.1 we arrive at the following estimates of the number of Review Boards held in Great Britain (we present these figures as an illustration of the order of magnitude of the number of Review Boards rather than absolute figures). In 1982/83 (the first year of the scheme) an estimated 178 Review Boards were held. In the year preceding the changes to housing benefit in April 1988 (ie 1987/88), 1162 were held. In the two years following the changes but before the introduction of community charge benefit, the estimated figures are 3340 for 1988/89 and 6106 for 1989/90.

Conclusion
2.21. The number of internal reviews held in local authorities is not known, nor can any estimates be offered, due to the wide variations between authorities in the way they are defined and recorded. Also, we cannot be certain of the number of Review Boards being held, although we estimate that, in the last two years, they are in the order of thousands, rather than hundreds or tens of thousands. We can be more certain that there has been a gradual increase in Review Boards from 1982 to 1988 and a more rapid rise following the changes to housing benefit introduced in April 1988.

2.22. There is no statistical correlation between the size of an authority’s caseload and the number of Review Boards held, although most of the smaller authorities hold few or none. There is clearly a greater potential for reviews in authorities with large caseloads, but it is impossible simply to explain the variation in the number of Review Boards as a consequence of the size of the authority. The reasons are more complex and are explored in the following chapters.
Introduction

3.1. Evaluations of structures of appeal against administrative decisions of public authorities have naturally focused primarily on the role and performance of tribunals or other similar bodies. For example, discussion and evaluation of appeals on social security benefits has tended to concentrate on the Supplementary Benefit Appeal Tribunal (SBAT) or its successor the Social Security Appeal Tribunal (SSAT) (see, for example, Bell 1975, Genn and Genn 1989). Similarly the smaller body of literature on housing benefit reviews has dwelt mainly on the nature and role of the Housing Benefit Review Board (Partington and Bolderson 1984, Wikeley 1986).

3.2. Clearly the role of the Review Board is crucial and this is discussed in Chapter 4 of this report. There is, however, an important difference between the appeal system for most social security benefits and that established in 1982/3 for housing benefit, which makes it necessary to examine also the process of the first stage internal review. Regulation 79(2) of the Housing Benefit (General) Regulations 1987 gives claimants the right to have any determination made by the authority reviewed, provided the request is received by the authority in writing within six weeks of the date of the determination. Regulation 81 provides a right to a further review (by a Review Board) if the claimant is dissatisfied with the outcome of the first review. The onus here is placed on claimants to make two separate requests for review if they wish their cases to be heard by a Review Board.

3.3. A claimant dissatisfied with an award of income support or most other social security benefits, on the other hand, has only to appeal once. Where an appeal is lodged against a decision of an adjudication officer, the case is reviewed within the local office, but if a decision cannot be revised fully in favour of the claimant the appeal passes to the SSAT without formal reference back to the person appealing. The claimant is, however, required to give grounds for the appeal.

3.4. The previous chapter discussed the absence of accurate data on housing benefit reviews and concluded that the HBMIS statistics on internal reviews were particularly unreliable. We reached this conclusion by examining records in the fieldwork authorities and by discussing review practices with senior housing benefit officers. Notwithstanding these reservations, we estimate that the vast majority (probably over 95 per cent) of queries, grievances and appeals on housing benefit are disposed of by officers informally or by internal review and do not go as far as a Review Board (see SPRU Working Paper 642).

3.5. It is not always easy to draw clear distinctions between requests for review and other kinds of query (see paras. 3.53-3.62). Certainly it is not the case that all representations by claimants would become formal appeals even under a one-stage appeal system. Nevertheless, the law has created a specific first stage review, after which the appellant must make further representations for the case to be heard by a tribunal. This suggests that an evaluation of housing benefit reviews based only on the performance of Review Boards, and the numbers of appeals heard by them, would be deficient. If the majority of cases where a claimant disputes the authority's determination are settled by internal review, then these reviews should be subject to evaluative scrutiny as much as the decisions of Review Boards.

3.6. Schedule 6 of the 1987 Regulations requires authorities to include information on review rights in letters notifying claimants of their benefit award, and to inform claimants of their further right to a Review Board hearing in replies to Reg. 79(2) review requests. Beyond this, neither the law nor the DSS guidance contain any detailed prescription or advice on how internal reviews should be carried out. Local authorities have been left to devise their own arrangements.

3.7. This chapter looks at how claimants come to request reviews and what factors influence their access to the appeal system, the type of
problems which tend to crime oo as issues for review, and the range of purposes by authorities to the requirement to review determinations. Finally we discuss the ways in which this particular aspect of the review structure can usefully be evaluated. Information is drawn principally from the interviews and observations in the six authorities, but is supplemented with drafts of letters to the discussion with senior housing benefit officers of six authorities participating in the workshops.

Access

3.8. Access to an appeal system is determined largely by the level and quality of information available to potential appellants and the bureaucratic practices operated by those administering it. The housing benefit regulations place certain minimum obligations on local authorities to inform claimants of their right to appeal, but although there is considerable variation in the ways authorities comply with these obligations, few go beyond these minimum requirements. There is also an uncertainty, or a divergence of opinion, among officers responsible for housing benefit about the function and purpose of the review process, which can lead to potentially inequitable treatment of claimants.

3.9. The claimants interviewed in the fieldwork authorities came to request reviews by a variety of routes. The majority were unaware of any specific legal right to review and simply wrote to the council because they found the notifications about their benefit unsatisfactory in some way. Others wrote as a result of having acquired some direct information about reviews. The main sources of such information were the written publicity produced by local authorities, verbal advice from housing benefit counter clerks and assessors, housing and rent arrears officers, local advice agencies, councillors, and the ‘grapevine’-friends, relatives and neighbours.

3.10. It is difficult to assess the relative importance to claimants of different sources of information. Many received information from a number of sources and it was not always clear that any one alone was the specific ‘trigger’ to asking for a review.

3.11. There was, however, one indicator which frequently suggested the involvement of some other party in the claimant’s approach to the council. This was the use by claimants of certain key words in their letters to the authority. For example, less than a third of all the claimants interviewed specifically referred to either ‘review’ or ‘appeal’ in their letters, but nearly of those who did came from one author (aut::: ! A). In most of these cases clear advice with drafts of letters to the council of one of two local advice centres.

3.12. Similarly, a number of claimants in other authorities specifically asked for an award to be backdated or for an exceptional circumstances payment (under Reg. 69(8)). Again this was usually as a result of advice from another party, often housing benefit officers themselves. Authority C, for example, provided a specific ‘Request for Backdating’ form, which was used by several of the claimants interviewed.

3.13. In all, 38 claimants out of the 88 interviewed said they had received advice from some other person or agency external to the housing benefit department itself, though in many cases this advice was sought after they had written to the council. Thus the contact with the advice source or agency was not necessarily the trigger to seeking a review. Table 3.1 shows the sources of advice drawn on by the claimant sample, broken down by authority.

Table 3.1. Sources of advice reported by 88 claimants, by authority

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<th>B</th>
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<th>D</th>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes
1. The number of claimants seeking advice from various sources in one authority can total more than the number of claimants interviewed in that authority because some claimants sought advice from several sources.
2. The category ‘other’ includes solicitors, national and local disability organisations, Age Concern and other voluntary organisations.
3.14. There was some variation between authorities in both the routes most claimants interviewed took to appeal and the sources and extent of advice seeking. Although the claimants were not a statistically representative sample, the distribution in the table above corresponds broadly to the patterns of local advice service provision, so that the cases A and B had a high number of advice seeking and a high level of advice on housing benefit cases, while few claimants in authorities C and E sought advice and there was little provision. Authority F was an exception, having a high level of advice service provision, but relatively little advice seeking among the claimants interviewed.

3.15. Of the 50 claimants who did not seek any advice, most were unaware of any specific `review' or `appeal' procedures. They had simply written to the council because they felt their benefit was wrong. In general claimants' knowledge and understanding of the appeal procedures in the fieldwork authorities was very limited, even among those who had sought advice. Few had any clear idea of what was involved in a `review', even though all had written to the housing benefit office and had received some form of reply. Lack of specific knowledge was not, therefore, in itself an absolute bar to action at this stage because it was commonly understood that claimants could write to, telephone or call in at the benefit office if they had a problem.

Local authority publicity and information.

3.16. The interim report (SPRU Working Paper 642) described the variation in the written information provided in the six fieldwork authorities. This variation was similarly reflected among the larger, representative sample of workshop authorities. Many produced general leaflets or booklets about housing benefit, but in most cases the written information on reviews was limited to the statutory paragraph included in their letters notifying claimants of benefit awards. None of the six fieldwork authorities and only a small percentage of the 54 workshop authorities provided any additional written information unless a claimant reached the stage of requesting a Review Board hearing.

3.17. When officers were asked how their review paragraphs were drawn up, most replied to the effect that `the wording follows the regulations'. Thus they saw it as following a standard and fixed pattern, although there were in fact significant differences in presentation even between those authorities who provided no information other than the notification letter. There were four main differences:

- whether they also referred in the initial notification to the second stage of the appeal process (the Review Board),
- how they presented the additional right to ask for a detailed calculation or statement of reasons for a determination (Reg. 80),
- whether they referred to `review' or `appeal' or used some other less formal expression such as asking for a case to be `looked at again',
- where the paragraph on appeal rights was located, i.e. on the front or the back of the notification letter.

3.18. There was a strong feeling among officers that their notification letters, and their documentation in general, were too complicated and too much driven by their computer systems, with most authorities having insufficient control over layout and wording once they had subscribed to a software package. Printing costs had also led many authorities to restrict customised information to one side of the document. `Fixed' items of information, including details of appeal rights and explanations of terms such as `applicable amounts' and `non-dependant deductions', were then placed on the reverse side.

3.19. A wide range of different terminology was used to describe appeal rights even among the six fieldwork authorities. Thus two referred to the `right of appeal', upon which the authority would carry out a `review'; another referred to the `right to review'; another said that where the claimant disagreed with a decision it could be `looked at again'; another said claimants can `write if they do not agree' and also referred to the relevant regulations; and the last invited claimants to `make representations'. The different uses of terminology proved controversial in the workshops, with some officers arguing that `review' was what the regulations referred to and this should be followed, others that `appeal' was a word more widely understood by claimants and more evocative of `rights', and others again that both words were too technical and formal to describe the process involved.
3.20. The question of the appropriate terminology was also considered by advice workers in several authorities:

"The word 'review' is not the same as 'appeal'. It sounds a bit vague if you write to them they just might change their mind. It doesn't sound legal."  
(Law centre solicitor, authority F)

3.21. The principle of 'reviews' versus 'appeals' is discussed more fully below (see para. 5.110), but it is important to note that these different views among officers tended to reflect their broader attitudes towards appeals in general and informed the ways in which reviews were conducted in their respective authorities.

3.22. Although officers mostly saw the notification letters as the limit of their responsibility for informing claimants of their right to appeal, they also regarded them as largely ineffective. There was an assumption that claimants failed to read or take much notice of them, mainly because of the mass of detail which authorities are obliged to include by Schedule 6 of the Regulations.

"The detail of the notification is the biggest turn off."  
(Scottish district)

"Well the problem is just how much information do you put on. I think the amount of information we now have to put on a notification letter is probably confusing to 90 per cent of the claimants anyway."  
(Authority B)

"We're required to tell them too much by the legislation. It should be much more simplistic-concentrating on the 'You pay' bit."  
(Metropolitan borough)

3.23. There was also the view that if claimants were sufficiently motivated they would appeal regardless of their knowledge and understanding of their rights.

"If they're not happy they'll appeal anyway without reading all the details. The more you give these people the less chance there is they'll read it."  
(Scottish district)

3.24. Claimants' experiences of receiving these notification letters tended to bear out officers' impressions. Most found them very difficult to understand and very few spontaneously mentioned the appeals paragraph as a source of information. One claimant, an elderly single woman, had noticed the paragraph, but did not find it conveyed to her any useful information:

"The parag any sense. I read it and, what the hell do I do to <"  
(Claimant, authority F)

Alternatively, for some claimants, the concept of 'appeal' not fit their idea of a solution to their particular problem even when they were aware of their rights. One claimant, a single parent council housing tenant in rent arrears because of a late ceiling. Her request for backdating was partly met by the authority after she wrote to them, although there was some delay. She was aware of having a right to appeal, but did not see this as the mechanism by which her problem had been sorted out.

"They put all that (appeal information) at the bottom of each letter. But it's not an appeal-I just had to let them know they'd charged me wrong."  
(Claimant, authority F)

3.25. Local advice workers also identified some authorities' letters as a potential obstacle to claimants' understanding of both their benefit awards and their appeal rights.

"Their computer letters are absolute gobbledegook-claimants don't understand them. We used to routinely ask claimants if they understood their appeal rights and invariably no (they did not)."  
(Law centre solicitor, authority F)

"On restricted rents, what they don't tend to do is actually send people letters specifically explaining that they are restricting the rent for particular reasons. I mean it's just on the calculation sheet as 'Your rent is such and such', and it doesn't explain why that might be a lot lower than what they're actually paying, and they don't exactly invite people to appeal. When you ask them they say 'Well it says on the back of the letter that you can ask for a review within six weeks' or whatever. Whereas for instance with the DSS there'd probably be a specific letter explaining what had happened and why then saying that they've a right to challenge this."  
(Welfare rights unit adviser, authority A)

3.26. Most officers were aware of these difficulties and many authorities had clearly taken some trouble to devise a form of wording which in their judgement struck the most appropriate balance between accurate representation of the legal position and 'user-friendly' language.

Several had consulted local advice agencies in their design and others had redesigned letters following adverse reactions from claimants and pressure from agencies.
3.28. The results were still by no means unproblematic. One common difficulty was in the presentation of the relationship between asking for a more detailed explanation of a determination (Reg. 80) and asking for it to be reviewed (Reg. 79). This was typically presented as a sequential process where one stage must be completed before moving on to the next. An example, from one fieldwork authorities, is reproduce .1 be_

YOUR RIGHTS

1. Within six weeks of receiving this letter you can ask in writing for details of how your benefit has been calculated.
2. If you are not satisfied, you can ask, in writing, for your application to be looked at again.
3. If you are still not satisfied you can ask for the matter to be referred to an independent Review Board made up of local councillors.

3.29. This is written in clear and straightforward language and includes a reference to the second stage of appeal, but it is still potentially misleading because it fails to make it clear that a claimant is entitled to request a review without first asking for further details. In practice it may often be useful for a claimant to receive a more detailed explanation of a determination, and if, as the research suggest, these paragraphs on appeal rights have little impact on claimants, this might be seen as a technical and pedantic distinction. However, in a number of authorities there was a link between the way their letters expressed appeal rights and their practice in dealing with claimants’ queries. Thus it was common practice to respond routinely to review requests by sending a detailed explanation or calculation sheet and waiting for further contact before embarking on a review proper. This practice is discussed further below (see para. 3.59), but it is important to note it here as a potential barrier to access to the review system.

3.30. A small number of the workshop authorities took a different view on the importance of written appeals information and had chosen to produce this separately in special leaflets or as a specific section of a general leaflet about housing benefit. Without detailed and accurate data on the numbers of internal reviews carried out it is difficult to establish any direct causal relationship with the use of these leaflets, although these authorities had all held a relatively high number of Review Boards.

3.31. The decision to give extra publicity to appeals cannot easily be separated out from wider strategies which reflected the attitude of senior officers in these authorities that reviews were to be encouraged as a positive aspect of the authority/claimant relationship. Nevertheless, it does appear that making available specific appeals leaflets tends to generate more requests for review.

3.32. One difficulty with written appeals information can be its potential inaccessibility to non-English speaking claimants. Authorities with substantial ethnic minority populations mostly produced some form of general publicity on housing benefit in minority languages. Most of the authorities providing special appeals leaflets also had these translated. Where the only written appeals information was on the notification letter, however, this was almost always available only in English. Officers from these authorities did not necessarily consider this a major problem: there was a feeling that minority claimants had sufficient contact with advice centres and other support networks within their communities. In some areas interpreting services were also available on request at the public counter, though in one case observed in authority F the claimant had to wait almost one hour and forty-five minutes for the interpreter to arrive, having already waited for nearly two hours to be seen by an assessment officer. One officer, who had previously worked in a London borough with a high non-English speaking population, saw the production of translated leaflets as futile:

“In (previous borough) we used to produce leaflets in nine languages. It was a complete waste of time. The majority couldn’t read or write in their own language. The way forward is through personal contact with local groups.”

(London borough)

3.33. Some officers recognised language difficulties as a potential problem, and felt it applied also to other claimants with reading difficulties, but saw it as beyond their available resources to remedy except on an ad hoc individual basis.
3.34. The research was not sufficiently focused on the question of ethnic minority access to housing benefit to determine whether black, Asian or other minority claimants faced particular problems with appeals. Three of the claimants interviewed were of south Asian origin and two had some difficulties with speaking and understanding English. Although both had received help from local advice agencies, their experiences suggested that communication and understanding could still be a problem. One of these was a married man attending an Employment Training scheme in computing. His wife had tried to set up a small business which had failed and they had experienced a number of problems with their benefits. Currently they were in dispute with authority A about a deduction made from benefit for a non-dependant who had returned to Pakistan.

"Actually, you know, most Asian peoples, especially, because English peoples are, you know, literate and they can understand, but most of the Asian peoples didn't. So they have to explain them properly. They can, you know, employ some Asian peoples in these areas so they can explain them what the law says, as I think most of the people, most of them loses their benefits due to, you know, unawareness, misunderstanding of the law. And also this letter from the council ... it says we are on, you know, something or other. I rang them about six or seven times and explain them on the telephone and I don't think that perhaps they understand or not, but they didn't help me."

(Claimant, authority A)

3.35. Overall, it was the practice in most authorities to provide 'the bare minimum' of written information on appeals, partly because of what officers saw as the inherent difficulties with this way of communicating information and partly because they saw the onus as being on claimants to seek out information themselves.

"We do the minimum. We do what's required by legislation. They've got to make the first move before you can encourage them."

(Metropolitan borough)

"It (the paragraph on notification letters) is very much an introduction. If people want more they can contact us."

(Authority F)

3.36. This approach relies heavily on front line staff to identify potential appeals and to explain appeals procedures to claimants contacting the benefit offices.

Housing benefit officers as a source of appeals information

3.37. The public counter in benefit offices is an important source of information on appeals in many authorities. Claimants usually take queries and problems to the counter and, where the queries cannot be resolved on the spot, are advised by counter clerks that their cases can be reviewed if they put a request in writing. Where there is some urgency or where it appears the claimant may have some difficulty formulating a written request, clerks may themselves draft out letters for claimants to sign.

3.38. Because many of the claimants interviewed were only vaguely aware of a 'review' having taken place, it was not always possible to determine whether the impetus to write in disputing their awards had come from advice given by officers. However, many had visited the counter or spoken to benefit staff on the telephone at some point during the process. In authority F half of those interviewed had been advised at the counter to write in for a review, making it clearly an important route of access to the system.

On the other hand, observations of work in the housing benefit offices in the fieldwork authorities showed that front line officers also performed a significant 'gatekeeper' role in relation to appeals. The public counter areas varied greatly in their layout, their levels of security and privacy, their comfort, their usage by the public and the length of time claimants could expect to wait before being interviewed. There was variation among authorities in the status, the level of training and the knowledge of staff who worked on the public counter. However, staff in all the fieldwork authorities were observed to give out information on appeals selectively, apparently according to their judgement of the appropriateness of encouraging appeals in particular cases and their attitude towards the claimant. On occasions this amounted to what might be termed 'negative encouragement', where the information was given in such a way as to deter further action by the claimant.

In authority B, for example, the counter was staffed mainly by junior clerks without detailed knowledge of assessment or of regulations. During one morning's observation several claimants came in with queries...
which amounted to disputing the authority's determination on their benefit. The clerks were helpful and thorough in trying to explain how the benefit was calculated and checked cases in the office with the relevant assessors, but in only one of these cases was the suggestion made that the claimant could write in for a review.

3.41. One of the claimants was a middle-aged man who had lost his job as a security guard eighteen months previously. He was now working intermittently on a self-employed basis teaching first aid and, having been on the enterprise allowance scheme for a year, had recently claimed and received family credit. He came in having received a notice of overpaid benefit as a result of a reassessment, after he had supplied details of his year-end net profits. The clerk explained in some detail the basis of the calculation but she did not suggest that he could write in for a review, even though the claimant was clearly unhappy. The determination was presented as final, because the clerk could find nothing wrong with the assessment. In this case the claimant was sufficiently dissatisfied to persist and telephone the department again some days later. Only then was it suggested that he should write a letter. Subsequently it was discovered that the enterprise allowance was still being counted as income even though it had finished some weeks previously.

3.42. Another claimant had received a summons for arrears of rates accumulated during a period of six weeks unemployment three months previously. The claimant had received unemployment benefit during this period, but said he had been wrongly advised that he would not be entitled to housing benefit. The clerk initially gave no indication that a backdated claim might be a possibility and it was only when the claimant became angry that she suggested he write a letter. This was clearly an attempt to mollify him, but even then this opportunity was presented in an entirely negative way, as having virtually no chance of success. As a result the claimant left the office disgruntled, but without taking any further action.

3.43. When asked whether they encouraged people to ask for reviews if they were not happy with the authority's decision, an assessment officer in the same authority commented:

"Not really. I'm not a soft touch. I worked for several years for the DHSS and I've seen it all, it makes you a bit cynical. We give people the opportunity to claim, provide all the info ... After that it's up to them."

(Assessment officer, authority B)

3.44. Similarly, officers in the workshops reported that explanation of the review procedure was sometimes also used as a form of test, to weed out what they regarded as frivolous or bogus appeals:

"We say 'put it in writing' and often that's the end of the story. People realize that their objection or appeal is probably not going to succeed."

(District council)

3.45. Examples of two other authorities, where application forms for internal review were available on the counter, illustrate how different approaches to appeals can affect claimants' access. Authority C had a form available to claimants if they wrote in or at the counter, which officers sometimes referred to as the 'appeal form' but was actually entitled 'Request for Backdating'. There was a positive attitude towards appeals among officers in this authority, which was demonstrated by a high number of Review Boards held relative to its small caseload. Another similar, small district authority which participated in the workshops had introduced a review form shortly after the changes to housing benefit in April 1988. Here however it appeared to have been used more as a means of containing claimant reaction to reductions in benefit.

"It arose from a batch of complaints around April '88. It was very useful at the time. Now nobody uses it—but it got a lot of irate people out of the offices!"

(District council)

The role of local authority housing officers in generating reviews

3.46. Council tenants receiving housing benefit rebates often first become fully aware of a problem with their benefit through a notice of rent arrears. This appears generally to have more impact than notifications from the housing benefit office. Most commonly arrears accumulate because of the cancellation of housing benefit for some reason, such as failure to renew a claim, or movement from income support into employment or on to another benefit not carrying automatic ‘passporting’. Once claimants realise that benefit has stopped, the result is often a request for backdating of the renewed claim.

3.47. In many authorities recovery of overpayments from council tenants has taken place by withholding future benefit credits or debiting tenants' rent accounts.
These practices have caused problems in some authorities. In authority B, for example, the principal benefits officer was unhappy with the situation where their computer software was unable to identify specific recovery of overpayments through the rent accounts because any credits were shown as paying off any ‘bona fide’ arrears first. The housing manager on the other hand pointed to the problems his department faced with taking court action on arrears which included overpayment debits and argued for overpayment recovery through a separate sundry debtor system.

3.48. There are various ways, therefore, apart from advice to tenants on new claims, in which housing officers may become involved in housing benefit. Several of the council tenants interviewed appealed as a result of direct advice from officers in rent arrears or housing management. The involvement of council housing officers in housing benefit appeals sometimes caused friction between the two departments, particularly where housing benefit was located in the Finance rather than the Housing Department. There was an underlying tension between the interests of Housing in keeping down arrears and avoiding evictions and of Finance in limiting backdated payments and pursuing overpayment recovery.

3.49. These frictions were particularly evident in authority F. Here the principal rent arrears officer was highly critical of practices in housing benefit. She blamed them for poor liaison with rent arrears officers and criticised the way they dealt with cancellation of benefit, recovery of overpayments involving official error, and appeals.

"People only know about appeals if they go to a councillor or someone. Others who don't get penalised... We've got to be on to them all the time.”

(Rent arrears officer, authority F)

3.50. A senior housing benefit officer in the same authority saw the problem as residing as much with rent arrears officers:

"Unfortunately the relationships are not particularly good. I mean on the surface they're ok, we're quite friendly together, but no, their job is to get their arrears down so they're always asking us to backdate and we're always saying no."

Q: "Presumably they have to know something about housing benefit to know whether someone should be referred to you?"

"No, not really, they don't. . .they actually know very little about benefit. In fact quite often, we have problems. They quite often give information."

(Authority F)

The role of local advice agencies

3.51. Advice agencies were important as a source of information and help to claimants with housing benefit problems, but their role and their relationships with the housing benefit officers varied greatly between and to some extent within authorities. The extent to which advice agencies influenced local authority practice and decision making on internal reviews is discussed in the next section, but in general it was clear that the level of appeals activity in an authority was at least partly a consequence of the level of welfare rights activity in the area.

3.52. However, the simple presence of a certain number of advice agencies in an area was not sufficient to suggest a corresponding level of appeals. In some authorities officers reported that the activities of one or two key welfare rights personnel, often employed by the authority itself, were responsible for a large proportion of all their appeals, at both internal and Review Board stages. In other areas, advice agencies rarely if ever took up housing benefit problems in any formal way and preferred to negotiate informally with officers on the telephone.

Distinguishing between review requests and other queries

3.53. Once a claimant has written to the local authority querying a benefit award, two separate processes of decision making come into play. Before a review can be carried out the authority must decide how the letter should be treated: is it an appeal, a request for information or explanation, or some other more general query?

3.54. The definition of what constitutes a request for a Reg. 79(2) review is central to the whole question of access to the appeal system because it is this request which should act as a ‘trigger’ to the process which leads to the Review Board. The level of reviews reported by authorities depends very largely on how in practice officers define them.

3.55. Most authorities receive a considerable volume of post each week from claimants. Deciding what constitutes a review is by no
3.56. The level in the office hierarchy where this first decision was taken tended to reflect the size and type of the authority. In the smaller district authorities it was common practice for all incoming post from claimants to be checked and distributed by the officer in charge. These managers then either dealt with cases requiring reviews themselves or passed them on to the relevant section with specific instructions. In the larger, urban authorities it was more usual for post to be distributed by junior clerks to the appropriate teams and for the initial sorting of responses to be carried out by the assessors responsible for the original determinations or their immediate supervisors. Those identified as reviews might then be passed up to a senior officer or group of officers for a decision or might be dealt with by officers in the assessment team.

3.57. Within this broad picture, there were a variety of practices which reflected the structure and staffing of different authorities, policy decisions taken by senior management or by councillors, and the range of attitudes expressed by senior officers towards reviews and appeals.

3.58. In some of the larger authorities, the greater volume of mail from claimants, and the more complex managerial structures, tended to require the setting up of specific systems, whereas in smaller authorities the arrangements were often more ad hoc. The more systematic approaches generally arose from specific policy initiatives, originating with either senior officers or with councillors, for dealing with appeals. These were mostly designed to promote consistency and, where more junior officers were responsible for reviews, to provide guidelines. However, pressure of work, lack of training for junior staff, backlogs in initial claims processing and other administrative difficulties often meant that responses to claimants’ written queries could in practice be haphazard.

3.59. Another danger, apparent particularly in the larger authorities, was of routine responses to letters becoming institutionalised. In authority D, for example, incoming post was logged and distributed to the relevant teams, which were divided alphabetically by claimant surname. The routine response to almost all claimant letters querying their benefit was to send out a computer-generated breakdown of how their benefit had been calculated. Assessment officers checked these for basic calculation or input errors, but no other work was done on a claim unless a claimant wrote in again. Several claimants interviewed had received these calculation sheets as the response to their letters, even though they had specifically asked either for a review or an appeal. A senior officer explained this practice by saying that it was difficult for claimants to appeal properly without having a detailed explanation of the determination, but the effect in many cases was to create an extra hurdle in the appeal process which claimants had to negotiate.

3.60. For many officers, particularly those from the smaller authorities, distinguishing between review requests and other kinds of query was not seen as problematic. They saw it as an intuitive, common-sense process of interpreting claimants’ intentions, for which they were qualified through their training and experience. In their view there was little formal distinction between a ‘review’ and any other kind of query. It was all part of the ‘checking’ process and was largely routine ‘good housekeeping’. There was also a strong feeling that the system required a flexibility of response which allowed action taken to be appropriate to the circumstances of different claimants. In contrast, there was a view from some of the larger authorities that junior staff needed clear guidelines on how to deal with particular kinds of queries. This was a point emphasized by officers from decentralised authorities where consistency in administration can be a major difficulty. One officer from a decentralised London borough, for example, explained that he had felt it necessary to limit the discretion operated by assessment officers on what might count as a review request in order to ensure that potential appeals would be identified.

3.61. In one of the workshop exercises officers were given a batch of dummy letters from claimants and asked to say how they would deal with them. From this it was evident that the exercise of judgement by officers in different authorities could lead to quite different outcomes on the same case, not only on the merits of the case itself, but also on whether it was treated as a review at all.

3.62. There was, for example, disagreement between some officers on whether responding to a
backdating request counted as a review of the original determination or as a fresh determination which was then open to internal review if the claimant pursued it. Following the latter practice would mean adding a further stage into the appeal process. Another example concerned an elderly person whose benefit had been reduced following an inheritance and who had accrued a large overpayment. Some officers saw her letter as invoking the review process, whereas others felt a more detailed explanation or perhaps a personal visit was the appropriate response and a ‘review’ would come later if the claimant was still dissatisfied. Whereas some officers saw the distinction between general queries and reviews as being negligible, others said they did not treat queries as reviews: they had to be specifically identified as challenging a determination.

3.63. The preceding discussion shows that there are a number of key factors affecting claimants’ access to the first stage of the appeal system, some of which can act as barriers. Although there were examples of good practice by some local authorities in making appealing relatively straightforward for claimants, access to the system is at present characterised by marked lack of consistency between authorities on a national level.

3.64. The next section looks at the issues which most commonly become the subject of internal reviews.

The main issues taken to review

3.65. The Housing Benefit Regulations allow a claimant to challenge any determination of the local authority. Nevertheless, some officers made a distinction between ‘hard and fast’ decisions, which they felt should not be challengeable because they were based on definitive and clear cut regulations, and those few areas remaining which they saw as discretionary or open to interpretation.

"Have people really got a need for a take-up of appeals? Really it's only backdating and rent levels."

(District council)

"Claimants can appeal against anything, including things like the applicable amount—things we’ve got no control over. It's a waste of time."

(District council)

Other officers disagreed. They argued that there were very few areas of the regulations not capable of differing interpretation.

3.66. In practice, there are only a small number of issues which are regularly taken to review, although it is also clear that officers’ perceptions of what can legitimately be challenged are one factor in determining whether a claimant grievance is treated as a review or not.

3.67. Because the definition and recording of review requests by authorities is so inconsistent, it is difficult to give an accurate quantitative breakdown of reasons for internal review requests. However, the range and distribution of reasons for review requests among the claimants interviewed in the fieldwork authorities were confirmed by officers in the workshops as broadly consistent with their experiences, with one exception. At the time of the fieldwork, between April and September 1989, the new rent officer referral arrangements for deregulated private tenancies had only recently come into effect and had as yet produced few appeals. Since then it has, according to officers, become one of the issues most commonly taken both to internal review and to Review Boards (see para 4.31).

3.68. Among the claimants interviewed, the most common reasons for review requests were, in order, queries about the level of benefit awards, backdating, income assessment, overpayment recovery, and exceptional circumstances payments (Table 3.2).

Table 3.2. Reasons for internal review requests, by authority

<table>
<thead>
<tr>
<th>Reason for Review</th>
<th>Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Querying amount</td>
<td>21</td>
</tr>
<tr>
<td>Backdating</td>
<td>18</td>
</tr>
<tr>
<td>Income</td>
<td>14</td>
</tr>
<tr>
<td>Overpayments</td>
<td>13</td>
</tr>
<tr>
<td>Exceptional circumstances</td>
<td>6</td>
</tr>
<tr>
<td>Capital</td>
<td>4</td>
</tr>
<tr>
<td>Non-dependant deduction</td>
<td>2</td>
</tr>
<tr>
<td>Student deduction</td>
<td>3</td>
</tr>
<tr>
<td>Contrived tenancy</td>
<td>2</td>
</tr>
<tr>
<td>Delay</td>
<td>2</td>
</tr>
<tr>
<td>&quot;Didn't understand&quot;</td>
<td>2</td>
</tr>
<tr>
<td>Restricted rent</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>88</strong></td>
</tr>
</tbody>
</table>

21
3.69. The category ‘querying amount’ refers mainly to cases where benefit had been reduced following a change either in legislation or in the claimant’s own circumstances. Many of these were cases where claimants received less benefit following the April 1988 changes. A detailed explanation of how the award was calculated was usually enough, if not to satisfy claimants, at least to make them feel it was pointless pursuing their query any further.

3.70. We based our classification of reasons for requesting review on local authority officers’ responses to claimants in letters or in case files. These classifications did not always correspond to the claimants’ own understanding of their problems. This is not surprising given most claimants’ unfamiliarity with housing benefit regulations, but it also raises the question of how officers interpret claimants’ grievances.

3.71. Claims for backdated awards illustrate this point. Backdating requests occur for a number of reasons. Often they arise where claimants receiving income support fail to return housing benefit application and renewal forms on time. Before April 1988 these claimants were not required to return separate forms but were automatically ‘certificated’ for housing benefit, and it has taken some time for the new requirement to become widely understood.

3.72. However, there was some evidence that other disputed determinations are also sometimes treated as questions of backdating. Officers tend to be familiar with the regulations governing backdating and the ‘good cause’ test (Reg. 72(15)), whereas they may be less knowledgeable about other regulations.

3.73. In two of the fieldwork authorities the vast majority of all their recorded reviews were classified as claims for backdating. A law centre solicitor in one of the authorities commented that officers tended to treat some problems that were raised by certain administrative practices as purely questions of backdating:

Q: "Is it mainly backdating that’s the issue?"
A: "No. That’s how they get resolved but that’s often not what the issues are. I actually copied some of my letters for you because I find there are quite a lot of flaws in the way the council asks for information or informs people of decisions that have been made. Quite regularly they neglect to inform people of their right to appeal and we’re in the position of submitting late claims and informing them that they’ve issued defective notices and that sort of thing and quite often I can get them on technicalities. But the response is invariably ‘Oh yes, we’ve backdated this claim’ and when I ask for reviews I never get back a decision that says ‘Yes we’ve agreed to review this and this is our decision. It’s always ‘Yes, we’re going to backdate this’.

(Law centre solicitor, authority F)

3.74. Similarly, in the other authority where backdating accounted for almost half the review cases in the interview sample, junior assessment officers were often not specifically aware that they were carrying out a process of ‘internal review’. They tended to construe most problems which affected the dates of an award, such as the cancellation of benefit for a number of different reasons, as ‘backdating’ questions. There were several potential consequences of this practice. First, many claimants whose determination had, in effect, been reviewed internally were not informed of their right to a further review. Secondly, the number of internal reviews recorded was lower than the true figure. Thirdly, when internal reviews did get recorded they were often categorised as ‘backdating’ cases when the true nature of the review request was different.

3.75. Overall, inconsistent definition of what constitutes a review and the possibility of application of incorrect regulations by housing benefit officers combine to make a definite statement of what issues come to appeal somewhat problematic. Nevertheless, it is reasonable to assume that the concentration of issues recorded as reviews by authorities reflects those areas of interpretation and administration within the housing benefit system which cause the most difficulty for both local authorities and claimants.

Processing

3.76. Once a letter from a claimant is judged to be a request for a review, it enters the second level of decision making: should the authority’s determination be upheld or revised? In practice, in many authorities, the processes of distinguishing reviews from other queries and of making a redetermination are often inseparable and the responses to different kinds of queries may be identical.
3.77. Even where it was quite clear that a claimant was requesting a review or appealing, there was wide variation among authorities in how they carried out this decision-making procedure. As was mentioned above, decisions tended to be delegated downwards in many of the larger authorities, with reviews being conducted at the level of the assessment team responsible for the original determination. In some cases decisions were then checked or countersigned by more senior officers. In the smaller authorities it was more common for reviews to be dealt with directly by the benefits manager.

3.78. While this picture was broadly true of the authorities attending the workshops, there were also some other practices. A few authorities had set up panels of senior officers to conduct reviews, as a way of promoting consistency of treatment and of imparting a degree of formality to the process. In one of these authorities a provisional redetermination was made by assessment officers or their supervisors and sent as a recommendation to the panel of principal officers for a final decision. The officer felt that the use of a panel improved co-ordination and consistency:

"I think individual senior officers are well competented to make decisions. To make decisions you don't really need officer review panels as such. But I think there is a serious danger of consistency not applying. I've certainly found this by auditing decisions in files. Where discretion's involved it can be perfectly legal to turn it down or perfectly legal to grant it, and if you go through a typical caseload you may well find that Mrs Jones got turned down and Mr Brown, with identical circumstances, got away with it . . . Some members of the public can be quite unpleasant and there can be a natural reaction on the part of the officer whose team is involved not to be very sympathetic, depending on how she or he is approached. Also large authorities, I would think, are structured in a certain way. You might get a team of people dealing with council tenants, another with owner occupiers and another with private tenants. And there is a need to have equity in decisions for those three groups. The advantage, I would think, of having an officer panel drawn from these three major disciplines is that there's a cross section of views expressed and possibly a consensus at the end and the officers are then in a position to inform their various teams of the mechanism which was used to reach this sort of decision, and I think you get more of an interest from staff, which is very important."  

(London borough)

3.79. Authority A, with a medium-sized caseload divided into teams by tenure, carried out reviews by way of an 'Internal Review Panel', consisting normally of the three senior managers. On occasions only one or two were present. The panel met roughly once a month and review decisions were minuted. Although using the panel may have aided consistency, there was no apparent system of disseminating decisions to assessment staff, who were largely unaware of them unless they had been involved in the original determination.

3.80. The records of this panel revealed a practice which appeared to take place to a greater or lesser extent in many authorities—that is, the 'double' or 'delayed' internal review. The records show that a number of claimants had written in twice asking for reviews on the same issue and their cases had been considered twice by the review panel. The record of one internal review included the following:

26.10.88 Letter appealing against restriction.  
8.11.88 Reply, Rent unreasonably high. Increased by 40 per cent over last tenancy.  
23.11.88 Letter appealing for review. DECISION, Rent restriction not unreasonable.

3.81. The authority had thus instituted a de facto system of double internal review. This seemed to stem partly from officers' understanding of the appeal system as expressed on their notification letter. As with many authorities it is presented as three stages, with the Reg. 80 statement as the first stage. The benefits manager explained the practice of double internal review as a mistake now corrected, though in fact the same problem continued to exist:

"In the beginning we did have one or two . . . we did slip up on one or two because what we did, and we didn't realise it, we had two internal reviews, which you can only look at a case once. I can really only be involved in it once. The system we have at the moment is that the supervisor . . . if a claimant wrote back and said 'Look, I don't agree with what you've done. I want to know how you've got at this benefit', then what we would do, we would send a longhand calculation showing them how we'd got at the figure . . . And then if they're not happy, they will write in for a review. Now when that would come back, that would be an internal review and that case would be presented to [the panel] . . ."  

(Authority A)
Practices of this kind, where the first claimant letter is either not treated as a review request, or is reviewed but not seen as then leading directly on to the Review Board stage of the appeal, appeared to be quite common among the workshop authorities. They stem partly from the inconsistency in treatment of queries as reviews and partly from blanket policies such as that of authority D, where claimants asking for reviews or appeals were routinely sent calculation sheets and informed that they should write back if they wished the housing benefit department to carry out an internal review.

They can also happen where the prevailing attitude among benefit officers is one of ‘informality’. In authority B, for example, staff at all levels expressed the view that few major problems arose with housing benefit and where they did they could usually sort them out without any need for ‘reviews’ and ‘appeals’. There was a general perception that going to an appeal indicated management failure. The staff view was supported by all four Citizens Advice Bureaux, who, with the Law Centre, made up the local network of independent advice agencies and by the manager of the local authority Benefit Shop. The advice agencies all reported good relations with the housing benefit officers and found it more effective sorting out problems by negotiation than by confrontation. Although they had occasionally written to the benefit department about a claimant’s benefit problem, none could recall having officially requested a review. Not surprisingly, claimants interviewed knew little about their rights to appeal, though most were reasonably satisfied with the way officers dealt with their queries. However, several of their letters had raised queries which in other authorities might have been treated as reviews, but since they were not considered as such in any formal way, most of the replies from the benefit office gave no indication of any further right to appeal.

Reg. 79(2), specifies that determinations should be reviewed in the light of representations received. Decisions on internal reviews were made mainly by going over existing case papers and correspondence, checking these against computer entries and, in some cases, considering relevant regulations. Pressure of work meant that officers rarely felt able to spend extra time gathering new information. This sometimes made the process somewhat perfunctory. There was generally little positive effort made to help claimants participate in the review and the claimants interviewed were mostly not aware of what extra information they could supply which might support their case. On occasions claimants would be invited to attend the office for an interview, or an officer might be sent to visit an elderly or infirm claimant, but this appeared to take place more often after the internal review and was presented by officers as an opportunity to explain their decisions rather than to gather new information. As a result, information sometimes emerged in the research interviews with claimants of which the officers who had reviewed their cases were apparently unaware.

One example involved an owner occupier in his late 50s, who was suffering from an intermittently disabling illness affecting his concentration and mental alertness, as well as his legs and stomach. He was in arrears of rates because of a late renewal of his claim. There had been a mix up between the DSS and housing benefit leading to the cancellation of his rate rebate and he had been refused a backdated award. He generally communicated with the office by letter and, partly because he tried to be self-reliant and was sensitive about being seen as ‘disabled’, he had not specifically informed them about his condition. The housing benefit officer had mentioned people with disabilities or related problems in dealing with forms as one of the main categories of people who they would see as potentially having ‘good cause’ for a backdated claim. However, he was unaware that this particular claimant faced these problems because the review had simply been carried out on the existing case papers.

Influences on decision making

Because many authorities do not not have formal or written procedures for handling, recording and monitoring reviews, officers can exercise a high degree of control and discretion in how they carry them out. Nevertheless they make decisions within a context which is shaped by local structures and styles of management, employment practices and the political culture of the authority. Decisions are also affected by influences such as pressure of work, local policies laid down by the council, awareness of subsidy implications of certain decisions, previous decisions by Review Boards, interventions by individual councillors or MPs, and pressure from local welfare rights and advice agencies, and from claimants themselves. Taken together these influences create the individual ‘culture’ of a housing benefit office, which was distinct in all the fieldwork authorities visited.
3.87. The extent to which these factors were brought to bear on individual review decisions varied considerably between authorities. Most officers from the workshop authorities agreed that enquiries from councillors and, especially, MPs were treated very seriously and given priority. Similarly, there was wide agreement that as senior officers they were always aware of the subsidy implications of decisions, but felt this had less impact at a more junior level. In the fieldwork authorities, assessment officers were generally not aware of the precise details of subsidies, but most were conscious of the broad effect and the pressures this placed on them to be 'tight' on decisions involving backdating and overpayments in particular.

3.88. There was more variation between authorities in the relationship between housing benefit departments and local advice agencies. Some officers experienced advice agencies as having very little impact on reviews or on housing benefit administration in general, whereas for others they were the main source of claimant appeals. A number of officers said that while they knew that ideally all claimants should be treated equally, in practice those coming through some of their advice centres were likely to get more favourable treatment. One officer referred to this as the 'hassle factor'.

3.89. The provision of advice services is uneven throughout the country, both between and within local authority areas, and it is not surprising that their impact is felt unevenly. However, evidence from the fieldwork authorities suggests that different types of advice centre also tend to play a different role in housing benefit advocacy. In general, law centres and specialist welfare rights agencies were more likely to take up reviews on claimants' behalf and challenge authorities' interpretation of the regulations, whereas it was more common for citizens advice bureaux, at least outside London and the major cities, to play a less combative role. Bureaux staff mostly saw themselves as achieving more through negotiation. In one fieldwork authority all four bureaux organisers saw the housing benefit department as very co-operative and saw no need to engage in a formal process of review or appeal. One organiser felt this could damage their relationship with officers and would not benefit clients:

"It would be very sad and I wouldn't even want to start. You can be confrontational in dealing with them or you can, you know, negotiate, and how your relationships are with the various agencies makes all the difference whether the clients at the end of the day benefit."

(CAB organiser, authority B)

3.90. Officers in some of the smaller authorities, where a CAB was often the only advice agency, were often disparaging about the competence and level of knowledge displayed by bureaux volunteers and rarely saw them as challenging their determinations in any serious way. Officers took a different view of law centres and specialist welfare rights units who were more likely to enter carefully worked out appeals, based on detailed knowledge of regulations:

"Law centres are different. They can embarrass you. They're more legalistic."

(Authority F)

3.91. A few authorities supported liaison networks bringing together housing benefit officers and advice agencies, and in one London borough the housing benefit department itself provided training for CAB workers on housing benefit issues, including appeals. According to the senior officer:

"Training helps. You get a better class of referral."

(London borough)

3.92. In some authorities there was a sense of resentment against advice agencies for pushing appeals which officers felt they must be aware could not succeed. This was seen as being against the claimants' own interests and as a way of the agencies 'justifying themselves' or 'empire-building'.

"We're getting more appeals through CABS and welfare rights. They're actually touting for business. Are they looking for work or are they genuinely identifying claimants' needs? That's the question."

(Metropolitan authority)

3.93. On the other hand, some officers also talked of using advice agencies as a way of deflecting appeals, by referring claimants who would not accept the council's explanation in the hope that an independent 'second opinion' would satisfy them.

"We do, if you like, use the advice centres, inasmuch as where we do have a point at odds with a client, they will confirm that what we are saying is right."

(Authority B)

3.94. Officers in a few of the authorities where specialist welfare rights workers were employed by the council itself were unhappy with the role played by these advice workers and felt there were potential conflicts of interest. This was particularly evident in authority A, where one rights worker
employed in the housing aid centre was involved in many of the housing benefit appeals in the authority and represented -'s at the Review Board. He was also yee of the same department where -sing benefit was located. The senior benefits officer was critical of this array -- Went:

"Welfare rights I'm talking in housing aid centre. They're to -c us now all the time. If some of these people worked in benefits they wouldn't be like they are, because they don't realise the pressure that my staff, all the way down, are under, and I mean, what really annoys me, as I said to one day, if half my staff were off with stress you wouldn't let up would you, and he said Oh no! And this is . . . you know, you've got to work with people like this and I know for a fact that ... I think they advise people to do things they ought not to do."

(Authority A)

The welfare rights worker felt that overall the arrangement was positive:

as both advantages and disadvantages. there was a problem of myself representing clients ostensibly against colleagues in the housing department that make decisions about the particular housing benefit determinations. In the end it was resolved that I could do that, much I think to the annoyance of both the housing hierarchy, middle management, and also our legal services department. The clients are made aware of my paymasters. They are offered alternative advice or representatives—there aren't many of them around in the local area. Nobody's yet said 'Oh, because ye ---- ar them I'm going to go somewhere else'. They are made aware of that posit'n. The advantages are, of course, that I can approach people within the department as a colleague rather than have to go through the bureaucracy of inter-departmental stuff which always confuses me. But it has advantages, I can actually get things, I feel, sometimes done, because of my position in the housing department."

(Welfare rights worker, authority A)

Communicating decisions

3.95. The explanation claimants receive of the authority’s review of their original determination is important for a number of reasons. First, it is all most claimants get to hear or see about what was involved in the process of ‘review’ and it provides the basis on which they have to decide whether to accept the council’s decision or appeal again to the Review Board. Secondly, for many claimants it may also be the first time they are

Figure 3. Time taken by claimants interviewed in fieldwork authorities to receive reply to internal review requests

![Graph showing time taken by claimants interviewed in fieldwork authorities to receive reply to internal review requests]
informed of their right to further review or are told about the existence of the Review Board. The role of these letters as a means of access to the Review Board is discussed more fully in the next chapter (see paras. 4.9-4.12), but it is important to highlight here the inconsistency in approaches adopted by different authorities. Letters varied widely in the detail with which decisions were explained, in whether regulations were referred to or quoted, and in whether or how the right to further review was explained.

3.96. There is no statutory duty on authorities to make review decisions within a specified time, though once the decision has been reached they should inform claimants within 14 days (Reg. 77(b)). Two thirds of the claimants interviewed received replies within four weeks of the date of their letters, but some had to wait an unreasonably long time-in two cases more than six months (Fig. 3).

3.97. Claimants in authorities A and F had to wait the longest on average, with only around half getting replies within four weeks. All those recorded in authority E and nearly all in authority C received replies within four weeks, as against around two thirds of those in authority B and just over half in authority D.

3.98. There was a range of factors which could affect the time taken to deal with reviews and to inform claimants of the decision. For most officers the priority was to process new claims: reviews tended to take second place when their staff were under pressure. On the other hand, some felt that because reviews were potentially time-consuming and might lead to further work they tried to `get them out of the way' as soon as possible. The time elapsing between the receipt and the processing of a review request could also vary depending on where in the office hierarchy the decision was made. Thus the officer panel in authority A met monthly and carried out reviews in batches, which led to delayed responses to letters arriving shortly after a panel meeting. Officers also prioritised their work according to their perceptions of the urgency of particular cases. So a case involving a private tenant in rent arrears, for example, might be given priority where there was some evidence of a threat of eviction. Pressure from people outside the benefit office who were seen as influential (the "hassle factor") could also persuade officers to deal with some individual cases more quickly.

Letters from MPs were generally seen as the most urgent.

Recording and monitoring

3.99. There was very little systematic recording of internal reviews. Some authorities kept appeal books, where cases were noted down, or special files of letters replying to review requests. In others review cases might be noted in team diaries or logs, but this was generally haphazard. Often the only cases noted down were ones which had particular subsidy significance, such as backdating, overpayments and Reg. 69(8) payments.

3.100. Many officers at the workshops said they could not provide any figures for the number of internal reviews carried out. Such statistics as are collected necessarily reflect how local authorities define internal reviews. In the workshop discussions, one officer explained that he recorded cases as reviews only if the original determination had to be changed. Hence the majority of review requests, which resulted in the authority's determination being upheld, were not recorded as internal reviews. In the same group discussion, another officer explained that his authority acted in completely the opposite way, by recording as internal reviews only those determinations which had not changed. The rationale for this practice was that cases where the original determinations were upheld had been 'reviewed' in the literal sense of having been looked at again, and if claimants were not satisfied they could appeal to the Review Board. Cases where the determination had been revised, on the other hand, received new determinations, against which there was a right to ask again for a fresh internal review.

3.101. A further practice again operated in authority D. Because all enquiries and requests for review or appeal initially received a calculation sheet in reply, none of these was recorded as an internal review. Only if claimants pursued their grievance and wrote again were they treated, and recorded, as reviews. Consequently the number of officially recorded reviews in this authority was very low.

3.102. Monitoring of internal reviews was also unsystematic and inconsistent. Where appeal books, diaries or logs were maintained, officers were able to identify problem areas, but none of the authorities carried out any specific monitoring of the standard of internal review processing or of the decisions made.
The outcomes of internal reviews

3.103. The lack of accurate recording and monitoring also means that it is difficult to make accurate estimates of how often authorities uphold or revise their original determinations at internal review. In the telephone survey (SPRU Working Paper 530), officers reported that on average they revised determinations at internal review in about 15 per cent of cases. In the workshops some officers gave rather higher estimates of up to around 40 per cent.

3.104. The claimant interview sample was not statistically representative, but it allows for a point of comparison with officer estimates. Overall the authorities upheld their original determinations in 71 of the 88 cases (80 per cent). There was some variation in claimant success between authorities, but not to any significant extent (Table 3.3).

Table 3.3: Outcome of internal reviews in claimant interview sample, by authority

<table>
<thead>
<tr>
<th>Authority</th>
<th>Decision</th>
<th>For Council</th>
<th>Fully for Claimant</th>
<th>Partly for Claimant</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td>12</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>B</td>
<td></td>
<td>10</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>C</td>
<td></td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td></td>
<td>15</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>E</td>
<td></td>
<td>10</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>F</td>
<td></td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>71</strong></td>
<td><strong>9</strong></td>
<td><strong>8</strong></td>
</tr>
</tbody>
</table>

3.105. Other data from two fieldwork authorities which did keep some internal review records allows a further comparison (Table 3.4).

Table 3.4: Outcome of internal reviews in two fieldwork authorities

<table>
<thead>
<tr>
<th>Authority</th>
<th>Decision</th>
<th>For Council</th>
<th>Fully for Claimant</th>
<th>Partly for Claimant</th>
</tr>
</thead>
<tbody>
<tr>
<td>A (4/88-7/89)</td>
<td></td>
<td>47</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>B (3/89-4/89)</td>
<td></td>
<td>23</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

3.106. These comparisons suggest that the average success rate for claimants in internal review lies somewhere in the 5-25 per cent range, though inconsistent methods of defining and recording internal reviews between authorities makes such estimates very difficult to interpret.

3.107. Simple calculation errors or mistakes such as those based on input of incorrect information tend to be put right at an early stage of checking and often do not enter the review process proper. At review, decisions are based much more on judgement, interpretation of regulations and the exercise of discretion. The legal requirement is simply to review determinations in the light of representations received. On the basis of the information available to officers, the researchers could not disagree with many of the outcomes in the cases of the claimants interviewed. The process, particularly that of information gathering, however, was often somewhat perfunctory and this led in some cases to decisions which could be seen as incorrect.

Claimant satisfaction

3.108. The major problem with assessing claimant experiences of and satisfaction with officers' reviews of their cases is that few claimants were aware of any specific process of 'review' taking place. Most comments were about their more general experiences of claiming benefit and their interactions with the benefit office. Often people felt completely in the dark about how decisions were made. One women, a single pensioner in private rented housing, had recently claimed benefit for the first time with great reluctance. She was fiercely independent and had been working into her 70s. She found the counter staff helpful, but was puzzled about what happened 'behind the scenes':

"Something different seems to happen when it gets to the higher-ups."

(Claimant, authority F)

3.109. In all the authorities some claimants reported bad experiences, of which delays, incomprehensible letters and forms, and offhand treatment by officers were the most common. Pessimism was widespread—a feeling that they stood no chance 'against the Council' and a sense of powerlessness that expressed itself in indignation about how little they felt officers cared about their situations or were prepared to listen to them.

"They were trying to get rid of me."

(Claimant, authority D)

"They just wanted shut of me because I were a nuisance."

(Claimant, authority D)

"I think they are very offhand. You are a number and that's it."

(Claimant, authority E)

"They rely on their computers rather than their brains. They treat us like computers, I suppose."

(Claimant, authority F)
"You seem to be talking to yourself half the time."
(Claimant, authority F)

"To be honest, you wonder whether it was worth trying, for all that aggro."
(Claimant, authority B)

3.110. On the other hand, there were also some positive comments and claimants were often quick to recognise that officers were under pressure and carrying out a difficult job. Perhaps the most striking feature of claimant experiences of appeals at the internal review stage was that there was no automatic correlation between satisfaction and the outcome of reviews. Claimants may have been unhappy at the financial outcome, but they were often satisfied if they felt they were treated well and understood properly the reasons for the decisions. Conversely, if they were treated badly they often felt dissatisfied even though the determination was revised in their favour.

The cost of internal reviews

3.111. None of the authorities, either in the fieldwork sample or in the workshops, was able to offer any estimate of the costs involved in internal reviews of determinations. They are not separately costed because they are seen largely as part of routine administration.

Summary and evaluation

3.112. It emerged from our study that the main difficulty with evaluating the effectiveness of the internal review as an element of the review system as a whole lies in the problem of definition and the lack of consensus on what the internal review is meant to be. The housing benefit regulations offer little help with this problem: the only requirement in law is that authorities "consider .. . representations" from the claimant (Reg. 79(2)). It was not one of the objectives of this project to assess the effectiveness of housing benefit administration in general. Yet in practice the internal review is often indistinguishable from routine administration.

3.113. It may be helpful to consider the intentions which lay behind the regulations. The criteria relevant to an evaluation may differ, for example, depending upon whether the intention was that local authorities should carry out an administrative check only (i.e. a check that the details of the claim were input correctly into the computer and that the calculation of benefit was correct), or that they should treat complaints about decisions more like the traditional 'appeal' as it is known in other spheres.

3.114. The political context in which the appeal arrangements were introduced suggests that the level of prescription was intentionally minimal. Chapter 1 described how the review system was introduced very much as a compromise between those arguing for a fully independent appeal structure and the local authorities, who wished to preserve a degree of autonomy in an area of administration they were taking on with some reluctance and under difficult conditions. Since the regulations and guidance fail to make these intentions clear, it may be unjustified to judge an individual authority which chooses a more limited approach by the standards derived from a broader interpretation of the statutory framework.

3.115. However, looking at the position eight years on from when the housing benefit scheme was first introduced, it is our view that this minimal interpretation is an inadequate approach to the first stage of appeal on what now is a national social security benefit. As such, it is distinct from other benefits in few respects other than the organisation by which it is administered.

3.116. In one sense access to the review system for claimants is easy. Although the responses from local authorities vary, a simple letter from claimants is often sufficient to trigger the review process. Claimants need not even provide grounds for their case to be reviewed, although in practice most authorities ask for reasons. However, there are some problems with access. Claimants' knowledge of their rights of review and the procedures involved is very limited. This is not an absolute barrier to access because most claimants know they can approach the council if they have a problem, but it can affect the way their queries are treated. Most authorities supply only the minimum of information and publicity on review rights and much of this is widely regarded as ineffective. In contrast, a few authorities provide well-designed appeals leaflets and forms which appear to generate a relatively high level of review requests. Furthermore, as 'gatekeepers', officers in direct contact with the public can act either as an entry point or a barrier for potential appellants, depending on their own views and the prevailing attitudes towards appeals in their particular authorities.
3.117. What constitutes an internal review is imprecisely defined in law. This causes difficulties for officers in distinguishing review requests from other queries and can result in considerable inconsistency of treatment. It also allows practices to develop in some authorities, where claimants’ letters specifically requesting reviews or appeals are not properly treated as invoking the first stage of the review process. Others have instituted unlawful practices such as ‘double’ internal reviews which impede access to the second stage of appeal.

3.118. As well as inconsistencies in how internal review is defined, there are differences in interpretation of the problems claimants take to review. This makes it difficult to give an exact breakdown of the types of issue which most commonly become the subjects of dispute. Officers sometimes interpreted problems as about backdating, when strictly speaking they involved a dispute over some other administrative practice or regulation, but related to a period before the date of review.

3.119. Based on officers’ definitions in replies to review requests, the main issues taken to review at the time of the fieldwork were disputes over reduced benefit following the April 1988 changes, backdating, assessment of income, overpayment recovery, exceptional circumstances payments and assessment of capital. Since then, rent restrictions have also become a major issue.

3.120. The local authority response to the requirement to review determinations is inconsistent: at one end of the spectrum some authorities carry out no more than a paper check on the calculation of benefit, whilst at the other end, some authorities have set up panels of senior managers to consider internal review requests in considerable depth.

3.121. The way reviews are carried out often reflects the size and type of authority: in the smaller rural authorities internal reviews are usually the responsibility of the benefits manager, whereas in many of the larger urban authorities decision making is likely to be delegated either to the teams where the original assessments are carried out, or, conversely, to an internal review panel of senior officers.

3.122. Staff work under considerable pressure in most authorities and rarely feel able to give priority to what many see as ‘extra’ work on reviews. This can detract from accurate decision making. Accuracy depends on having the full and correct facts of a case before the decision maker. One of the advantages of a tribunal is that it allows the claimant to participate in the process, and provides the opportunity for both checking facts and eliciting further relevant information. An internal review process limits these opportunities unless it is routine practice to check information with claimants and to allow them the chance to add further comments. This can be done by letter, telephone, visiting or inviting a claimant to attend for an interview. Whilst most authorities adopt this practice in individual cases when there is some reason for suspecting that the facts are wrong or deficient, it is by no means a routine exercise. Thus claimants’ opportunities to participate at the internal review stage are limited.

3.123. Without a statutory benchmark, it is difficult to evaluate the promptness of local authorities’ responses to internal review requests. There were clearly many claimants who considered that the time they had to wait for a reply was excessive. There were also marked differences in performance between the fieldwork authorities and it might be expected that this variation is repeated in other authorities. Two authorities were able to deal with most of their internal reviews within three weeks, but overall only just over half of the claimants for whom we had data available had received a reply within this time. Had the target been two weeks, this figure would have fallen to just over a third. This suggests that local authorities generally may be performing less than satisfactorily in the speed with which they deal with internal reviews. At present, the regulations require authorities to inform claimants of the result of any determinations, including those on an internal review within 14 days, or as soon as practicable thereafter. For internal reviews this stipulation is largely irrelevant. Delays occur almost entirely in the process of having a case reviewed and reaching a redetermination, not in communicating the decision.

3.124. Accountability is also a problem, in two senses. First, the ways in which authorities explain their reasons for upholding a determination to claimants are not always detailed enough to help them make a considered decision about whether to appeal further. Generally the statutory obligation to inform claimants of the right to further review is fulfilled, but there are inconsistencies in the approaches adopted by different authorities. Secondly, the lack of any systematic recording and monitoring of review decisions also means that officers are largely unaccountable for these decisions either to their own councillors or to any other external body.
3.125. It is often difficult to ascertain from claimants what they might expect from an appeals system. Most of the claimants in this study entered the system with a complaint or query about their housing benefit award, but not with any specific challenge to the original determination of the local authority. Many perceived their initial approach to the authority as an attempt to sort out a problem with their benefit rather than to enter an appeals process. What they wanted as a response, therefore, was a quick resolution of their problem and, simply, an increase in their housing benefit. This underlines one of the difficulties with legal or administrative appeal structures, in that many of those criteria by which they might be judged in terms of administrative justice may seem largely irrelevant to the immediate concerns of potential appellants. In this sense the views of many officers that informal checking and negotiation with claimants is superior to any kind of formal appeal structure are congruent with the views of most claimants. Nevertheless, claimants frequently expressed dissatisfaction with the way their review requests were dealt with, though this dissatisfaction was often as much about how they were treated by officers as about the outcome of the review.

3.126. Officers themselves frequently expressed dissatisfaction with the ill-defined nature of the internal review, even though most saw it as part of routine administration. One officer somewhat ironically summed up the discussion in his workshop group about the internal review:

"We don't know what it is, but we want to keep it."

3.127. The existence of the internal review as a distinct stage in the appeals process also had little practical significance for many of the advice workers interviewed, although their views varied with different types of agency. For most the objective was to deal with the problem at the least possible cost (in time, money and anxiety) to their clients and to themselves. Again an attitude prevailed that a quick, informal means of dealing with complaints was the most desirable.

3.128. The study found that the vast majority of claimants’ queries and grievances on housing benefit are dealt with by officers informally or at internal review and do not go on to a Review Board. Housing benefit differs from other social security benefits in that claimants have to lodge written requests for review twice to have their case heard by the appeal body.

3.129. Given the limited legislative guidance, local authority officers are currently placed in the difficult position of having to decide for themselves how to identify requests for internal reviews and the appropriate mechanisms for dealing with them. This has allowed officers considerable latitude at every stage of the process from the revision of basic publicity about appeals informing claimants of the result of redeterminations. This flexibility is valued by many officers as appropriate to the variations in local authority administration and the differing circumstances and needs of individual claimants. But it has also fostered the kind of inconsistency of approach which has permitted officers who feel that reviews are largely irrelevant, and that claimants’ appeal rights should be limited, to build these attitudes into the practices operated by their departments.

3.130. In the light of the shortcomings outlined above, and the various views of the different participant groups, two main questions emerge. First, is there any justification for retaining the present system where an indistinct process of review acts in law as a first stage appeal, beyond which claimants must appeal again to be heard by a Review Board? Secondly, irrespective of whether the internal review is retained in its present form, are there ways in which access to reviews and decision making by officers can be made more consistent and more accountable, and delays reduced? These questions are addressed in Chapter 5, where we discuss options for change. The next chapter examines the operations of the second stage of appeal, the Housing Benefit Review Board.
4 Review Boards

Introduction

4.1. The previous chapter looked at how claimants' appeals or grievances progressed through the first stage of the appeal system, the internal review, and described various ways in which access to the Review Board may be circumscribed by administrative practices and attitudes within housing benefit departments. This chapter now examines how claimants reach the Review Board and what issues are most commonly the subject of appeal; the composition and training of Review Boards; the processing of appeals from organising a hearing to sending a decision letter to the claimant; the outcomes of Review Boards; and their impact on the routine administration of housing benefit.

4.2. Housing Benefit Review Boards trace their history not from the social security system but from the schemes for rent and rate rebates administered independently, up to 1982, by each local authority in the UK. Whilst they now share many common features with SSATs there are also important differences in their structure and in the political and administrative context within which they operate. For example, housing benefit is administered by local authorities, not directly by central government; housing benefit staff are not civil servants but employees of local authorities; and the cost of housing benefit awards is shared between central and local government.

4.3. Despite these differences there seems no reason why claimants appealing to a Review Board should expect to receive a markedly different or inferior service to appellants at other comparable administrative tribunals nor why Review Boards should be subject to criteria different from those one might apply in a comparable evaluation of these other tribunals.

4.4. An evaluation is particularly timely given the sharp rise in the number of Review Boards following the changes to housing benefit legislation introduced in 1988, the new arrangements for assessing market rents for private tenants in 1989, and the introduction of community charge benefit which affects far more individuals than its predecessor, the rate rebate.

Access

4.5. It has already been noted that claimants' knowledge of appeals rights in general, and of the Review Board in particular was limited. As Figure 4 below illustrates, of the 69 claimants interviewed who had not taken their appeal further than internal review 26 said that they knew that they could appeal again, but of these only ten had heard of the Review Board.

Figure 4 Claimants' knowledge of further appeal and Review Boards

4.6. In the interim report (SPRU Working Paper 642) it was suggested that this low level of knowledge reflected the lack of publicity provided by local authorities, and the limited information given to individual claimants in official letters. Discussion with officers at the workshops confirmed that few authorites provided any information above the statutory requirement to inform claimants of their appeal rights in initial notification letters. This
was normally contained in a standard paragraph at the end of computer-generated letters which varied in detail and formality between the authorities. This lack of consistency was even greater in the replies authorities sent to requests for an internal review. Most authorities repeated the claimant's right of appeal to a Review Board, though not all mentioned it by name. Again the use of standard computer-generated paragraphs was common, although there was greater use of individual replies to letters. In some of the case papers examined during fieldwork the information was either confusing, misleading, incorrect or missing altogether.

4.7. Chapter 3 describes the range of attitudes towards supplying information to claimants about internal reviews. Similarly there was a variety of opinions expressed about the correct level of information that should be given to claimants about Review Boards. Some authorities were only prepared to comply with their statutory responsibility of including a paragraph in notification letters. In contrast, some took the view that claimants should be given the fullest information about the Review Board. Some officers expressed concern that if too little information was provided claimants would not know enough to appeal, but that too much might put them off. They identified a tension between being helpful to claimants and overwhelming them.

4.8. Several officers thought that in general claimants were reluctant to appeal and particularly needed encouragement to exercise their rights beyond the internal review stage. Hence, they emphasised the importance of verbal information which they considered more effective than written information in standard letters.

4.9. The letters sent to claimants informing them of the result of an internal review varied in their detail of explanation of decisions, in whether Regulations were quoted or referred to, and in how the right to further review was explained. Some letters in several of the fieldwork authorities omitted information on the right to further review altogether. Occasionally this seemed to be an accidental omission when letters were personally written by housing benefit staff rather than computer-generated. However, officers from a few of the workshop authorities said that they were sometimes selective in the information they gave depending on whether or not they wanted to encourage the claimant to appeal further.

4.10. Some officers explained their approach to giving out information about Review Boards as 'telling them only what they need to know'; if a claimant seemed to have a genuine appeal then information about the next stage of appeal was provided. However, if an appeal was judged to be frivolous or to have no hope of success then such information was withheld. For example, in authority C appeals forms would not be sent to claimants who had complained about having to pay the non-dependant deduction since it was considered that the regulations were "too clear cut" and allowed no room for interpretation.

4.11. Rather than restricting information, officers could convey it in a negative way that could put claimants off making an appeal to the Review Board. In some instances the Review Board could be made to sound threatening.

"We have a version of the statement we use when we don't want them to go to the Review Board. It makes it sound heavy."
(District council)

4.12. Authority E provided several other examples of deterrent statements. One letter concluded:

You can write to me again within 28 days of the date of this letter making a representation against this decision. However, I must tell you that I am unable to change a decision, where the decision is in accordance with the regulations.

Another referred to the right to go to a Review Board but added:

I must warn you that a Review Board cannot overturn a point of law.

4.13. As described in Chapter 3 a small number of authorities produced specific appeals leaflets which presented information about Review Boards clearly and simply. However, only one authority had produced a Review Board appeal form (authority C).

4.14. One authority reported they had run a publicity campaign designed to generate more appeals, which was considered to be too successful in that a great deal of work was created for the housing benefit department. It was striking that in all the authorities where
there had been some attempt to increase claimants' knowledge of appeals the number of Review Boards held was considerably higher than the average.

4.15. Claimants arrived at a Review Board by basically the same routes as claimants coming to internal reviews (see para. 3.9). Apart from those coming directly to the Review Board in the authority's reply following an internal review, most had heard of their right to appeal and of the existence of the Review Board through contact with the authority, either in the original notification letter, by calling at the housing benefit office, from another officer of the authority (such as a rent collector, or housing officer) or from a local advice centre.

4.16. An important feature of the way the appeals system operated in different authorities was the extent to which officers, rather than claimants, exercised control over which cases might go before the Review Board. Some claimants, for example, were apparently swept along by an administrative tide when their follow-up letter of complaint or enquiry (after an initial response from the authority) would be treated as a case for the Review Board, regardless of whether the claimant had requested a hearing. As one claimant put it

`... after a lot of coming and going, they decided that I had to go before a tribunal.'

(Claimant, authority C)

Another commented,

"I said well we don't fancy that really you know ... didn't want to kick up too much of a fuss really over it all, you know. Just wanted to find out if things were right".

(Claimant, authority D)

4.17. One way in which this happened was where local authorities had taken specific policy decisions that certain kinds of case were for the Review Board to decide rather than officers. In authority D, for example, only the Review Board could make decisions on exceptional circumstances payments. Cases identified by officers as being suitable cases for a Regulation 69(8) payment were routinely passed to the Review Board clerk to organise a hearing without the claimant necessarily requesting either a payment or a hearing. Whilst this was done primarily in the interests of the claimant, there were some cases where it appeared to be used as a way of placating a claimant. The message was conveyed that the housing benefit department could do no more to help but the Review Board possibly could. This was particularly misleading when the Review Board had no powers to increase the award because the claimant was already receiving maximum housing benefit.

4.18. Corresponding to some claimants' perception of `being taken' to a Review Board, the language of `sending a case to the Review Board' or `letting a case through' was frequently used by officers in both the fieldwork and workshop authorities. Such comments reveal the extent of the opportunity for officers to control access to the Review Board, the result of which could either be very few (or no) Review Boards or a comparatively large number depending on the attitude of the officers to them.

4.19. Many officers considered Review Boards to be inherently undesirable. Some said that because of the time and cost involved it was often more in their interests to accede to a claimant's demands at the outset rather than contest a case at a Review Board, where they might lose.

"[W]e had a couple of internal reviews that I threw out because I felt, in my view, it's rather ironic, but I don't see the point of going to a Review Board to lose. If there's any doubts in my mind-as far as I'm concerned I'm going there to win and we've to go in our favour. Now if there's anything that will only go to Review Board and I think I've no chance, I'm not playing at them games. It would be silly to me because again I'm wasting public money ...

(Authority A)

4.20. Other officers were concerned that by merely holding a Review Board they would be open to criticism from councillors and senior officers that they were not doing their jobs properly. One officer at the workshops acknowledged that if junior officers held such a view they could easily "choke off appeals" before they came to the notice of their superiors.

4.21. Practices designed to prevent appeals progressing to the Review Board can have contradictory effects. Many claimants may be denied the opportunity of pursuing a case that they might win, whilst other claimants are
awarded benefits to which they may not strictly be entitled. Either way the principle of equity between claimants, in both the amount of housing benefit they receive and their treatment by officers, is undermined.

4.22. Regulation 81(1) requires claimants to make a request for a Review Board hearing within four weeks of the redetermination of the local authority after their internal review, although they may extend this limit where there are 'special reasons' (Reg. 78(3)). Many officers at the workshops said that they did not insist that claimants comply with this requirement, but would accept Review Board requests whenever they were received. Some authorities did reject appeals if they were out of time. A law centre worker from one of the fieldwork authorities contrasted the way the authority insisted on claimants appealing within four weeks with the dilatory way in which internal reviews were often carried out.

4.23. When requesting a hearing a claimant must give grounds for the request (Reg. 81(2)). Again few authorities insisted upon this requirement being fulfilled. Most authorities accepted a request for a hearing whatever its form.

4.24. There was a general feeling that refusing a Review Board request either because it was out of time or because the claimant had not given sufficient grounds served no purpose for the officers, the claimants or the authority. Some officers suggested that refusals were not in keeping with the local authority ethos of serving the public. They would expect councillors to take a dim view of what they might see as an inflexible approach to the regulations.

4.25. In most authorities relatively few claimants arrived at the Review Board via an advice agency (although over a quarter used their services in presenting their case). In general, advice agencies reported that they received fewer enquiries concerning housing benefit than other benefits. One exception was authority A where there was an active welfare rights network which was responsible for initiating most Review Board appeals. There was general agreement, however, that there were low levels of knowledge of appeal rights among claimants, and that this was primarily due to the poor quality of information provided by the local authority.

4.26. A further contributory factor to the low take-up of appeal rights is the attitudes of some claimants towards tribunals in general and Review Boards in particular. One claimant thought tribunals were 'degrading' and explained,

... I'm not going to lower i ;elf: I'm not going on my hands and kl o way, no way."

(Clamiant, authority C)

4.27. General attitudes towards the council, often combined with a sense of apathy or cynicism could also deter claimants from pursuing their appeals to the Review Board. "Why bother, it's still the council", and "I just gave up" were typical comments, particularly in those authorities (fieldwork authorities A and F) which operated a double internal review (see para. 3.80). In two authorities some claimants and officers commented that "people round here don't make a fuss". Claimants often did not perceive any difference between officers and councillors looking at their case. Some reported poor experiences of councillors in other contexts. A few claimants would not pursue their appeals because they were afraid of suffering repercussions from the council if they were seen to be causing trouble. A welfare rights worker in one authority cited an example of an elderly council tenant who was anxious that she might be evicted from her house if she appealed to the Review Board.

4.28. All the claimants interviewed for this research had taken the first step of writing to the council, even though most were unaware of any specific review procedure, so the question of why claimants do not exercise their rights to a further review is more relevant as a comparison between those who went on to request a Review Board hearing and those who did not. Nevertheless, it is possible, drawing also on the comments of officers and advice workers, to make some general observations about what factors affect claimant 'take-up' of appeals.

4.29. The research identified the following as some of the main factors which might influence a claimant's decision to challenge a local authority determination:

- The perception of the determination as being incorrect or unjust. Claimants were often not in a position to say whether the determination was correct according to the
regulations, but frequently a sense that it was unfair would lead them to query it.

The financial impact of the amount of benefit in dispute. Some claimants were reluctant to 'make a fuss' and pessimistic about their chances of the council changing its decision. However, the impact the loss of benefit or the overpayment recovery demand would have on them could make them overcome their reluctance.

- The claimant's attitude towards claiming and receiving housing benefit. The stigma attached to the receipt of means-tested benefits, including housing benefit, especially for some of the older claimants, could often be an inhibiting factor. There was also some suggestion that claimants viewed housing benefit differently from benefits which were intended for living expenses.

- The claimant's attitude towards the local authority. This could work in several ways. Some claimants had experienced problems with other departments of the local authority in the past and transferred their pessimism about their chances against 'the council' to housing benefit, whereas for some their antagonism against the council made them more prepared to pursue an appeal. Others had positive attitudes towards the authority and good experiences of the benefit office itself. They were more inclined to think the council must be right and to accept officers' explanations. If they were unhappy with a determination, the telling factor might be whether officers themselves presented the right to appeal in a positive and non-confrontational way.

- The claimant's knowledge of appeal rights and procedures. Knowledge of the right to appeal was an important influence precipitating claimant action, but it was not necessarily decisive. The adverse financial impact of a benefit determination and the sense of it being wrong or unfair might combine to encourage some claimants to seek information about their rights, whereas for others the stigma attached to claiming, or previous bad experiences with the local authority, might prevent them appealing even where they were aware of their rights.

4.30. This research was not a study of how claimants make decisions about whether to appeal, and this list of factors is presented only as hypotheses. Further study could be carried out to test these ideas in more detail. However, even this brief examination of the way such factors might interact in a given claimant's decision making suggests first that there may be some conceptual similarities with the various models of benefit take-up (see for example Kerr 1983, Corden 1987, Craig 1990), and secondly that low use of an appeal system requires explanations beyond the simple assumption of it 'not working'.

The main issues taken to Review Boards

4.31. Table 4.1 below presents an analysis of the main subjects of appeal of the 250 Review Board cases supplied by the workshop authorities. As explained in Chapter 1 these cases represent the last ten Review Boards which had been held in each authority in the two years since April 1988. Some authorities had held fewer than ten whilst others had held many more. Neither these 250 cases nor the 88 claimants interviewed during fieldwork constitute representative samples (see Appendices G and J). However, the patterns of the subjects of appeal are generally comparable (see para. 3.68). The main exception is the number of restricted rent cases, which account for a considerably higher proportion of Review Board cases than the requests for internal review made by the 88 claimants interviewed during fieldwork. As explained in Chapter 3 the reason for this increase lies in the changes in the method of assessment of benefit payable for private rented housing, the effects of which were just beginning to be felt when the fieldwork took place. When the Review Board statistics were collected for this study the new assessments had been in operation for over a year, and it is clear that they had generated more appeals than the old arrangements.

Table 4.1: Main issues taken to Review Boards in the workshop authorities, April 1988-March 1990

<table>
<thead>
<tr>
<th>% of cases</th>
<th>number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backdating</td>
<td>27 (67)</td>
</tr>
<tr>
<td>Overpayments</td>
<td>23 (57)</td>
</tr>
<tr>
<td>Restricted rent</td>
<td>17 (42)</td>
</tr>
<tr>
<td>Exceptional circumstances</td>
<td>9 (22)</td>
</tr>
<tr>
<td>Contrived tenancy</td>
<td>8 (21)</td>
</tr>
<tr>
<td>Assessment of income</td>
<td>5 (12)</td>
</tr>
<tr>
<td>Non-dependant deduction</td>
<td>4 (11)</td>
</tr>
<tr>
<td>Assessment of capital</td>
<td>3 (7)</td>
</tr>
<tr>
<td>Eligible rent</td>
<td>1 (3)</td>
</tr>
<tr>
<td>Student deduction</td>
<td>1 (2)</td>
</tr>
<tr>
<td>Others</td>
<td>2 (6)</td>
</tr>
<tr>
<td>n = 250</td>
<td></td>
</tr>
</tbody>
</table>

Source: 250 Review Board cases
4.32. The concentration of Review Board appeals around a handful of main issues reflects the areas of legislation where there is the greatest scope for differing interpretations or which cause the most administrative difficulties. They are also the areas where there is potentially a large financial impact on the claimant (for example, backdating and overpayments, which together accounted for 50 per cent of Review Board cases).

**Composition and training of Review Boards**

4.33. Each local authority nominates a panel of councillors from which they can select a number to sit as the Review Board when required. There were several approaches taken to choosing councillors to serve on Review Board panels. In some authorities the Chair (and Vice Chair) of Housing, Finance, or General Purposes were ex-officio members of the Review Board. Generally, authorities were divided into those where there was a specific policy of choosing members from the committee (Housing or Finance) which was responsible for the administration of housing benefit, and those who took the opposite approach of excluding such members on the grounds that their impartiality could be undermined. Several authorities tried to reflect the political composition of the full council in the panel. There were also several authorities where no specific criteria for selection were used.

4.34. The numbers of councillors on these panels varied considerably. Some authorities maintained a panel of only three, the minimum possible although the majority had panels of between four and seven councillors. Authorities with large panels tended to be those who had adopted a policy of designating specified committee members of the council as an ex-officio Review Board panel. For example, in one authority the panel comprised the 12 Finance Committee members; in another the entire council of 19 members also served as the panel.

4.35. As explained in Chapter 1 the postal questionnaire sent to Review Board panel members gathered information on personal biographical data, experience of training and Review Board hearings, and attitudes towards Review Boards and their operation in their authorities (see Appendix I for an explanation of the sample and its effect on the interpretation of the results).

4.36. From the replies to the postal survey we have identified 42 local authorities (67 per cent of those whose councillors were sent questionnaires) where at least one Review Board panel member was also a member of the committee either wholly or jointly responsible for the administration of housing benefit in their authority. This represents 52 per cent of all the councillors replying to the questionnaire.

Some officers commented that Review Boards carried low status within the council committee structure and hence recruiting councillors to the panel was difficult. Others had experienced problems with a high turnover of members particularly around the times of the local elections. This had the effect of introducing an added delay in hearing appeals in May and June (of every year in some instances) as a new panel of Review Board members was selected.

4.37. Most councillors had little experience of Review Board hearings. Tables 4.2 and 4.3 below reveal that one third had not heard a Review Board case since joining the panel and only 18 per cent had heard over ten cases. Nearly half the councillors had served for two years or less on their authority's panel.

**Table 4.2: Number of Review Board cases heard by councillors**

<table>
<thead>
<tr>
<th>No. of Review Boards</th>
<th>No. of councillors</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>60 (33)</td>
</tr>
<tr>
<td>1</td>
<td>21 (11)</td>
</tr>
<tr>
<td>2</td>
<td>13 (7)</td>
</tr>
<tr>
<td>3</td>
<td>9 (5)</td>
</tr>
<tr>
<td>4</td>
<td>11 (6)</td>
</tr>
<tr>
<td>5</td>
<td>10 (5)</td>
</tr>
<tr>
<td>6-10</td>
<td>26 (14)</td>
</tr>
<tr>
<td>11-25</td>
<td>17 (9)</td>
</tr>
<tr>
<td>&gt;25</td>
<td>16 (9)</td>
</tr>
</tbody>
</table>

n = 183

(Missing data= lease)

The maximum number heard by one councillor was 150 cases.

**Table 4.3: Length of service of Review Board panel members**

<table>
<thead>
<tr>
<th>Years on panel</th>
<th>Councillors with some experience</th>
<th>Councillors with no experience</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>1</td>
<td>26</td>
<td>11</td>
<td>37</td>
</tr>
<tr>
<td>2</td>
<td>26</td>
<td>14</td>
<td>40</td>
</tr>
<tr>
<td>3</td>
<td>19</td>
<td>6</td>
<td>25</td>
</tr>
<tr>
<td>4</td>
<td>18</td>
<td>1</td>
<td>19</td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>6</td>
<td>7</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>7</td>
<td>11</td>
<td>3</td>
<td>14</td>
</tr>
<tr>
<td>8</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

Total 118 46 164

(Missing data=20 cases.)

Includes councillors who have heard at least one Review Board case.
4.39. Very few councillors in the sample had any experience of tribunals dealing with comparable areas of law. Only six of the 184 respondents sat on Social Security Appeal Tribunals, and only four on Industrial Tribunals. In contrast to SSATs whose Chairs since 1984 must have legal qualifications, only five (3 per cent) of the respondents were either barrister or (in one case) an advocate.

4.40. 136 of the 184 respondents (74 per cent) had not received any training for their role as Review Board members. Table 4.4 shows that of the 48 who had received training 36 had attended one session only.

Table 4.4: Training of Review Board members

<table>
<thead>
<tr>
<th>Training attended</th>
<th>No. of councillors</th>
<th>No. of councillors</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No training</td>
<td>136</td>
<td>(74)</td>
<td></td>
</tr>
<tr>
<td>Some training</td>
<td>48</td>
<td>(26)</td>
<td></td>
</tr>
<tr>
<td>One training session</td>
<td>36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two training sessions</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Three training sessions</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>48</td>
<td>184</td>
<td></td>
</tr>
</tbody>
</table>

4.41. Table 4.5 below shows that the training experienced by most councillors took place in the early years of the system. Only 17 of the total sample (nine per cent) had received any form of training since the major changes to housing benefit legislation that came into operation in 1988.

Table 4.5: Most recent training received by Review Board members

<table>
<thead>
<tr>
<th>Most recent training</th>
<th>No. of councillors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>5</td>
</tr>
<tr>
<td>1989</td>
<td>9</td>
</tr>
<tr>
<td>1988</td>
<td>3</td>
</tr>
<tr>
<td>1987</td>
<td></td>
</tr>
<tr>
<td>1986</td>
<td>9</td>
</tr>
<tr>
<td>Before 1986</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>47</td>
</tr>
</tbody>
</table>

(Missing data-1 case.)

4.42. Around two thirds of training was provided in-house by local authorities. The most comprehensive approach was taken by one London borough who arrange a series of ten four-hour training sessions for new Review Board members (although none of the Councillors from this authority who replied to the members’ questionnaire had attended more than three). Councillors attending external courses accounted for just under one third of those who had received training. Other training was provided by external consultants. Officers remarked upon the high cost of providing training and the reluctance of councillors to attend courses even when arranged.

The majority of councillors replying to the postal questionnaire thought that they would benefit from more training. As one explained,

"Members may only hear one or two cases each year. It is not as easy as it was to keep up with the frequent changes to the regulations and the procedures. It increases the need for training."

(District councillor)

There were some differences of opinion between councillors and officers over what type of training was needed. Over 70 per cent of councillors and 80 per cent of officers thought that Review Board members would benefit from more training on tribunal procedures. In contrast to this consensus, there was a marked disagreement about the corresponding need for training on the housing benefit regulations. 82 per cent of councillors wanted more training but only 39 per cent of officers thought it was necessary. Many officers thought that Review Boards did not need to be expert in housing benefit legislation and that it was inappropriate since they had the services of a qualified legal adviser to call upon. This view was also shared by some councillors.

"I don't see how you can train, in our case, twelve councillors, so that they all know everything there is to know about Housing Benefit. On top of everything else they're doing because, they've all got their livings to earn, or they're occupied here, and so when it comes to it they've got to fall back on this reliance on officers."

(Councillor, authority C)

4.43. There were some differences of opinion between councillors and officers over what type of training was needed. Over 70 per cent of councillors and 80 per cent of officers thought that Review Board members would benefit from more training on tribunal procedures. In contrast to this consensus, there was a marked disagreement about the corresponding need for training on the housing benefit regulations. 82 per cent of councillors wanted more training but only 39 per cent of officers thought it was necessary. Many officers thought that Review Boards did not need to be expert in housing benefit legislation and that it was inappropriate since they had the services of a qualified legal adviser to call upon. This view was also shared by some councillors.

"I don't see how you can train, in our case, twelve councillors, so that they all know everything there is to know about Housing Benefit. On top of everything else they're doing because, they've all got their livings to earn, or they're occupied here, and so when it comes to it they've got to fall back on this reliance on officers."

(Councillor, authority C)
Many of the councillors in the fieldwork authorities and responding to the postal questionnaire felt that the particular contribution that they brought to Review Boards was their knowledge of the local area (such as unemployment, housing conditions and labour market), of the problems experienced by claimants (gained for example, through their constituency work), and of the policies and administration of their own local authority.

... [councillors] may have worked with residents on housing matters and so gained background information on some of the problems which arise for both tenant and authority."

"Decisions are based on information which is more accessible to councillors, i.e. 'the local scene'."  

(City councillor)

"Councillors have a fuller grasp of local and economic housing situations and can use this information constructively."

(London borough councillor)

"Councillors know the local circumstances, know the tenants and know the officers who have been concerned in the case."

(District councillor)

## Organising the Review Board

Once a claimant has written to request a Review Board hearing, the normal practice is for the housing benefit department to contact an administrative officer in the Chief Executive's office or the legal department whose responsibility it is to organise the hearing. Hearings should be held within six weeks of the request. Of the Review Board cases observed during the fieldwork, just under half were held within this statutory target. The picture revealed by the 250 cases supplied by the workshop authorities, however, is rather different. Table 4.6 below presents an analysis of the time taken for cases to reach a Review Board hearing after a request has been made. Restricted rent cases after April 1, 1989 have been excluded from the analysis because Reg. 82(1A) allows local authorities to wait for a rent officer's redetermination of a market rent before convening a hearing. This can lead to delays which are outside the control of the local authority. The table shows that the six-week target was reached in only 17 per cent of the cases for which data were available.

Furthermore, over half of the appellants had to wait more than 12 weeks for a hearing. One case took 69 weeks to be heard (approximately 16 months).

### Table 4.6: Time taken for cases to reach Review Board hearing

<table>
<thead>
<tr>
<th>No. of weeks</th>
<th>No. of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within 6</td>
<td>30 (17)</td>
</tr>
<tr>
<td>6-8</td>
<td>27 (15)</td>
</tr>
<tr>
<td>8-12</td>
<td>27 (15)</td>
</tr>
<tr>
<td>12-26</td>
<td>74 (41)</td>
</tr>
<tr>
<td>26-52</td>
<td>21 (12)</td>
</tr>
<tr>
<td>&gt;52</td>
<td>1 (&lt;1)</td>
</tr>
<tr>
<td></td>
<td>180 (100)</td>
</tr>
</tbody>
</table>

(Missing data=35 cases.)

Excluding 35 restricted rent cases heard after 1.4.89.

Officers interviewed during fieldwork cited two main causes of delay which originated from within their authorities. First, most authorities were reluctant to organise a Review Board to hear only one or two cases (except where appeals were infrequent) but preferred to accumulate sufficient cases to justify either a half-day or full-day sitting. Second, Review Board clerks almost always experienced problems recruiting the required number of councillors and arranging a mutually convenient time for them to attend. Officers generally treated the convenience of councillors above that of claimants. However, not all delays were the responsibility of the local authority. Claimants themselves sometimes requested a postponement of the hearing.

In the workshop discussions most officers argued that delays were not usually the fault of their own departments. They complained that it was usually possible for them to complete the administrative work necessary for a hearing well within six weeks but that the council department responsible for convening the Review Board showed little sense of urgency in arranging a hearing. However, in some authorities the senior benefit officer may take the opportunity of looking again at a case or inviting the claimant for an interview before formally passing on the request to the Review Board clerk, thus contributing to the total time taken to get a case to the Review Board. In authority A the principal benefit officer outlined the problems of co-ordination which sometimes occurred,
4.50. Although there was a general desire among officers to dispose of Review Board cases as quickly as possible, there were also examples of a more cavalier attitude towards the statutory limit. Some officers expressed little concern to meet the six week target. One officer commented, "I don't see it as a top priority job." There were several references to Regulation 82(1) which allows the hearing to take place later than six weeks after a request if it is not reasonably practicable within the period.

4.51. There was not always an appreciation of the effect that a long delay might have on the lives of claimants. Some claimants interviewed reported that they had been worried about their financial situations during the time they were in dispute with the local authority about their housing benefit. In cases involving backdated claims or overpayments, claimants were often treated as having large arrears of rent and consequently received letters from housing benefit departments threatening eviction. One respondent reported that her two young children had become extremely upset and physically unwell when she had been served with a notice to quit her council house. She subsequently won her appeal for a backdated award after waiting eight weeks for a Review Board hearing.

4.52. The range and quality of appeal papers prepared by the fieldwork authorities varied greatly. Two authorities prepared detailed summaries of the appeal, including a statement of the authority's case supported by a comprehensive collection of relevant documents. These allowed appellants and their representatives to have a clear idea of the case that they would have to answer before the Review Board. In contrast, in two authorities Review Board members and appellants were sent only photocopies of relevant correspondence, claim forms and calculations, from which it was not often easy to understand the reasoning behind the authority's determinations. Some advice agency workers complained that they only received 'a bundle of case papers' and not 'a proper submission' containing a reasoned argument.

4.53. The workshop discussions revealed that the most common practice was to send photocopies of selected documents to appellants, who did not therefore receive a summary of the local authority's case. Some officers were specifically concerned not to 'reveal their hand' to their opponents before a hearing.

4.54. All six fieldwork authorities provided appellants with guidance notes on the constitution and standard procedures of the Review Board. One authority included a list of local advice agencies where help might be available. Many of the workshop authorities reported that they provided similar lists. Whilst this sort of information can be extremely useful for claimants it is important that they receive it in time to be able to act upon it. One claimant in authority F received details of local advice agencies but was unable to arrange representation in the time left before the hearing=

4.55. Some local authority officers reported that they responded to a request for a Review Board hearing by contacting the claimant and arranging a personal interview. The purposes of such an interview were varied. Some used the interview primarily as a means of ensuring that they had the fullest possible information in case they could review their decision again. Others admitted that the opportunity thus arose to negotiate with the claimant about, for example, the amount of an overpayment, or the dates of a backdated claim. The interview was sometimes used as a means of explaining again the details of a decision in person in order to pre-empt a Review Board hearing on what they considered a futile appeal. One officer called this practice 'batting off' claimants.

4.56. Officers at the workshops were asked if they had any contact about individual cases with the legal department of their authority before a Review Board hearing. Several responded that they did consult with their legal colleagues, although the nature of the consultation varied. In two authorities each case would be referred to the legal officer to decide whether the case should proceed to the Review Board or be
conceded in advance. In authority C this practice was instigated at the request of Review Board members who were concerned that officers were taking too hard a line in some cases. Other authorities said that they consulted only on interpreting regulations generally and did not refer to the details of specific cases. Some small authorities the legal officer would also act as the adviser to the Review Board at the hearing, whilst in authorities with larger legal departments advice was sought from a solicitor who would not be attending the Board.

4.57. Opinions were divided between those who considered that authority solicitors were sufficiently professional to be able to separate the roles of advising their housing benefit colleagues and of advising the Review Board, and those who considered that any contact was undesirable, per se. As one officer explained, (it) undermines the integrity of the legal advice that the legal officer can give to the Board.”

(London borough)

4.61. Analysis of the 250 Review Board cases showed that the appellant attended the Review Board in person in nearly three quarters of all cases. In just over one quarter of cases a professional representative was present and in one in seven cases a friend or relative accompanied the appellant.

4.62. The Review Boards observed followed a roughly similar pattern. Each Chair began proceedings by introducing those present, explaining the function of the Review Board and the procedure to be followed. In many cases Chairs made a point of trying to put appellants at ease. However, on occasions, the introduction and explanation were hurried and perfunctory. The comments of the officers attending the workshops suggested that these introductory procedures were followed in most authorities.

4.63. The order in which claimants and housing benefit officers made their presentations to the Review Board varied in the fieldwork authorities and, according to the reports of officers at the workshops, in other authorities. Although claimants were sometimes given the choice of whether to open proceedings or to follow the presentation of the housing benefit officer, the most common practice was for claimants to be asked to present their case first. In some cases the Chair invited questions at this point from the members of the Review Board, the housing benefit officers and on occasions, the legal adviser. In other cases the housing benefit officer presented the local authority’s case before questions were taken.

4.64. The role of the Chair was crucial to the conduct of the hearing. Where the Chair had a good grasp of the details of the case papers
and a knowledge of the appropriate housing benefit regulations, and adhered to the agreed procedure, hearings tended to follow a structured course in which the facts were able to be established. However, there were examples of the Chair failing to keep control of proceedings. The most vulnerable part of the proceedings tended to be the point at which questions were allowed from the Review Board members or the officers. Confusion and misunderstanding could arise with the effect that a hearing could degenerate into an uncontrolled discussion in which the thread of both sides' argument would be lost.

A frequent complaint from the officers in the workshops was that Chairs were prone to allow their fellow councillors to ask irrelevant questions, or to score political points against their opponents. However, some commented on the fairness with which Chairs attempted to run hearings; "pleasantly surprised" was how one described his reaction.

Another grievance was that councillors were prone to view appellants as potential electors and as a result became unfairly over-critical of officers. Several officers complained that councillors indulged in 'officer-bashing', and felt that they were treated as the 'baddies' because they had not given the claimants what they wanted. One officer commented,

"It's daunting when we are treated as the accused."

(City council)

A few officers expressed the contrary view that councillors were reluctant to disagree with their officers, sometimes out of a sense of loyalty towards council staff. This view received some support from the councillors replying to the postal questionnaire.

"Councillors from the Majority Group tend to feel loyalty to the officers from the housing benefit section and therefore tend to support whatever they say. This is because they appointed the Chief Officers and therefore find it difficult to criticise them at Review Boards. As a result of this, most people taking their case to Review Boards do not get a fair hearing, in my view."

(London borough councillor)

Some officers also thought that councillors sometimes lacked the expertise to be able to challenge officers' decisions. As one explained,

"There are a number of decisions where I suspect that they have upheld our decisions because we've acted within the regulations rather than looking closely at whether we were right."

(District authority)

Some officers commented that councillors used Review Boards as opportunities for dealing with the whole range of problems affecting housing benefit claimants. Rather than restricting themselves to the relevant issues of a case, they expected officers to be able to discuss, inter alia, rent arrears, court summonses and housing transfer requests.

Claimants' experiences of Review Boards tended to reflect how they were treated rather than whether they won or lost their case. Many reported that although they had lost they nevertheless felt that the hearing had been fair. Despite feeling nervous and apprehensive beforehand and finding the surroundings intimidating, most appellants found the Board approachable and friendly.

There was a danger that the appellant could become excluded from the proceedings. For example, one representative presented the evidence for an appellant and largely prevented him from explaining his case in his own words. On another occasion the officers and Review Board members embarked on a detailed discussion of the case and ignored the appellant completely.

Although claimants generally experienced Review Board members as reasonably friendly there were occasions when they felt upset because they thought Review Board members showed bias against them. In one instance the Review Board questioned a black single parent about the fathers of her children in a way she experienced as hostile.

... I don't know why that old woman was asking me where the father was. That was irrelevant. I mean, if the father was there for a start, I wouldn't need to come there. Like I said, she asked me the question, one died and one lives abroad, which . . . fine, I thought she was just being nosey. In other words what she was saying was, go to the father and let him support you. The council's not here to support single parent mothers in your predicament. That's what she was saying in a roundabout way."

(Claimant, authority F)
According to some officers a more systematic bias operated in some areas. One officer at the workshops explained,

"A lot of our councillors are ex-miners and that does show when you go to Review Board. If you've got an ex-miner with an overpayment, he's dealt with totally differently from anyone else."

(Scottish district)

Despite the widespread practice of introducing the Review Board members a surprising number of appellants were not aware, when interviewed after the event, that the Board comprised local councillors.

"I thought that they were actually independent people brought in for it, I thought they were independent, actually independent to the council."

(Claimant, authority C)

"I didn't know they were made up of councillors. I knew at the DHSS tribunal they were independent, I assumed these were as well. No wonder they were biased and one-sided."

(Claimant, authority C)

The Review Boards observed varied in the effectiveness they demonstrated in establishing the relevant facts of a case. Of the 99 councillors in the wider survey who had attended a hearing and who expressed an opinion, only 14 per cent thought they did not always bring to light all the facts. This compares with a figure of 56 per cent of the officers attending the workshops who had experience of Review Boards hearings and who offered an opinion (20 out of 36). As mentioned above, the Chair has a crucial role to play here. The Review Board's task of establishing the facts of a case was either made easier or more difficult by the competence of the housing benefit officer presenting the case for the authority. There were instances where housing benefit officers were badly prepared and unable to present the essential points of a case clearly and concisely. This created serious problems for the Review Board and the appellant in trying to understand the basis of the authority's determination. Much time was wasted in trying to establish such basic facts as the dates of a claim or the figures used in a calculation. The best presentations were made by officers who gave summaries of the facts of the case and the relevant regulations, and referred to annotated documents which had been prepared in advance for all the participants.

In contrast, some officers' presentations were perfunctory and incomplete. In one case observed in authority F, the authority's case was presented by two junior officers who seemed in advance over-confident and unaware of the need for them to present a properly argued case. Their written summaries were not sent in advance to the participants but produced at the hearing itself and lacked many of the details necessary to reach a proper understanding of what had taken place. The claimant was unrepresented and it fell to one of the Review Board members to cross-examine the officers in an attempt to unearth details which might be in the claimant's favour. This itself resulted in a clash between the member and the Chair and the proceedings lost much of the order and shape necessary for an effective hearing. When interviewed later both the Chair of the Review Board and the Chief Benefit Officer expressed dissatisfaction at the performance of the presenting officers.

Appellants' reactions to the way housing benefit officers conducted themselves in hearings varied. Some complained about baffling administrative and legal jargon, a lack of sympathy with their situation, and, on a few occasions, aggressive behaviour towards them. One appellant complained that they "didn't speak in English" and several that, in disagreeing with their versions of events, housing benefit officers made them sound like liars. Others acknowledged that the officers were only doing their jobs. As one said,

".. his job was to try to get it sorted out. I don't think he was trying to thrash it [an overpayment] out of me."

(Claimant, authority C)

Some claimants were able to cope with the Review Board hearing without any difficulties. Some were articulate, confident individuals who were not intimidated by the process, the surroundings, nor the Review Board members. Others had attended other tribunal hearings and drew confidence from their experiences.

However, some claimants (and members of their families) were not so well equipped to cope. One claimant, whilst waiting eight weeks for a hearing, complained that she suffered great anxiety, could not sleep and lost weight. She eventually consulted her doctor for help. Another said that his wife was "ill with anxiety" and that after the Review Board decision (which left him owing more than £300 in rent arrears) he felt "so low" that he could not pursue his case further; "I couldn't take any more", he said.
4.80. Most legal officers saw their role during the hearing as mainly that of a Review Board when asked, but also that of a fair hearing took place. Hence they considered that they could legitimately intervene in certain circumstances. In the hearings observed one legal officer intervened to point out that a housing benefit officer allowed cross-examination, to a leading questions, and effectively to usurp the position of Chair.

4.81. Some appellants found it difficult to distinguish between the legal officer and the other members of the Review Board, or the legal officer and the representatives of the housing benefit department. One appellant was confused as to ‘whose side’ the ‘lawyer’ was meant to be on, and whether she was supposed to be an impartial adviser despite the fact that she was a council employee. Another complained strongly that he had no chance of winning his case if the Review Board were councillors and they were advised by the council solicitor. Positive comments about the legal officer were more rare. Nevertheless, according to one unrepresented claimant interviewed, the legal officer helped her state her case more strongly than she was able to do unaided.

4.82. In the workshop discussions some officers referred to the practice in their authorities whereby a senior member of the legal department would advise the housing benefit officers presenting cases and a copy of that advice would be given to the Review Board (and the appellant) as part of the hearing papers. However, the legal officer attending the Review Board was a more junior member of staff. The effect was that the junior officer might find it difficult to offer the Review Board any advice other than to confirm the opinion of his or her superiors, thus depriving the Board of independent advice.

4.83. During the workshop discussions it was reported that some authorities, though none actually attending the workshops, employed independent solicitors to act as advisers to the Review Board.

4.84. Unless they were represented by an advice agency worker, appellants were generally ill-prepared to present their case. Some appellants were unaware that they would have to present a case at all. Others found difficulty expressing themselves in intimidating circumstances regardless of the efforts of the Chair to keep proceedings friendly and informal. As one appellant explained,

“I had fairly clearly set out, but the way the case went, the areas were all jumbled up in a different order…”

(Claimant, authority D)

4.85. It was often incumbent upon the Review Board (and sometimes the officers present) to draw out the appellant’s version of events. In one case a Review Board member consciously adopted the role of representative temporarily when she thought the appellant was not putting her case well.

4.86. Advice agency workers had varying experiences of Review Board hearings. Most were content that appellants were generally treated well but were concerned that a desire to maintain informality could sometimes lead towards confusion, particularly when the Board became confused between the facts and the law on a case. Some advice workers were able to make comparisons between the conduct of Review Boards and SSATs, and in general preferred working within the more structured environment of the SSAT where ‘you know where you are’. Review Boards were less legally competent, more inconsistent, and more unpredictable in their decision making than SSATs. However, one CAB worker qualified her assessment by saying that her success rate was higher at Review Boards than SSATs because the former were not so concerned about establishing a sound legal argument. Review Boards, she said, were ‘a pushover’.

4.87. Most councillors took the view that representatives for the appellant generally contributed positively to the hearing by assisting the appellant to state his or her case more fully. A few, however, felt intimidated or threatened by advice workers particularly when adopting an adversarial or legalistic style of advocacy. Others felt that representatives sometimes obscured issues that were better explained by the claimants themselves.

"Sometimes the appellant actually can explain things better, when you start to ask them questions, and it becomes clearer than having a [representative] sitting there, because they often have a legal background and we get into all the jargon, whereas when we turn to the person who's actually got the problem and start asking them..."
questions, it becomes much clearer because they’re putting their own problems in their own words rather than having somebody official there. But sometimes when, say, the person would have a problem communicating then they are better to be represented, yes.”  
(Councillor, authority F)

4.88. Some officers were also aware of this effect and a few suggested that the appellant’s chances of success may actually be reduced by representation. In general, however, officers thought that representation increased the appellant’s chance of success (see table 4.7 below). In contrast councillors thought that they had no effect on the outcome of a case. 
(The analysis of the 250 cases suggests that the officers’ assessment is a more accurate reflection of actual outcomes—see paragraph 4.111 and Table 4.10.)

Table 4.7: The impact of professional representation: the views of councillors and housing benefit officers

<table>
<thead>
<tr>
<th></th>
<th>Councillors</th>
<th>Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>% No.</td>
<td>% No.</td>
</tr>
<tr>
<td>In this authority appellants have a better chance of winning their appeal if they are professionally represented?</td>
<td>YES 33 (30)</td>
<td>67 (23)</td>
</tr>
<tr>
<td></td>
<td>NO 67 (61)</td>
<td>33 (11)</td>
</tr>
</tbody>
</table>

1 Councillors who have heard at least one Review Board case.

4.89. Officers from two of the workshop authorities separately reported unusual Review Board hearings where the representative of the appellant was also a local authority councillor. This clearly called into question the impartiality of the Board. However, whilst both officers commented that the conduct of each hearing was undoubtedly different from their normal experience, they also felt that the outcomes were not affected.

Decision making by Review Boards

4.90. In accordance with the rules of natural justice the accepted practice at Review Boards is that after both sides have presented their cases the Chair asks the appellant, any representatives, and the officers from the housing benefit department to leave while the Review Board considers its decision. This happened in all of the hearings which were observed except in those cases where neither the appellant nor a representative attended. On these occasions the housing benefit officers remained in the room while the Review Board considered whether or not to adjourn the case, or made its decision in absentia. In all cases the legal officer and the clerk remained with the Review Board. In 29 of the 31 cases observed the researcher was allowed to remain.

4.91. The questionnaires to Review Board members and . . . enefit officers included a question about the factors that were taken into account when the Review Board made its decisions. Table 4.8 below presents the responses from those councillors who had heard a case and those officers at the workshops whose authorities had held Review Board hearings.

Table 4.8: Factors taken into account in Review Board decision making: the views of councillors and housing benefit officers

<table>
<thead>
<tr>
<th></th>
<th>Councillors</th>
<th>Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>% No.</td>
<td>% No.</td>
</tr>
<tr>
<td>Local authority policies</td>
<td>-Yes 66 (63)</td>
<td>62 (18)</td>
</tr>
<tr>
<td></td>
<td>-No 34 (33)</td>
<td>38 (11)</td>
</tr>
<tr>
<td>Character of appellant</td>
<td>-Yes 36 (31)</td>
<td>59 (17)</td>
</tr>
<tr>
<td></td>
<td>-No 64 (55)</td>
<td>41 (12)</td>
</tr>
<tr>
<td>Housing benefit regulations</td>
<td>-Yes 100 (118)</td>
<td>89 (34)</td>
</tr>
<tr>
<td></td>
<td>-No 0 (0)</td>
<td>11 (4)</td>
</tr>
<tr>
<td>Financial cost to authority</td>
<td>-Yes 8 (8)</td>
<td>33 (10)</td>
</tr>
<tr>
<td></td>
<td>-No 92 (89)</td>
<td>67 (20)</td>
</tr>
<tr>
<td>Political views of Review Board members</td>
<td>-Yes 8 (9)</td>
<td>31 (9)</td>
</tr>
<tr>
<td></td>
<td>-No 92 (100)</td>
<td>69 (20)</td>
</tr>
</tbody>
</table>

1 Councillors who have heard at least one Review Board case.

4.92. Table 4.8 reveals some interesting approaches to how decision making is carried out by Review Boards. Apart from the expected response to the question of whether housing benefit regulations are taken into account, it is clear that many Review Boards also take into account factors that could be seen as extraneous to a proper adjudicatory practice in most housing benefit cases. Over two thirds of the sample stated that in their authorities, local authority policies are taken into account, and a third that the character of the appellant is of relevance.

4.93. Only a small minority (8 per cent) reported that they took into account the financial cost to the authority. The councillors interviewed during fieldwork generally supported this finding. Most said that the financial cost to the authority did not influence their decision making. One reason put forward was that the amounts involved in granting an appeal are very small compared with the size of the housing benefit budget. As one said,
... you're only talking about a hundred or a hundred and fifty pounds, aren't you? Less probably in some cases ... It's so small, it's not much ... In fact it's costing more to have the Review Panel, and the officers there and us there and what you're paying them . . . It is if you add it up. No, the cost doesn't come into my consideration, not that sort of amount anyway."

(Councillor, authority C)

Nevertheless, there were occasions in the observed hearings when the cost to the authority of making certain decisions was raised by either one of the Review Board members or the housing benefit officer presenting the authority's case.

4.94. Only a small proportion of councillors who replied to the questionnaire said that the political views of the Review Board members were, in practice, a factor in their decision making. Nevertheless, 24 also recognised that the potential influence of the political preferences of the Review Board members was a disadvantage of councillors sitting on the Board.

"Local councillors ... may be unduly influenced by the fundamental policy of their own particular party."

(District councillor)

"Sometimes the very 'right' or the very 'left' allow their views to influence their decisions."

(London borough councillor)

"[In my authority] the Board reflected in proportion to its members' political representation on the council. The Board therefore had an inbuilt bias towards a party political view."

(London borough councillor)

4.95. Although two thirds of councillors said that local authority policies were a factor in decision making, 87 per cent of those who had sat on a Review Board concluded that they acted independently of the council. One summed up his approach thus,

"I don't really think of myself as a councillor at that time. I see myself as a member of the appeal body."

(Councillor, authority C)

4.96. Although not party to the private deliberations of the Review Board, officers attending the workshops considered that the character of the appellant, the financial cost and the Review Board's political views were more influential than the responses of the councillors themselves suggest.

There were numerous examples of Review Boards displaying ignorance of the housing benefit regulations at the observed hearings. Several officers at the workshops also gave examples not only of a lack of knowledge, but also of a willingness to turn a blind eye to the regulations in some cases, or even to break them. One officer told of how a claimant had appealed to have her claim backdated for more than a year. Despite being advised that the regulations only allowed backdating for up to twelve months the Review Board were reluctant to be guided although they eventually accepted that they had to stay within the law. In a different authority, an appellant argued that his occupational pension was deferred earnings and so should be eligible for an earnings disregard. Occupational pensions are treated as unearned income and although there are provisions in the regulations for disregarding certain amounts of unearned income, there is no disregard comparable to that for earned income. Nevertheless, the Review Board allowed the appeal and the claimant received £1,000 in arrears of housing benefit.

In three of the fieldwork authorities the Review Board relied particularly heavily on the legal officer to identify the main points of the case and to interpret the regulations. The legal officer was therefore in a position to exert considerable influence on the decisions of the Review Board. Where councillors were insufficiently knowledgeable about the regulations to decide cases unaided, they were also not in a strong position to assess the reliability of the legal officer's advice.

"I can only rely on any officer from a legal point of view which I don't understand. Now if he, if he's quoting from the book and does not quote us correctly, well I'm sorry, you know, I don't know he is not quoting us correctly."

(Councillor, authority C)

The responses of the Review Board members in the survey and the officers at the workshops confirm that a heavy reliance on the legal officer is a general feature of Review Boards (see Table 4.9 below). One exception identified during fieldwork was the authority in which the Chair of the Review Board was a practising solicitor.
Table 4.9: The influence of the Review Board legal adviser: the views of councillors and housing benefit officers

<table>
<thead>
<tr>
<th></th>
<th>Councillors</th>
<th>Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>No.</td>
</tr>
<tr>
<td>The advice of the Review Board’s legal adviser is an important influence on decision making in this authority</td>
<td>AGREE</td>
<td>89 (84)</td>
</tr>
<tr>
<td></td>
<td>DISAGREE</td>
<td>11 (10)</td>
</tr>
</tbody>
</table>

4.100. At the hearings we observed Review Board members were not, in general, sufficiently knowledgeable about housing benefit law to be able to decide cases unaided nor to assess the reliability and validity of the legal officer’s advice.

4.101. Whilst most legal officers offered members balanced and accurate advice, there were exceptions. In one case the legal officer persuaded the Review Board to reject an appeal on an interpretation of a certain regulation but did not advise of another relevant regulation, which, had it been considered, could have led to a decision in the appellant’s favour.

4.102. Legal officers have to reconcile potentially conflicting roles. Most of the time they act for the local authority as legal advisers and representatives. However, at the Review Board they must adopt the different role of neutral advisers to members even though the local authority is one of the parties. As mentioned earlier, housing benefit officers sometimes need help in preparing for a hearing, but legal officers may compromise their neutrality if they discuss Review Board cases with them. In most authorities legal officers were aware of this problem and were content that they could maintain their impartiality, a view endorsed by most of the officers at the workshops.

4.103. The bias occasionally witnessed against appellants in the hearing could be carried over into decision making. In the private discussion at one of the observed hearings (authority C) the Review Board seemed to doubt the veracity of an appellant on the grounds that she was a long-term social security claimant, and was assertive and shabbily dressed.

4.104. Review Board members often seemed to make decisions based on a subjective assessment of an appellant’s deservingness or credibility, rather than on a strict application of the relevant housing benefit regulations to the facts of the case. For example, the law is clear that an award of housing benefit can only be backdated if the claimant can demonstrate that there was ‘good cause’ for the failure to submit a claim earlier. However, the Review Boards observed rarely considered whether this condition was satisfied by appellants. Typically, appellants asked for an award to be backdated on the grounds that they had not received claim forms or had submitted them and the authority had lost them. Such cases were usually decided on whether the Board found the appellant a credible and reliable witness without any attempt to gather further evidence and without specific reference to the ‘good cause’ test. Where they believed the appellant they allowed the appeal and where they did not, the appeal failed. Similarly, Regulation 69(8) appeals were rarely decided on a consideration of whether the appellant’s circumstances were ‘exceptional’ (the statutory test) but more often on an assessment of their deservingness.

Recording decisions

4.105. Regulation 83(4) requires the Chair to record in writing decisions of the Review Board, including its reasons, and findings on questions of fact. In three of the fieldwork authorities the content of the record of decisions complied with the regulation, and were signed, though not written, by the Chair, though in two other authorities the Chair neither wrote nor saw the record of decisions. These two approaches were repeated among the workshop authorities, although no authority reported that the Chair recorded the decision himself or herself.

Communicating decisions

4.106. Regulation 83(5) requires local authorities to inform all interested parties of Review Board decisions in writing within seven days of the hearing or as soon as practicable afterwards. The authorities in the fieldwork study adopted various practices. One authority asked appellants to wait in the building until it reached its decision and informed them in person immediately afterwards. Two authorities sent letters only, whilst two authorities telephoned the appellant soon after the hearing and confirmed the decision in writing later.

4.107. Although the Review Boards in the fieldwork authorities invariably made decisions on the day of the hearing, few appellants received letters within seven days. A general lack of urgency was evident. One appellant complained that the Review Board clerk promised to telephone her on the morning following the hearing but failed to do so. Appellants received their written decisions two, three or four weeks later and, in several cases in one authority, not at all.
4.108. In all fieldwork authorities the legal officer wrote the letters informing claimants, sometimes in collaboration with the clerk. In three authorities the Chair checked and signed the letter, but in the other two the legal officer signed the letter on behalf of the local authority (not on behalf of the Review Board). The standard of letters varied greatly. In three authorities (coincidently where the Chair signed the letter) the letters clearly set out the main points of the case, the relevant law, and the reasons for the Board’s decision. In the other two the letter was merely a short confirmation of the decision of the Review Board and offered no explanation of how the decision had been reached.

4.109. No variation on this pattern emerged from the workshop discussions though a few authorities adopted the practice of telephoning the appellant in advance of sending a letter. Most authorities preferred to send letters rather than announce the decision of the Review Board on the day of the hearing. A councillor in one of the fieldwork authorities explained that he was in favour of this practice because it prevented any possible trouble from dissatisfied claimants.

4.110. None of the fieldwork authorities included in their decision letters details of what to do if appellants did not agree with the Review Board decision. One of the workshop authorities which had produced an appeals leaflet also included information about the claimant’s right to apply for judicial review.

The outcomes of Review Boards

4.111. Table 4.10 below presents an analysis of the outcomes of the 250 Review Board cases. This confirms earlier estimates from the telephone survey (SPRU Working paper 530) that around 40 per cent of Review Board appellants are successful in having their housing benefit decision revised in their favour.

Table 4.10: Outcomes of Review Board hearings (250 sample)

<table>
<thead>
<tr>
<th>Decision of local authority upheld</th>
<th>At 1st hearing</th>
<th>At adjourned hearing</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision revised in favour of claimant</td>
<td>131</td>
<td>11</td>
<td>142 (60)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Outcome of decided cases at 1st hearing</th>
<th>LA decision upheld</th>
<th>Decision in favour of claimant</th>
</tr>
</thead>
<tbody>
<tr>
<td>No one present</td>
<td>75 (24)</td>
<td>25 (8)</td>
</tr>
<tr>
<td>Appellant alone</td>
<td>60 (45)</td>
<td>40 (33)</td>
</tr>
<tr>
<td>Appellant and representative present</td>
<td>49 (19)</td>
<td>51 (20)</td>
</tr>
</tbody>
</table>

(Missing data-12 cases.)
Impact on housing benefit administration

4.116. Review Board decisions can have an impact on housing benefit administration in two main ways. First, they can influence the way housing benefit officers interpret the housing benefit regulations in future cases (i.e. using them as precedent). Second, they can result in changes to administrative practices.

4.117. The evidence from the fieldwork suggested that Review Boards generally had little impact on housing benefit administration. This conclusion was supported by the officers during the discussions and from the questionnaire administered in the workshops; 62 per cent of those from authorities where Review Boards had been held felt that they had little impact. There were, however, a few examples where the question arose of whether to treat Review Board decisions as precedents. In one case in authority F the Review Board heard an appeal where the appellant had been refused a backdated award because the housing benefit department had not received the relevant claim form. In making their decision the Review board chose to accept the appellant's story that she had sent the form and it had either not arrived or the council had lost it. The senior housing benefit officer was disturbed by this decision and was considering whether to ask the Review Board for guidance on whether this decision should be treated as a precedent for the handling of similar cases in future. In authority A the Housing Benefit Manager referred to a previous decision of the Review Board in a written submission in which he named the claimant. The appellant's representative challenged the admissibility of this evidence. The legal officer confirmed that the earlier decision should not be treated as precedent and that naming the claimant was also in breach of confidence.

4.118. An example from authority A illustrates a different use of precedent (and also demonstrates an effect of the close link between Review Board members and the housing benefit department). On receiving the Review Board papers the Chair felt that the issues involved had been dealt with previously in a similar case (and she was also dissatisfied with the long delay in bringing the case to a hearing and the doubtful nature of the authority's case). She consulted the other members of the Review Board who agreed that the appeal should be allowed without the necessity for a hearing. She contacted the housing benefit manager who changed the authority's original determination in the claimant's favour.

4.119. Although the majority of officers at the thought that the impact of the board was small, 64 per cent said that Review Board decisions had led to some changes. One advantage of Review Board involvement is that they can direct officers to rectify them. Because of the relationship between councillors and their officers, criticisms are always likely to be treated seriously. For example, in authority C the Review Board was dissatisfied with the administrative practice of cancelling housing benefit without first issuing a reminder, if a renewal claim form was not returned by a claimant. As a result of their complaints, the sending of reminders by recorded delivery was introduced.

4.120. The Review Board could also have an effect in improving the preparation and presentation of appeals. For example, the case mentioned above where the Review Board in authority F was dissatisfied with the performance of two junior officers was likely to result in better preparations for Review Board cases by officers.

4.121. Seventy per cent of officers responding to the workshop questionnaire said that Review Board decisions were likely to influence how similar cases were treated in future by their departments, although less than half (42 per cent) thought that Review Boards were a useful way of clarifying how to interpret housing benefit regulations. This seemingly contradictory result can be partly explained by way of an example. One officer explained that in her authority the housing benefit department refused backdated claims if the claimant had failed to show 'good cause' for not applying earlier (the statutory test). However, a case had proceeded to the Review Board who allowed the appeal because the appellant claimed that the requisite forms had not been received. Though the claimant could offer no evidence, let alone proof, the Review Board gave her the benefit of the doubt. This case did not help clarify the meaning of 'good cause' for the officer, but had influenced her thinking about such cases. She saw no point in having similar cases decided by the Review Board when she could anticipate their decision, even though it was her opinion that the statutory test had not been applied properly.
Whilst some were content to use Review Board decisions as precedents, others were adamant that this was not justified; one called the practice “fraught with danger”. Another explained,

"Even though another case may appear identical, it may not be underneath. You can't always judge it on the same basis."

(Authority F)

A small number of authorities revealed that rather than act as passive recipients of Review Board decisions they actively used the forum to clarify matters of local authority policy. For example, in one London borough the housing benefit department intended to use the Review Board to find out the council's policy towards using Reg 69(8) to pay the compulsory 20 per cent element of claimants' rates demands, a cost which would fall on the authority. (In the event the matter was decided before the hearing took place.)

Costs

No authority kept separate accounts of the costs of preparing and holding Review Boards. One authority, however, had carried out a one-off exercise to estimate the cost and had arrived at the figure of around £150 of staff time, based on three to four days work. Other authorities at the workshops agreed that the average case would take this amount of time to prepare although some of the more complex cases could take considerably longer. For a more accurate figure, other costs would need to be added, such as the cost of the room, councillors' attendance allowances, claimants' travelling expenses, and overtime payments to officers attending evening sittings.

Summary and evaluation

Chapter 3 explained that evaluating the internal review stage of the review system is problematic given its lack of definition and its unusual status (for a social security benefit) as the first formal stage of a two-tier review system. For Review Boards, there are numerous studies of the operation of administrative tribunals in general, and of those connected with the social security system in particular, on which we can draw. In our view, however, none of these provide a totally satisfactory framework for analysis on their own. Nevertheless, they allow us to identify a number of criteria (see para. 1.22) around which we can base our evaluation. It is not the intention that these criteria be treated as a checklist against which Review Boards can be scored, for example. Whilst they can be distinguished analytically they are not necessarily discrete in practice. They overlap, reinforce or conflict with each other in complex interactions. We have used these criteria, therefore, as a way of underpinning our evaluation of the operation of Review Boards. Evaluation also has to be pluralistic to take into account the aspirations and experiences of the diverse groups who participate in the process.

This summary is mainly concerned with how Review Boards are organised and how they operate in practice. Discussion of the place of Review Boards within the overall structure of the housing benefit review system is reserved for Chapter 5. Where such issues impinge upon the practice of Review Boards, however, they are brought briefly into the discussion.
to claimants and many were adamant that they were capable of separating completely their roles as councillors from their responsibilities as Review Board members. They claimed that they could, therefore, act independently. Claimants, however, had almost no concept of the Review Boards being independent. Most had a perception of 'the council' and made a distinction between the two. Such a view led some claimants to believe that there would be little point in taking their appeals further.

4.129. In general, claimants must know about the Review Board in order to be able to make use of it. However, in the fieldwork authorities few claimants knew about or understood fully their right to a further review. Most of the claimants interviewed who had only taken their case appeal to internal review, had not heard of the Review Board. This lack of knowledge reflects the limited publicity provided by some local authorities about appeal rights in general and about Review Boards in particular.

4.130. Access to Review Boards did not only depend upon knowledge of the system. In some cases it was not a lack of knowledge of the review system, but the opposite, that discouraged people from pursuing their grievances. Claimants were pessimistic and sceptical about their chances of success before a tribunal of councillors and doubted, therefore, whether the likely outcome was worth the effort required. Some claimants were influenced by their perceptions of the local authority which were often formed partly by the way the housing benefit department had handled their internal reviews.

4.131. Further barriers to the Review Board were created by the administrative practices in some authorities, for example, where letters contained inaccurate and off-putting statements about Review Boards, or where housing benefit departments operated a 'double' internal review.

4.132. Even when claimants do pursue their case further than internal review, housing benefit officers can still exert a substantial control over the number and types of case that progress to a Review Board hearing. It is clear that in some authorities this control has effectively been used to prevent claimants from pursuing their rights of further review. Some officers thought that the housing benefit regulations were so tightly drawn that in most cases a complaint to the Review Board was pointless. Officers considered them too time-consuming and their main aim was to process benefit claims as quickly as possible. In some authorities officers feared that by allowing cases to progress to a Review Board they were projecting to councillors an image of poor administration. In contrast, some officers viewed Review Boards positively, as a right that claimants should be able to exercise freely, and hence publicised appeals in their leaflets, their routine communications and their personal contact with claimants.

4.133. Each authority has its own procedures for choosing Review Board members. Although the local authority associations' guidance advises against the practice, over half the councillors replying to the questionnaire were appointed to Review Board panels from the council committees with responsibility for housing benefit administration. This may be the result of a deliberate policy, a lack of policy, or a consequence of the size of the authority. Some authorities consciously appointed councillors with relevant experience of housing or finance. In a few authorities the entire council constituted the Review Board panel. In some of the smaller authorities councillors were often required to serve on a large number of committees and most tended to be members of the important committees of finance or housing. Whilst there may be advantages in having on the Review Board councillors who were knowledgeable about finance or housing there is also a danger that they may find it difficult to maintain their impartiality. In addition, the appearance of independence that Review Boards wish to convey to claimants could be undermined by their connections with the parent committee.

4.134. An important principle of natural justice is that an appellant knows the case he or she has to answer. In a Review Board setting this is achieved by the appellant receiving an account of how the local authority reached its decision at internal review. The guidance in the local authority associations' code of practice (Appendix C) suggests that the Review Board and the claimant should be sent identical papers which should include a statement of the decision which is the subject of appeal, the reasoning behind it (including how the calculation has been made), and any submissions from the claimant. The evidence from the fieldwork and the workshop discussions was that the standard of appeal papers prepared by local authorities varied. Some did prepare detailed summaries of the
appeal which would allow claimants and their representatives to have a clear idea of the local authority's case which would be presented at the Review Board. In contrast, the papers prepared by other authorities were inadequate or incomplete and made it difficult for the claimant and the Review Board to understand the reasoning behind their determinations.

4.135. The time taken for cases to reach a Review Board hearing is one of the few aspects of Review Board performance which can be measured directly, since local authorities have a statutory duty to convene a hearing within six weeks of a claimant submitting a request, or as soon as practicable afterwards. The evidence from this study shows that this target is rarely met. Fewer than half the cases in the fieldwork study and only 17 per cent of the larger sample of 250 cases were heard within this period. Generally officers were concerned to deal with Review Board cases as quickly as possible, but there was little evidence that the statutory time limits had any major influence on the speed with which authorities processed appeals. There were no incentives for meeting the six week target nor any sanctions incurred for failing to do so. Delays can cause a variety of practical problems for claimants and can be the source of great anxiety.

4.136. Holding hearings in Town Halls (or similar council premises) also tended to reinforce the view of some claimants that Review Boards were not independent of the local authority. Also the imposing nature of many council committee rooms often intimidated claimants.

4.137. The procedures to be followed by Review Boards are partly laid down in the Housing Benefit Regulations. There are also more specific guidelines in the code of practice drawn up by the local authority associations. Most authorities had either adopted this guidance as it stood, or had amended it in some way to suit their particular situation. Nevertheless, frequent examples were observed during fieldwork, and reported by officers at the workshops, where the regulations and the guidelines were not followed in practice.

4.135. The aim of putting claimants at their ease was occasionally undermined by the large numbers of people present at the hearing. Although some of the Review Boards observed consisted of five councillors, we could not identify any advantage in having more than three.

4.139. The role of the Chair was crucial in determining how well hearings were conducted. In general the Review Boards we observed were handled in a friendly and constructive manner and were able to proceed reasonably informally. However, informality can be a double-edged sword and must be hark et Councillors’ desire to avoid imp structure on proceedings can lead to Board neglecting one of their pn intions of establishing fully the facts of a case. We observed hearings where procedures broke down because of poor chairing. The resulting disorder not only made the Review Board's task more difficult but also failed to convey to claimants an impression of fairness and competence.

4.140. The Review Board hearing offers an opportunity for claimants to participate in their appeal. The evidence from the sample of 250 Review Board cases is that a large proportion of claimants (over 70 per cent) attended the Review Board hearing. Though experiences varied, many of the claimants interviewed felt satisfied that they had been given a fair opportunity to state their case regardless of whether they had won or lost. Review Board members were generally experienced in dealing with the public and appreciated the importance of putting claimants at their ease and treating them courteously. A few claimants found difficulty in participating because they lacked the confidence or the ability to express themselves clearly, and on occasions claimants felt excluded by the actions of the Review Board, the local authority officers, or sometimes their own representative.

4.141. It was very important to claimants how they were treated by officers and Review Board members. Satisfaction was often dependent as much on their treatment as on the result of their appeal. Claimants reported mixed experiences, but those who said they had been treated well were more inclined to accept the council’s decision even if it was against them. Conversely, a few claimants were dissatisfied with their treatment despite winning their appeal.

4.142. Perhaps the most important task of the Review Board is to reach the right decisions under the law. If this can be achieved, the demands of consistency and equity between claimants will also be served. As a general proposition, accurate decision making depends on the application of the proper adjudicatory process of collecting evidence, establishing the relevant
facts from the evidence, and applying the relevant law. Failure to carry out any of these stages satisfactorily can lead to decisions which are at least questionable and possibly erroneous. If Review Board members are to perform the role satisfactorily, they need to be skilled in eliciting information from people, and in deciding whether the evidence is correct or incorrect, and to tell the Review Board whether the law of housing or something else is relevant to the case. Despite the good intentions of Review Board members, Review Boards were often considered to fall short of a satisfactory standard. Lack of knowledge was due primarily to the lack of up-to-date training, although some councillors were able to compensate by their own efforts in keeping themselves conversant with current housing benefit legislation. Training and more experience is necessary since a Review Board could always turn to the legal adviser for expert help.

4.143. The major shortcoming appeared to be a basic lack of knowledge of housing benefit law among Review Board members. If judged by the criterion of 'expertise', therefore, Review Boards must be considered to fall short of a satisfactory standard. Lack of knowledge was the major problem with training Review Board members. The problem with training Review Board members is that there is no recognised national training programme available for them. Each local authority is left to undertake training itself, either by training their own councillors or by employing external consultants, or by sending councillors on a course organised by, for example, the Institute of Housing. Many authorities take up one of these options, but many do not. Although the majority of councillors would welcome more training on housing benefit legislation, there was also a general feeling that it was not absolutely necessary since a Review Board could always turn to the legal adviser for expert help.

4.144. As a result there was a great reliance on the knowledge of the legal officers, in matters of both substance and procedure. The housing benefit legislation does not prohibit the use of legal advisers and the practice of using them is endorsed in the local authorities' code of practice. Most Review Boards could not function without them. However, the reliance on legal advisers was so great in some instances that they, and not the Review Board, effectively made decisions. As advisers to the Review Board and employees of the authority, legal officers have to reconcile potentially contentious issues. However, even when this delicate balance could be achieved in practice, there is always a potential problem if the expectation of Review Board members that legal advisers were fully conversant with housing benefit law was not fulfilled. The law on housing benefit is complex and it may be too great an expectation for legal advisers themselves to be sufficiently knowledgeable without specialised training and more experience. There is, therefore, a serious danger of the law being applied incorrectly or the wrong law being applied.

4.145. The general impression of the housing benefit officers at the workshops was that Review Board members often seemed to make decisions based on considerations which were not central (and often irrelevant) to the main issue before them. Rather than base decisions on a strict application of the housing benefit regulations to the relevant facts of the case, examples were given of Review Boards considering the wider policies of the authority, such as the financial cost to the authority, and the subjective assessment of a claimant's deservingness or credibility. During the fieldwork we found little evidence of individual decisions being affected by the wider housing or financial policies of the local authority, although subjective assessments of some claimants' characters by Review Board members were evident.

4.146. An important principle of natural justice is that appellants should know the reasons behind decisions which affect them. It is not only highly desirable, per se, that housing benefit claimants understand the reasons for Review Boards' decisions, it is also necessary for claimants to be able to make reasoned choices about whether to pursue their cases further. The importance of giving reasons is recognised in the housing benefit regulations in the duty placed on the Chair to record the decision of the Review Board, their reasons, and their findings of fact, and in the requirement that all interested parties receive a copy of this record. Despite their clear statutory responsibilities, none of the fieldwork authorities complied fully with the requirement that the Chair records Review Board decisions. Although in some authorities the Chair did endorse the decision, it was actually written by the legal adviser or the clerk. Furthermore, claimants rarely received a copy of this record but instead were sent a letter based on it. Although more likely to be consistent within each authority, the detail and quality of these letters varied greatly between the fieldwork authorities. There were several
examples of authorities failing to provide reasoned decisions or to explain the findings of fact. Any one of the procedural deficiencies described above could be a legitimate reason to apply for judicial review.

4.147. Regulation 83(5) requires that claimants are sent written notification of Review Board decisions within seven days of the decision being made. For many claimants this extra delay was perceived as largely unnecessary. Having waited many weeks, in most cases, for a hearing they wanted to know of the outcome as soon as possible, preferably on the day of the hearing itself. In our view, it is regrettable that although Review Boards almost invariably make their decision immediately after each case has been heard, claimants are rarely invited to wait to hear the outcome. Furthermore, few claimants interviewed actually received their written notification of the decision within the statutory seven day limit.

4.148. The housing benefit review system is national in coverage. Claimants should therefore be able to expect that the way in which their appeals are processed and the treatment they receive from their own local authority are no more or no less favourable than for claimants elsewhere in the country. However, one of the main findings of the study has been the lack of consistency at all stages of the review system both within and among authorities. This inconsistency is partly due to the lack of prescriptive regulations on the handling of reviews, although this is more relevant for internal reviews than for Review Boards. Variations in the way Review Boards are organised and run are inevitable. Nevertheless, the few statutory duties that local authorities have a duty to implement are frequently infringed. misunderstood or ignored.

4.149. Our evaluation of Review Boards clearly indicates that there are serious shortcomings in the way they are operating, and serious points of principle that must be addressed. There appear to be two main strategic choices for dealing with these problems. First, the current structure of Review Boards could be retained and measures taken to improve its effectiveness and efficiency. If this option were chosen the lack of independence would have to be accepted as a necessary evil. Second, a different body could be constituted to hear housing benefit appeals. These choices are discussed in the following chapter where we outline the options for the future of the housing benefit review system as a whole.
5 Options for the Future of Housing Benefit Reviews

Introduction

5.1. One of the objectives set for this research project was to put forward policy options for change, if these were found to be necessary or desirable in the light of the overall evaluation. The previous chapters of the report have discussed the operations of the two stages of the housing benefit review system and highlighted a number of shortcomings, as well as certain examples of good practice by local authorities.

5.2. This chapter begins by recapping briefly on the major shortcomings and problems identified. It then considers two of the major criticisms which have been mounted of the present review system—that it lacks independence, and that the low numbers of Review Boards held indicate that it is ‘not working’. Finally, we present and discuss a range of policy options which address the problems highlighted, drawing also on examples of existing good practice.

Shortcomings of the housing benefit review system

5.3. The main shortcomings identified by the research were as follows:

• There is a low level of effective publicity on appeals provided for claimants by most local authorities.

• What constitutes an internal review is imprecisely defined in law, leading to inconsistencies in local authority practices.

• Local authorities define and record internal reviews in widely different ways, making analysis of usage of the appeal system and comparisons between authorities difficult.

• Some local authorities have institutionalised unlawful practices such as the ‘double’ internal review.

• Some authorities give little attention to gathering and checking information for internal reviews, which can undermine the accuracy of decision making.

• Claimants generally have insufficient opportunity to participate in the internal review process.

• In some authorities there can be excessive delays in processing internal reviews.

• Some authorities operate practices at internal review which act as a deterrent to claimants having their appeals heard by the Review Board.

• Only a minority of Review Board members have received any training either on housing benefit or on tribunal procedure.

• The lack of expertise among Review Board members can lead to over-reliance on the advice of the local authority legal officer.

• Review Board hearings can be marred by poor chairing and inadequate procedural conduct.

• Some Review Board decisions are made unlawfully or based on extraneous factors.

• Review Boards are not perceived as independent by most participants.

• Review Boards do not always act impartially in making decisions.

• In some authorities Review Board decisions are not properly recorded and explanations given to appellants can be inadequate.

• A majority of Review Board hearings take place outside the six week statutory time limit and in some cases delays are excessive.

• The decisions and activities of Review Boards are not subject to any kind of national monitoring or oversight.

• Claimants lack the opportunity to challenge decisions of the Review Board except by going to the High Court.
5.4. The problems identified in the present structure suggest that changes are desirable if housing benefit is to be seen to have an appeal system which meets the criteria put forward earlier in this report. Before embarking on a discussion of options for change, however, we need to consider further two of the central criticisms which have been mounted of the review system since its introduction. The first is that by having an appeal body composed of local authority members it has forfeited all possibility of being seen to be independent. The second is that the low numbers of appeals heard by Review Boards show that the system is not working.

Independence

5.5. One of the major criticisms of the housing benefit review system has been that Review Boards cannot be regarded as independent, when their members are drawn from the local authorities whose decisions are the subject of appeal. The research has tried to address this issue by examining attitudes towards the Review Board of the various participant groups and their perceptions of its independence. However, these discussions of independence have been characterised by problems of definition which often reflect a confusion of terminology between 'independence' and 'impartiality'.

5.6. Although they are commonly treated as synonymous, and are closely linked, independence and impartiality are separate concepts. The difference between them has important consequences when applied to the structure and performance of an appeals system. Independence can be embodied, as a principle, in the structure of an appeals system, by a formal separation of the appeal body from the administrative machinery against which appeals may be lodged. Impartiality, on the other hand, requires the appeal body to demonstrate in practice the absence of bias or prejudice in its decision making. It is not a principle which can be built in to the structure of an appeals system, but its achievement in practice can be enhanced by measures such as careful selection of tribunal members, training and guidance, and monitoring of decisions.

5.7. Although independence and impartiality can be distinguished analytically, many of the participants in this study tended to conflate the two. "We may not be independent in principle but we are in practice" was a frequent comment from Review Board members, for example, meaning generally that they made impartial decisions. Often this was said in the context of freedom from political bias. Thus decision making which regularly crossed political party lines was said of the Review Board's independence even where the decisions rested on a common commitment to the ethos of the local authority.

S.S. The majority of both officers and councillors in the study conceded that the Review Board was not truly independent of the local authority. On impartiality in decision making, the evidence was mixed. The fieldwork study found little evidence that the decisions of Review Boards were influenced in any systematic way by factors such as the financial consequences of decisions for the council or local housing policies. The picture to emerge from the workshops was slightly different: several officers cited examples of cases where they felt the wider concerns of the members as councillors had impinged on Review Board decision making.

5.9. The fieldwork study did find, however, that the impartiality of Review Boards could be undermined in several other ways. First, councillors could be led in their decision making by their attitudes towards their own officers. This could be manifested in contrasting ways—either as a reluctance to overturn officers' decisions, or as a general inclination to assume officers must be wrong in their treatment of claimants. Secondly, decisions could be influenced by political or moral views about claimants as a group, or about particular types of claimant (lone parents, for example), seeing them alternatively as undeserving burdens on the taxpayer, or as innocent victims of social and economic forces beyond their control. They could also allow their personal judgements about the character of a claimant to affect their decision.

5.10. This is not to say that many Review Board members were not scrupulous and painstaking in their approach to decision making. It is only that there were enough instances of biased decision making to suggest that the practice of impartiality cannot usefully be held out as a compensation for the lack of formal independence.

5.11. Claimants' views on the independence of Review Boards fell into three broad types. Some claimants were unconcerned about the formal relationship between the Review Board and the authority as long as they were treated seriously and courteously, and given a fair
hearing. Others were largely unaware of who the members of the Board were. Another group of claimants perceived Review Boards made up of councillors as not only biased towards the local authority and its staff, an impression confirmed for some by their legal adviser was also a councillor and some claimants the Review Board was an adjunct of the authority was sufficient to deter them from pursuing their case further than internal review (or for some of those who had not heard of the Review Board until their interview with the researcher, to confirm their previous decision not to pursue their appeal).

5.12. Most advice workers interviewed saw the Review Board's connection with the local authority as entirely undermining any notion of independence, even though some had found them sympathetic and impartial in practice. For some, including CAB workers who regularly represented clients at Social Security Appeal Tribunals (SSAT) and other tribunals, the idea of councillors hearing benefit appeals was totally inappropriate:

"The idea of having councillors as the Review Board is rubbish. They're not independent. The thought of having to go before one would fill me with horror! I'd be very frustrated if it wasn't an area like (authority B) where the housing benefit department look at things in a very fair and just fashion."

(CAB organiser, authority B)

5.13. If neither claimants nor most other participants see Review Boards as genuinely independent, there is a question as to whether potential appellants consider it worthwhile to pursue their cases to the Review Board. This leads on to the other main issue highlighted by critics of the present system-the low 'take-up' of appeals.

The 'low numbers' question

5.14. The second major criticism which emerged in the early years of housing benefit reviews was that because there were so few Review Boards held, the system must be 'not working'. Whilst there is a simple prima facie force to this argument the question of a relationship between 'take-up' of appeals and the effectiveness of an appeal system is more complex.

5.15. First, this criticism can really only apply to Review Boards and not to internal reviews. The two-stage structure of housing benefit reviews means that the number of internal reviews requested is probably the better indicator of how well the system is used. However, as we have shown in Chapters 2 and 3, the statistics collected on internal reviews cannot be considered reliable, given the wide discrepancies between authorities in how they define and record reviews.

Secondly, there are no accepted measures in any sphere of administration of what might constitute an appropriate ratio of appeals to claims to indicate that an appeal system is 'working'. A low level of appeals might suggest an effective administration and a satisfied clientele or it might indicate that claimants are being deterred from exercising their rights effectively. It may also be a reflection on the scope for appeals allowed by the regulations. There are few appeals on child benefit compared with income support, for example, because the regulations are much more straightforward. Even for income support, the number of appeals has declined since the replacement of single payments with the discretionary social fund.

5.17. Similarly, a high level of appeals could reflect an authority's commitment to redress of claimant grievances or indicate a poor standard of initial decision making by officers. Appeal rates alone cannot answer the question of whether either first-tier decision making or an appeals system are operating effectively.

The problem is compounded in the case of internal reviews because of the lack of reliable data. It is not possible to compare numbers of reviews held in a given period with authorities' caseloads, or with claims processed. In any case, such a comparison would not be helpful without some other measure of comparative administrative performance. A recent report by the National Audit Office highlighted the absence in the housing benefit scheme of any information on the quality of service when the public makes direct contact with authorities. This, the report stated:

... prevents the Department from adequately discharging their responsibility for establishing whether the Scheme is being run effectively and efficiently. (NAO 1989, p.2)

A further point, which we explored in Chapter 4, concerns the complex nexus of factors involved in an individual claimant's decision to challenge a local authority's determination. To make a direct inference from low numbers of appeals that the system is at fault, it would be
necessary to identify very clearly those specific factors inhibiting `take-up' of appeals which are part of the review structure.

5.20. Despite these difficulties, the criticism that a low number of Review Boards is indicative of the housing benefit review system `not working' is not easily dismissed. Although it is not possible to say what an acceptable rate of appeals might be, it seems hardly plausible that within even the most efficient local authority not one claimant would have a grievance or dispute serious enough to take to the Review Board. The fieldwork covered a range of different types of authority from small rural district to large inner city. In all these authorities, including the most apparently efficient, even the small number of claimant interviews undertaken produced tales of local authority errors, lost forms, computer breakdowns, incorrect calculations, failure to act on reported changes in circumstances and delays in processing claims-typical problems regularly identified in any audit of benefit delivery. Yet in thirteen (or nearly a quarter) of the authorities attending the workshops there had not been a Review Board hearing in the two years following the most recent changes to the housing benefit scheme in April 1988. This is a period which has seen the number of Review Boards held nationally rise sharply (see paras. 2.11-2.12). Furthermore, six of these authorities had never held a Review Board since the introduction of the housing benefit scheme in 1982.

5.21. The `low numbers' criticism does, therefore, have a persuasive force, in spite of the recent increase in the national number of Review Boards and the difficulty in establishing a ratio of appeals to claims which would indicate `success'. Consequently, attention has to return to the specific barriers to use of the appeal system, which may exist in different local authorities. The research identified certain potential barriers to access to the review system at both stages. The generally low level of publicity on appeal rights and the obstructive or deterrent practices of some local authorities are likely to be at least partly responsible for low `take-up' of appeals, whatever the level of efficiency in a local authority's administration of housing benefit desirable. The range of possible options falls into two broad categories: those which are `strategic'-affecting the basic structure of the review system, and those which are more `operational'—that is, changes which could take place within the existing structure, or which might be desirable whichever overall structure is favoured.

5.23. The strategic, or structural, options address four main questions:

1. Should the internal review be retained in its present form as a separate stage of the review process?
2. Should housing benefit appeals be heard by a Review Board of local councillors or by another body independent of the authority?
3. Should there be a tier of appeal beyond the Review Board, as with other social security benefits?
4. Should the Review Board come under the jurisdiction and oversight of an external monitoring body, and if so which body?

The contingent, or operational, options address issues such as access, appeals publicity, the training of Review Board members, the role of the legal adviser, representation, and time limits for holding both internal reviews and Review Boards.

5.24. In the following sections we address the four main structural questions. We discuss the advantages and disadvantages of each strategic option, including an analysis of the operational implications. Finally we discuss other policy options which could be pursued regardless of which strategic option is favoured.

5.25. Our presentation of these options draws on the analysis of all the sources of data used in the research, including the views of participants and our observations as researchers. One major source of input into the discussion was the workshops held with senior benefit officers from the representative sample of 54 authorities. Any changes to existing arrangements would have to be implemented and administered by these officers and their local government colleagues. Their ideas and opinions provide an important commentary on the advantages and disadvantages of possible changes and the feasibility of implementing them (see Appendix K for details of officers' responses to a questionnaire exercise on options for change).
Strategic Options

1. The internal review as a separate stage of appeal

5.26. The research found major inconsistencies between authorities in how they recognised and carried out first stage internal reviews. There is also evidence that the internal review gives officers considerable scope for selecting which cases might go forward to the second stage. Various practices have developed in some authorities which create potential barriers to full, equal and prompt access for claimants to the Review Board. The question arises of whether the structure of reviews needs to be changed to make it more difficult for officers to limit claimants' access.

5.27. The main structural question is whether the internal review should be retained as a separate formal stage in the review process. The alternative model is the one-stage appeal, which requires claimants to enter a written appeal only once. The appeal arrangements for most other social security benefits conform to this model.

5.28. When an appeal is lodged against an award or a decision of a DSS adjudication officer, the case is initially reviewed within the local office. If the adjudication officer's decision cannot be fully revised in favour of the claimant, the case is then passed to the SSAT without the claimant having to make a fresh appeal or take any other action. In practice, many claimants withdraw their appeals at this stage: around 10 per cent of all social security appeals are withdrawn following review, aside from those which are revised fully in favour of the claimant (DSS 1989). Figure 5 shows the difference between the DSS one-stage model and the current housing benefit review system.

5.29. The advantage of the one-stage appeal is that claimants have more direct control over whether their grievances are heard by the appeal body. Officers reviewing decisions in the local office have some scope for discussing cases with claimants, but there may be less opportunity than under the housing benefit review system for obstacles to be placed in the way of potential appellants, and less chance of attrition through the requirement to appeal again.

5.30. There are also a number of potential disadvantages of one-stage appeals. Officers feared that it would lead to unmanageable bottlenecks in administration, with a much greater volume of pointless and frivolous appeals going through to an appeal body. There is also a danger of some claimants finding themselves swept along into formal appeals against their real intentions and wishes. A one-stage appeal might also lead to more unattended hearings. The percentage of hearings at SSATs where neither the appellant nor a representative attended was an estimated 46 per cent in 1986/87 (Genn and Genn 1989), considerably higher than the rate of around 17 per cent indicated by analysis of the 250 Review Board cases from the workshop authorities.

Figure 5. One-stage and two-stage appeals

TWO STAGE APPEAL

Claimant requests further review
Reg 81
Claimant accepts redetermination

Internal Review

1st appeal

Review Board

ONE STAGE APPEAL

Claimant appeals

Determination revised fully in claimant's favour

Review Board

1st appeal
5.31. One specific problem concerns revisions to determination involving issues such as overpayment recovery an often resolved at internal the review and a Review revisions of the original case are pr- bly not fully it claints’ favours. May be more easily partial accept the authority’s assurance. The Review Board is unlikely to be too more generous. Officers were worried a one-stage appeal, these cases need to the Review Board Treq-reve of the claimant’s wishes. Some also questioned whether it was possible to produce a we ’e definition of an appeal being ‘fully -et’.

5.32. One approach which recognises these problems would be to offer claimants the opportunity to opt out of a formal appeal the case has been reviewed by the housing benefit officer reviewing the case decides that only £100 should be recoverable, the claimant would be informed of this decision and told that the case would go on to be heard by the appeal body unless they returned an appeal withdrawal slip by a certain date. The same could happen where an appeal was clearly without sufficient grounds—an appeal against the 80 per cent maximum payment of community charge benefit, for example. The reviewing officer would be able to write to the claimant to this effect, offering the chance to withdraw. This arrangement would need to be carefully monitored to ensure ‘that unwarranted pressure was not put on claimants to back down.

5.33. A further change necessary under a one-stage appeal would be to require claimants to give grounds for their appeals. At present there is no specific requirement at the internal review stage for claimants to give grounds (although in practice many authorities ask claimants to state reasons for a review). Most authorities appear at present to take a flexible approach to the provision of legal grounds at the Review Board stage.

5.34. The reaction from officers to the one-stage appeal model was mixed. Many were reluctant to lose the scope they currently had to limit the flow of cases reaching the Review Board, as partial at present, cases dating.

5.35. Clear practical problems for the one-stage appeal, sc are resource implications. Some officers also suggested that they, as senior managers, would become less accountable for decisions of the department if a large volume of appeals again determinations made by ass- officers went straight through to the Revit Board. It is not clear, however, that a one-stage appeal would reduce the accountability of officers, either to claimants themselves or to councillors. Since in most authorities internal review decisions are at present subject to very little internal, and almost no external, scrutiny. The opportunity would remain for calculations and information to be checked and mistakes corrected, but it is possible that more original determinations would be examined by the appeal body. There could be an incentive to explain determinations more fully to claimants, leading if anything to enhanced officer accountability.

5.36. Irrespective of whether the internal review retains its present status as a first-stage appeal, there are ways in which procedures could be improved to enhance consistency and accuracy in decision making, allow greater claimant participation and avoid unnecessary delays.

5.37. One possibility would be to specify that decisions on review should be taken by officers not immediately involved in the original determination. This already takes place in many authorities and does not in itself increase the accountability of officers, leading if anything to enhanced officer accountability.

5.38. Taking this a stage further, another option would be for each authority specifically to de = claimant’s cases. However, a substantial minority of officers felt that a one-stage appeal was fairer for claimants, though many were concerned about the extra work involved for their staff.

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Taking this a stage further, another option would be for each authority specifically to de = claimant’s cases. However, a substantial minority of officers felt that a one-stage appeal was fairer for claimants, though many were concerned about the extra work involved for their staff.
5.39. Another way in which the quality of reviews could be enhanced is for claimants to receive specialist training on appeals. Some authorities may experience problems in finding the necessary resources and in releasing staff because of pressure of work. Many already find it difficult to provide staff with the level of general training on benefit assessment which they would like. One way of lessening the burden on local authorities would be a specific recognition of training costs within the administrative subsidies from central government.

5.40. It is possible that if the requirement for claimants to request reviews twice to get a full hearing was removed, and a more explicit process of appealing introduced, authorities would find it in their interests to designate and train appeals officers. There is no obvious reason why these duties could not be allocated to specific senior officers, who could combine them with other duties in authorities where the volume of reviews or appeals was too small to warrant a full-time post.

5.41. Another shortcoming of the internal review procedures, as currently exercised in most authorities, is that claimants tend to have little opportunity to participate once they have written their letter of appeal. Reviews were generally conducted on the case papers alone and important information was sometimes not collected. One way to improve participation and check information would be to offer all appellants the opportunity of an interview with the officer reviewing the case, either in the benefit office, or, in the case of claimants with travel difficulties, in their home. In many authorities such interviews or visits take place already on occasions, and a shortage of staff in some areas might make visits difficult to offer in every case. It could also lead to delays in the processing of reviews. Certainly most officers preferred to be able to use their judgement about when interviews were required.

5.42. There are several reasons why delays can happen in the processing of reviews. Sometimes they are caused by wider administrative problems such as computer failure which, while immensely frustrating to claimants, are often outside officers' immediate control. However, delays also sometimes relate to poor management or poor leadership of officers. Laid down in statute for how long local authorities should take to review a case.

5.43. One way of indicating to local authorities the need to carry out reviews promptly would be to introduce a statutory time limit. Perhaps surprisingly, there was a level of support for this among officers. If such a limit were adopted, very few appeals going through the Review Board, there could be longer delays in the processing of reviews. This would bake a time limit even more necessary. On the other hand, the time limit which exists for initial claims processing is not enforced at present and it may be more fruitful to concentrate on minimising delays in this area. Nevertheless, the importance of giving prompt attention to appeals is such that a statutory time limit would be useful, even if only as a signal to authorities.

2. Options for the appeal body

5.44. There are three main options for the appeal body: one is to retain the Review Board, another is to transfer housing benefit appeals to an independent tribunal. A third option is to introduce some form of Inspectorate, similar to that adopted for the social fund. We now discuss each of these options in turn.

Retaining the Review Board

5.45. The principle of independence as applied to the Review Board is discussed above. The conclusion reached was that even if impartiality in decision making was always demonstrated in practice by Review Boards (which it was not), this might not compensate for the lack of formal independence. A further question now arises as to whether there are other advantages in keeping appeals within the responsibility of local government which outweigh this basic lack of independence.

5.46. The answer is not entirely self-evident, for a number of reasons. The housing benefit scheme is administered on behalf of central government by local authorities, many of whom have faced major administrative difficulties, both in 1982/83 with the
implementation of the scheme in its original form and again in 1988 with the revised scheme. Currently authorities are faced with the further difficulty of introducing a new rebate for the community charge, which is available to a much larger number of people than were eligible for rate rebates. There is an argument that local authorities should be left alone to deal with these administrative problems without interference from outside bodies.

5.47. A further argument is that local government is not simply an agency delivering benefit as a proxy for the DSS. Rather it is a network of partly autonomous institutions with relationships with housing benefit claimants as tenants, charge payers and users of other council services which go way beyond those of social security claimants with the DSS. The financing and delivery of all these services are themselves subjects of political controversy and are part of the continuing conflict over the respective roles of local and central government. Seen in this context, local authorities should perhaps be left to make their own decisions on benefit payments within the basic framework of the law.

5.48. This argument is given extra weight by the current system of central government subsidies for local authority expenditure on benefit and administration. This leaves the authorities responsible for meeting a substantial proportion of the costs of many of the kinds of payments (such as backdating, overpayments and Reg. 69(8) awards) which most commonly become the subjects of appeal. There is therefore some force in the proposition that if authorities are to be left to foot the bill for decisions made by an appeal body, those politically responsible for the financial management of local authorities should also be responsible for these decisions.

5.49. Another point made in favour of decision making by local councillors is that housing benefit, and now community charge benefit, are inextricably linked with other aspects of local authority finance and policy. One example of this linkage is the involvement of rent officers in decisions on service charge elements in rent payments for people moving out of hospitals and other institutions under community care programmes. There is a danger that an appeal body external to the authority might lack a full appreciation of the way benefit issues cross the boundaries of council policies and responsibilities, and might make decisions contrary to the discretion properly exercised by local authorities.

5.50. This last point might have had more weight before the 1988 changes to the housing benefit scheme. Under the previous arrangements authorities were allowed to run locally enhanced schemes, by increasing payments to certain groups, or by partially or fully disregarding certain types of income. Since April 1988 the only discretionary enhancement permitted to authorities is that to disregard war pensions. One area where some leeway remains is the power local authorities are given under Reg. 69(8) to enhance the payments of individual claimants in exceptional circumstances. Even here the payments are not entirely discretionary. Local authorities must still apply a legal test of 'exceptionality' and are limited by the ceiling for such payments of one per cent of overall expenditure. Other issues which are often described as 'discretionary', such as overpayment recovery, backdating, and rent restrictions are really matters of interpretation of regulations, and as such are precisely the kinds of decisions independent tribunals are used to examining, without any necessity for involvement with the original decision or the organisation which made it. It is possible that an independent tribunal might on occasions have some difficulty disentangling strict questions of benefit law from council policies and practices, but our observations of Review Board hearings suggested that this is a difficulty often experienced by councillors themselves.

5.51. The amounts of lost subsidy currently involved in Review Board decisions are, according to officers, an insignificant proportion of overall expenditure on benefit. There is little evidence that this has any major influence on members’ decisions and it would be incorrect for it to do so. Even if the number of appeals were to increase dramatically, the expenditure involved would be unlikely to amount to more than a small proportion of the existing costs incurred by authorities through benefit payments which do not attract the maximum subsidy. Nevertheless, any such extra expenditure by authorities has to be met partly from revenue raised through the community charge on local residents. This places local government in a position very different from an agency to which only the management and service delivery functions of benefit payment are devoted.

5.52. Any further structural changes to housing benefit would inevitably cause extra pressure on local authorities and their staff. Discussions with officers found considerable support for the status quo on the principle of "better the
devil you know’. Many saw it as both more fruitful and more feasible to concentrate on improving the existing system than to change to a new one with all its unknown consequences. Certainly if Review Boards are retained in any future housing benefit appeal system, a number of aspects of their operation would need to be improved.

Changes necessary if the Review Board is to be retained

5.53. If it is decided that the existing structure should be maintained, improvements would be needed in the following areas:
- Training for Review Board members
- The composition and chairing of Review Boards
- The provision of legal advice to the Board
- The location of Review Board hearings
- The standards of documentation for Review Boards
- Delays in appeals reaching hearings

5.56. One difficulty with extending training may be in convincing all Review Board members to participate in a nationally recognised course. There are problems with the costs involved and with a lack of interest or available time on the part of some members. There was evidence that some authorities have organised courses for members which have been poorly attended. A further problem lies in the turnover of councillors on the Review Board panels, which appeared to be considerable in some authorities, though less so in others.

Training for Review Board members

5.54. The responses to the survey of Review Board members showed that relatively few have received any training for their responsibilities on the Review Board, and that where training has taken place it was mostly before April 1988. If councillors are to continue hearing housing benefit appeals, it should be a priority to improve members' skills and knowledge by more extensive training.

5.55. A distinction is sometimes made between training on tribunal procedures and on housing benefit itself, on the grounds that members are not meant to be 'experts' in housing benefit: the authority's legal officer is there to advise them as to the law. However, it is doubtful whether this distinction can usefully be maintained. We have indicated that in many authorities this reliance on the advice of the authority's legal officer may compromise impartiality. One of the advantages claimed for administrative tribunals over the courts was that they were able to bring expert knowledge to a specialised area of the law (Franks Committee Report 1957). Whilst many councillors claimed to be able to bring their local knowledge to bear on decisions, there was a widespread recognition that expertise resided more with the legal adviser and the housing benefit officers themselves.

5.58. Training aside, there are a number of other possibilities for enhancing the perceived independence of the Review Board, as well as improving the quality of decision making, while retaining the local government connection. One option is that Review Board Chairs should be legally qualified. This would bring Review Boards into line with SSATs and might help to reduce reliance on legal advice from the authority.

5.59. There is some doubt as to where sufficient legally qualified Chairs might be found: the member questionnaire suggested that councillors with legal qualifications were few and far between at present. An alternative to the legally qualified Chair is to have a Chair who is independent of the authority. Again there is the problem of where independent Chairs could be recruited from, although some officers saw councillors from other authorities as meeting the criterion of independence. There is the further possibility that every Review Board should have one independent member (not necessarily the Chair).

5.60. One possible way of reducing politically biased decisions would be to stipulate that Review Board members should not be nominated by their party groups, though it is difficult to see how this could be achieved. In practice, party selection is an inherent problem.
with having an appeal body made up of councillors.

The provision of legal advice to the Review Board

5.61. Legal advisers have to perform a potentially difficult which the research found can sometimes be compromised. Informal gatherings the workshops suggest a few authorities appointed external solicitors in private practice to advise the Review Board, specifically to avoid any potential conflicts of interest. This could enhance the perceived independence and the actual impartiality of the Board, while freeing officers to consult their legal colleagues for advice on individual cases without compromising their position.

5.62. However, there are two problems with implementing this idea. First, in some areas it may be difficult to find local solicitors sufficiently knowledgeable and experienced in social security law. Those with this experience may wish to be able to act for clients rather than as independent advisers. The second problem is cost. The employment of independent solicitors is likely to be costlier than the current use of local authority staff.

The location and facilities of the Review Board

5.63. Currently Review Board hearings almost always take place in council committee rooms. There is a serious question of how any kind of perceived independence can be established where this is the case. Claimants also often found the atmosphere of these council rooms intimidating.

5.64. The question of where tribunals are held is an important one. It has been a principle of the SSATs since 1984 that as far as possible they should not be held in DSS premises, in a symbolic and intended to demonstrate their independence from the Department. As yet this does not always happen, but in many cases tribunals are now held in local halls, community centres, and in some cases in council buildings. Many of the Review Board members interviewed were aware of the potential problems in holding hearings in imposing committee rooms, but cited lack of alternative reasons for not using them. Observations of hearings suggest another reason may be the convenience of councillors in remaining in Town Hall, where they may have several cases during the same day or evening.

5.65. Other ways in which hearings could be made more accessible and friendly for appellants include compensating working claimants for loss of earnings where hearings take place during the day, providing childcare for appellants with young children, and providing refreshments.

The standard presentation of Boards

5.66. The work study revealed considerable variation in the documentation produced by different authorities to put their case to the Review Board and to appellants. Some provided comprehensive packs with annotated summaries and numbered and indexed items of evidence (similar to the standard form used for DSS appeals), whereas others were content to staple together selected items from case files and copies of correspondence without any written, linking information.

5.67. The better the quality of documentation, the easier it is for all parties to present and understand information in appeal hearings, and the chances of following correct procedures are also improved. One way to build on the good practices which already exist would be for all authorities to use a standard format for appeal papers, including a summary of the case for participants in the hearing: the DSS could create a design for a pro forma for this purpose as part of its guidance. The discussions with officers suggested that this was a move local authorities would support and would have no major problems implementing. There was, however, some dissent among officers about whether they saw it as appropriate to inform the appellant (and any representative) of their case in advance. Such an approach breaches a principle of natural justice in appeals against administrative decisions that the appellant should be aware of all the facts and arguments to be used by the authority in their case.

5.68. Similar problems exist with the explanations appellants are sent of Review Board decisions. Although guidance correctly outlines the format which should be used for informing appellants of Review Board decisions, some authorities' letters of explanation are unsatisfactory. Regulations state that the Review Board Chair should record the decision, but in practice this is generally completed by the legal adviser or the clerk to the Board. The Chair may not even see the letter before it is sent out. One suggestion is that the Chair should be obliged to record the decision on a standard form. This would help to ensure that all the necessary aspects of the decision are included.
Delays in appeals reaching hearings

5.69. Some of the main reasons for hearings taking place outside the statutory time limits are discussed above. Not all of these are the responsibility of the authority, but it seems clear that in many cases these delays are unnecessary.

5.70. There are a number of possible ways to reduce delays. Setting specifically designated appeals offices and using standard forms and documents could help streamline the procedures in the Misc. Greater cooperation would result in some authorities from the chief execs. or legal department and from councillors themselves. Other possibilities for reducing delays include having regular set days for hearings, and providing payment members. The last suggestion might overcome some councillors' unwillingness to give Review Boards any priority in their schedules of work, though it may not be the most appropriate method of doing so. In general, the idea of scheduled Review Board dates set well in advance seemed irrelevant to many officers because their authorities held so few hearings. The handful of authorities who have held very large numbers of Review Boards are already obliged to book them well in advance, and if the numbers of continue to increase in other authorities is a measure others may of necessity adopt. One means of encouraging local authorities to hold Review Boards more promptly might be to reduce the existing six week time limit. However, our research suggests that this may not be effective since many authorities do not take much notice of the current limit.

5.71. One way of encouraging local authorities to hold Review Boards within the time limit would be to impose a subsidy penalty for failing to do so. In practice this would be difficult to enforce because of the problem of distinguishing unnecessary delays from those occurring for reasons beyond the authorities' control. There is also a danger that subsidy penalties might provide some authorities with an extra incentive to avoid holding Review Boards at all, particularly if the current two-stage appeal structure is retained.

5.72. In summary, there is a range of possible measures which if adopted could enhance the performance of Review Boards, and a member of arguments in favour of retaining the appeal body for housing benefit. Changes to the existing structure would not, however, fully address the important question of formal independence.

5.73. The advantage of transferring housing benefit appeals to a body outside the local Drry would be the achievement of independence from the organisation whose dons are the subject of appeal. This would main : stisms of Review Board lea of the prob epc a by pr. ac ants in the study.

5.74. Moving to an independent tribunal would be a major change requiring the co-operation of local authorities and we felt it important to canvass the views of officers. Although many officers preferred to maintain the status quo, a clear majority saw an independent tribunal as both desirable and feasible, as long as the two-stage appeal was retained. There were, however, differ on how an independent triTT might be constituted, and doubts about whether claimants would necessarily benefit from such a change. Doubts were voiced by several officers who were sympathetic to the principle of an independent tribunal, but were concerned about the kind of people who might be recruited as members.

"This option depends on whether the tribunal was simply drawn from the Government's list of 'the great and the good', who are invariably poorly informed, c., rative in interpretation and have no connection."

(London borough) 5.75. Local knowledge and connections were seen by most officers as an advantage of the present system, and many of those favouring an independent tribunal were also concerned that the element of 'localness' should not be lost with the gain of independence.

5.76. Officers' ideas on how independence might be established included setting up panels of council members to serve on Review Boards for more than one authority, holding appeals heard by a Review Board composed of councillors from a different authority, and co-opting one independent non-councillor on to all Review Boards. Thus, for many, independence was still seen as achievable within the local authority framework.

5.77. It would be possible to adopt one or more of these options and to effect a transition from the current arrangements without a major upheaval to the system. Such a change would also have the advantage of carrying support from those officers and members who are committed to the involvement of local councillors in housing benefit decisions.
5.78. On the other hand, it is doubtful whether most participants would see new Review Boards of this kind as fully meeting the criterion of independence. If they continued to be composed solely or mainly of councillors, they could still be seen as too closely identified with local authority administration. It is also possible that political differences between neighbouring authorities would hinder agreement on joint Review Boards. Some authorities might resent the idea of councillors from other areas pronouncing on their housing benefit decisions.

5.79. If it is accepted that full independence is necessary to make the housing benefit review system effective, there are two main choices. One would be to set up a new body separate from local authorities, specifically for housing benefit. The alternative would be to transfer responsibility for housing benefit appeals to an existing independent tribunal.

5.80. One model for the setting up of new tribunals not based on local authorities might be that of the Northern Ireland Review Board. There the Department of Environment (DoE) appoints panels of Review Board members for each of the six regions of the Northern Ireland Housing Executive. This cannot be seen as fully independent, however, since the DoE and the Housing Executive share responsibility for the administration of housing benefit in Northern Ireland. There is not, therefore, a separation of the appeal system from the administration of the benefit. Our research was restricted to the UK mainland, so we are not in a position to evaluate the effectiveness of the Northern Ireland model. It should be pointed out, however, that the structure of administration is different in Northern Ireland from the rest of the UK and there can be no exact equivalent of the NI Review Board system. The nearest might be for the DSS itself to appoint members using the same criteria as the DoE, but this might approximate the unsatisfactory position of SBATs before 1984, which led to the restructuring of social security tribunals and the creation of OPSSAT.

5.81. Setting up a network of new tribunals of this kind for England, Scotland and Wales would require a considerable extra input of resources for training and administration. It could also be difficult to recruit sufficient members. Overall, it seems questionable whether committing extra resources for this purpose would be justified if there are appropriate tribunals already operating who could take on the work.

5.82. Looking at existing tribunals with relevant expertise, one possibility might be to expand the responsibilities of the Valuation and Community Charge Tribunal (VCCT). The VCCTs were reconstituted out of the former Local Valuation panels to hear appeals from individuals and businesses concerning rate and assessment for the community [d the unified business rate. Members are appointed by the Secretary of State for the Environment, but the tribunals are independent both of the local authorities and of the DoE. They operate under a presidential system, where the President is elected from among the tribunal Chairs. Administration and training are provided by a salaried secretariat responsible to the President and based in 42 offices throughout England. Support and co-ordination comes through a VCCT National Committee, and VCCTs are also subject to the jurisdiction of the Council on Tribunals. Appellants have a right of appeal beyond a VCCT to the Lands Tribunal, or to the High Court on a point of law. Hearings have in the past generally been held in local authority premises, but increasingly VCCTs are acquiring hearing rooms within their own local offices. In some cases they also take hearings out into different localities, so that appellants do not always have to travel long distances.

5.83. The VCCT system thus potentially addresses many of the issues identified as shortcomings in Review Boards, although little is known about the operation of the tribunals in their new form. A few officers attending the workshops also suggested VCCTs as an independent alternative to Review Boards, but they met with little support from their colleagues.

5.84. Although VCCTs have been concerned to establish their independence, it is nevertheless likely that a substantial proportion of their membership is made up of local councillors or ex-councillors. A 1986/7 study of the Local Valuation Panels found that in six panel areas in England and Wales, serving councillors made up 27 per cent of members and that nearly half were councillors or ex-councillors (Baldwin and Hill, 1987). Membership of the VCCTs is broadly similar to that of the former Local Valuation Panels. This could offer the advantage of the local knowledge and connections valued by some officers and current Review Board members. On the other hand, it could also perpetuate one of the main shortcomings of Review Boards, that councillors are not sufficiently independent of the administration of housing benefit. Also, while VCCT members are likely to be
5.85. A further disadvantage of this option is that VCCTs are currently still dealing with a considerable backlog of appeals against rating decisions under the previous system. They also have a very large caseload of appeals against non-domestic rate assessments, with over half a million outstanding in England alone. In these circumstances it seems unrealistic to expect them to be able to take on responsibility for housing benefit appeals in the near future.

5.86. The other existing tribunal with relevant expertise is the Social Security Appeal Tribunal. In many ways this is the most obvious alternative to Review Boards if an independent tribunal is favoured. There have been a number of attempts in Parliament since 1982 to amend legislation to transfer housing benefit appeals to the SSATs, supported by various welfare rights pressure groups.

5.87. Since 1984, when the SBATs and the NILTs were merged, the tribunals have been substantially reorganised. Support, training and monitoring is provided through their controlling body, the Office of the President of the SSATs and Medical Appeal Tribunals (OPSSAT). All SSATs are now chaired by members with legal qualifications and all members receive training. There have been criticisms of the delays involved in cases reaching tribunal hearings, but the President has made a strong commitment to reduce this problem. In general there is widespread agreement that SSATs are a marked improvement over their predecessors.

5.88. The major advantage of transferring housing benefit appeals to the SSATs would be first that they are, and are more likely to be seen as, entirely independent of the local authority. Secondly, they have an established expertise, both in tribunal procedure and in closely related areas of social security law. Thirdly, they have an organised programme of training through OPSSAT which Review Boards currently lack. This would need to be extended to cover housing benefit, but the task of learning the details of a new benefit would be eased since there are now many provisions in common to housing benefit, income support and family credit. They also have legally qualified Chairs, so that there is no reliance on outside advice. Lastly, they are subject to the external scrutiny of the Council on Tribunals, whose role it is to monitor and develop standards for tribunal procedure and decision making.

5.89. The researchers deliberately chose not to put forward the SSAT as a direct option to officers in order to encourage them to think primarily about the principle of an independent tribunal separately from any views they might have of the SSAT. This provided the background for later discussions about the pros and cons of SSATs specifically. These discussions were in several cases initiated by officers themselves, who were aware of the case put forward by pressure groups over many years that SSATs should hear housing benefit appeals.

5.90. Officers had limited knowledge of the structure and operations of the SSATs and of the training and monitoring functions fulfilled by OPSSAT. Their general perceptions were coloured by their experiences of liaison and interaction with the DSS at a local office level and to a lesser extent with the Department at a national level. There was a widespread view of the DSS as being rigid, remote and less 'user-friendly' for claimants than their own housing benefit departments and this view extended to their image of the SSATs, which they assumed were more formal and legalistic than Review Boards. Some commented that claimants were unlikely to see the Tribunals as any more independent of the Department than they saw Review Boards as independent of the authority and that they generally found the council more approachable than the DSS. There was also the feeling that greater national consistency of decision making might be desirable, but that it would be bought at the expense of claimants in areas where councillors were politically sympathetic to their needs. One officer from a large, Labour-controlled metropolitan authority commented that SSATs might be more consistent but he would not necessarily agree with their decisions: in his authority councillors were close to their constituents.

"There's a danger of independent tribunals being too rigid on the law and not taking needs into account. We don't break the law but we might bend it."  

(Authority D)

5.91. Most advice workers who had experience of both Review Boards and SSATs came down strongly in favour of the latter, seeing them as much more legally competent, expert and consistent. Several commented favourably on the changes which had taken place since the restructuring and amalgamation of the old Supplementary Benefit Appeal Tribunals and National Insurance Local Tribunals into the SSATs in 1984. Councillors' views were more mixed. Less than one-fifth of the respondents to the Review Board member questionnaire...
thought that appeals should be heard by an independent tribunal, but nearly a third had no strong view and just over half were opposed to the idea. Lack of independence was also cited by around a fifth of the respondents as one of the main disadvantages of councillors hearing appeals. On the other hand, local knowledge and council experience were frequently cited as advantages. One councillor was a member of both the Review Board and the local SSAT. Of the two, he was more positive about the Review Board, but mainly because of bad experiences of DSS administration of appeals:

"I'd say the Housing Review Board is much more efficient. I sit in (an area of London) on the SSAT and I guess they're pretty much the same wherever. It's chaotic . . . basically the level of administrative chaos on behalf of the Department is so enormous that you almost always find yourself finding in the claimant's favour simply because the Department have made such a total mess of it."

(Councillor, authority F)

5.92. There are therefore potential disadvantages for claimants in transferring housing benefit appeals to the SSATs. First, they cover wider areas than single local authorities and claimants could be deterred from attending if they have to travel large distances. Secondly, they are often negatively associated with the DSS itself. This negative association could be particularly powerful for people who already claim benefits only with reluctance, because of feelings of stigma. Lastly, there is evidence that some claimants find local councillors friendly and approachable and rely on them for help and advice on all kinds of problems. This positive experience may carry over into their attitudes towards the Review Board and would almost certainly be absent from their attitudes towards an SSAT.

Cost implications of an independent tribunal

5.93. One issue, which underscored all the discussion of alternatives to Review Boards, was that of cost. There were two elements to this discussion. First, very few authorities have attempted to provide any separate costings for holding Review Boards. Mostly they are absorbed into the general administration of committee meetings and officer time is accounted for within the administration costs for housing benefit. Officers were concerned about the extra time and costs involved in preparing cases for and liaising with an external tribunal body.

Secondly, there was a widespread feeling that if decisions on benefit at appeal were taken out of the hands of local authorities, there should be no consequential loss of subsidy. One officer captured this feeling in commenting on the option of moving to a one stage appeal heard by an independent tribunal:

"This would be the best option if, but only responsibility passed to the DSS for any decision."

(Scottish District)

5.94. This is an understandable concern, which was expressed in the local authority associations' opposition to an independent appeals system, in 1982. It was also indicative of a more general and powerful feeling of resentment towards the Government and the Department expressed by many officers over what were perceived by them as successive reductions in housing benefit subsidy and the pressure it placed on them to operate a 'harder line' on claimant appeals than they might otherwise wish.

5.95. The point has already been made that proper adjudicatory procedure prohibits Review Boards from taking into account the subsidy implications of most individual appeals, and that the sums of money are relatively small. It might also be difficult for the Department to reconcile taking on the full costs of tribunal decisions with its concern to promote cost efficiency in the housing benefit scheme as a whole, particularly if authorities were tempted to avoid loss of subsidy by passing on a greater number of potentially costly appeals to the tribunal.

5.96. One further important point to add is that at present the review system does not have significant administrative costs for central government over and above the general administrative subsidies to local authorities. Setting up a new tribunal system or widening the sphere of activities of another existing tribunal to include housing benefit would both create some extra costs for the Department, though we are not in a position to estimate the level of any such additional costs.

5.97. In summary, a move to independent tribunals would address one of the major criticisms of Review Boards and might improve the effectiveness of the housing benefit review system. There are a number of ways in which independence could be introduced, including setting up a new tribunal on the lines of the Northern Ireland model, or extending the responsibilities of an existing tribunal such as the VCCT or the SSAT. Using the SSATs would bring the important advantage of aligning housing benefit claimants appeal
rights more closely with those for other social security benefits. It would also have some disadvantages, one of which would be possible opposition from local authorities.

An 'Inspectorate' for housing benefit

5.98. One further option might be to adopt an Inspectorate system, of the kind recently introduced for the social fund. Cases where a social fund applicant disputes a decision of a social fund officer are reviewed within the local office, but if the decision is confirmed the applicant may ask for it to be looked at again by an Inspector. The Inspectorate is based centrally in Birmingham and their reviews are carried out by examining case papers and correspondence: the applicant has no right to a hearing. Inspectors have the power to substitute decisions of social fund officers, but it is more common for cases where the Inspector disagrees with the decision to be referred back for the social fund officer to make a fresh decision.

5.99. There was very little support among officers for the Inspectorate model. One officer saw it as "a worthy initiative", and another thought it might be an option for a further tier of appeal beyond the Review Board, but most saw the lack of a right to a hearing as a decisive argument against it. The key difference between the Inspectorate model and other appeal tribunals is that its reviews are based on examination of the proper exercise of discretion, rather than an adjudication of legal entitlement. This suggests that it would be an inappropriate model for an entitlement-based benefit such as housing benefit. There is also a strong argument that the lack of opportunity for an oral hearing would be in breach of natural justice.

3. A further tier of appeal

5.100. The third major structural question for the housing benefit review system is whether there should be a further tier of appeal. This question arises whether or not the Review Board remains in place. At present housing benefit claimants have a limited right to challenge the decisions of Review Boards, by judicial review in the High Court, although this is a rarely used remedy.

5.101. There are two main consequences of the housing benefit scheme having no tier of appeal between the Review Board and the courts. First, there is a lack of equity between housing benefit claimants and claimants of other social security benefits, who can appeal from an SSAT to the Social Security Commissioners. Although housing benefit claimants can in certain circumstances ask for the decision of a Review Board to be set aside and the appeal heard again by a fresh Board, there was little evidence that this provided any useful remedy for appellants dissatisfied with the Review Board's decision.

5.102. Secondly, there is no effective method by which to develop a useful body of case law. Some areas of housing benefit legislation, such as the regulations covering backdating, overpayments, restricted rents, contrived tenancies, and Reg. 69(8) payments, allow for wide variations in interpretation and repeatedly cause officers difficulties. To compensate for a lack of developed case law some officers have used the Review Board to establish what for them have become local precedents. However, these de facto local precedents have no status in other authorities and result in numerous inconsistencies in the application of important parts of the housing benefit scheme.

5.103. Options for the future are either to make changes within the existing system or to introduce a tier of appeal beyond the Review Board (or other appeal body). If the status quo is retained, there may be some value in greater dissemination of Review Board decisions as a means of informal guidance. Some groups of authorities already distribute information on decisions informally amongst themselves, and one suggestion from officers was that a national register of Review Board decisions should be compiled and distributed to local authorities in order to foster greater consistency of decision making.

5.104. The alternative to the status quo is to introduce a further tier of appeal which could establish case law. Since the Social Security Commissioners already perform this function for other benefits they would appear to be well placed to take on this function for housing benefit.

5.105. Another advantage of a further tier of appeal would be to allow the local authority to challenge decisions of the appeal body in the same way that the DSS can challenge decisions of SSATs. This might create problems if the Review Board was retained, since officers might feel reluctant to challenge decisions of their own authority's councillors. It would be less of a problem if Review Boards were replaced by SSATs or some other independent tribunal.
5.106. The introduction of a right of appeal to the Social Security Commissioners for appellants and for local authorities would be a major reform. It would raise a number of important issues which would need to be addressed. At present appeals against the decisions of SSATs by claimants can only be made on points of law with the leave of either the Chair of the SSAT or the Commissioners. In these cases which come under the jurisdiction of the Commissioners actually proceed and frivolous appeals are prevented.

5.107. Appeals by the DSS similarly require leave, but in addition are screened by the Chief Adjudication Officer (CAO). The CAO only allows cases to proceed if they involve an important point of law which could affect the claims of a large number of claimants, or involve large amounts of benefit. If a case does not satisfy one of these criteria then a further appeal will not be made even if there is strong evidence that the SSAT had made an incorrect decision. The Chief Adjudication Officer has no jurisdiction over housing benefit and therefore cannot select which cases proceed to the Commissioner. That decision could lie with each local authority which would be able to assess the costs and benefits of appealing, possibly by using similar criteria to those used by the CAO. Alternatively, it may be desirable to filter local authority appeals, in order to achieve some degree of consistency throughout the country and some sharing of the costs of preparing and presenting a case to the Commissioners. In this case some new machinery would be necessary.

5.108. At present the Commissioners report those decisions which establish important points of law. These form the case law of social security and are distributed by the DSS to local offices to be treated as binding upon future decisions; The Chief Adjudication Officer also incorporates reported decisions into the guidance manuals compiled for the use of adjudication officers. If the Commissioners were to hear housing benefit cases then a network for the dissemination of case law would be required. Since the DSS, and not the CAO, is responsible for the preparation of the Housing Benefits Guidance Manual, it is well-placed to carry out dissemination.

5.109. The appeal to the Commissioners as a means of individual redress has been criticised for the excessive time taken to hear cases. If the Commissioners were to hear housing benefit appeals in addition to their current workload then the problem of delays should receive urgent attention. However, delays per se are not an argument against a further tier of appeal beyond the Review Board; further appeal provides the opportunity for claimants to challenge Review Board decisions and for local authorities to take test cases and establish settled interpretations of problematic areas of law which apply equally to claimants in any part of the country.

5.110. As with other aspects of the review system, it is difficult to see how treating housing benefit claimants differently from other social security claimants can be justified simply because a different organisation delivers the benefit. Judicial review provides only a limited right of further redress for claimants and cannot be considered as an equivalent to the right of appeal to the Commissioners.

5.111. It is worth noting that in her study of supplementary benefit in the late 1970s, Professor Kathleen Bell considered the comparable question of whether a second tier of appeal beyond the Supplementary Benefit Appeal Tribunal should be introduced. She concluded that,

\[ \text{A second-tier appeal body should ... be treated as a matter of urgency and priority ... I recommend extending the jurisdiction and title of the National Insurance Commissioners to constitute them as the second-tier appellate authority.} \]

(Bell, 1975, pp. 24-25)

Professor Bell’s recommendation was accepted and the National Insurance Commissioners were subsequently reconstituted as the Social Security Commissioners with jurisdiction over supplementary benefit.

4. Monitoring housing benefit reviews

5.112. There is at present no external mechanism for monitoring the operation of the housing benefit review system in individual local authorities. Neither the internal review stage nor the performance and decisions of Review Boards receive any outside scrutiny. Unlike most other forms of administrative tribunals, Review Boards do not at present come under the jurisdiction of the Council on Tribunals.

5.113. Most local authorities operate some system for checking initial determinations on housing benefit claims, though these vary in their scope, detail and practice. In addition, initial determinations on housing benefit claims are subject to the normal audit procedures (by the authorities’ own internal audit and by the District Auditor) though these in practice are checks on the accuracy of the benefit
calculation and of the payment made rather than a scrutiny of officer decision making. Furthermore, many officers were sceptical about the ability of auditors to carry out effective checks since they were not experts in housing benefit legislation.

5.114. Apart from the scrutiny of individual cases by the Social Security Commissioner, two types of systematic check on the operation of social security appeals. First, the Chief Adjudication Officer, as part of his wider scrutiny of social security adjudication, is responsible for monitoring the standards of appeals preparation by DSS local offices. Part of his annual report to the Secretary of State is devoted to this particular assessment. Second, the President of SSATs continuously keeps the performance of tribunals under review through the network of full-time Regional Chairs. The aim of both types of monitoring is to maintain and improve standards by dissemination of good practice and by taking remedial action where appropriate.

5.115. In the light of the shortcomings identified by this research, there is an argument that some form of independent scrutiny is needed to improve consistency of decision making between authorities and monitor the effectiveness of Review Boards. However, there is likely to be some resistance from local authority officers to any moves to extend the systems of external scrutiny which already exist through the housing benefit subsidy system and the Audit Commission. Some officers who supported independent monitoring of Review Boards suggested that political opposition to this idea would also be likely from local authority councillors.

5.116. The reaction from officers to monitoring of internal reviews was largely unfavourable. Most saw internal reviews as part of routine administration and not part of an appeal process proper. They could not see any need for, or purpose in, special scrutiny of this aspect of their work. On the Review Boards, however, there was some recognition of a need for oversight of their decisions and performance. One officer commented:

"There should be a national watchdog body with powers of intervention and further review, acting on statutory reports of Review Board decisions. This entails an obligation on authorities to quantify and report on the number of representations received per year, broken down into the number dealt with at officer review stage and the number progressed to Review Board."

(London borough)

5.117. This comment has a certain irony since authorities are already required to record this information for the HBMIS, but, as reported in Chapter 2, much of the information on reviews is unreliable. Many officers have yet to be convinced of the purpose in recording internal review information at all and some did no actually do so. There was a strong feeling that the DSS with too many unnecessary statistical returns. There is, nevertheless, a need to improve the collection of data on reviews. A clearer definition of what constitutes a review and a redrafting of the relevant questions would both help to make the information provided more accurate, but there may also be a need to persuade local authorities of the relevance of the data to a broader understanding of the effectiveness of benefit delivery.

Other options not contingent on major structural change

5.118. There are several other aspects of the present housing benefit review system which could be improved, irrespective of whether internal reviews are retained in their present form and of whether councillors continue to hear appeals. These principally concern ways of improving claimant access to reviews, the use of the word ‘review’ itself, and representation at appeal hearings.

Claimant access to the review system

5.119. If it is accepted that access for claimants to the review system needs to be improved, there are a number of ways in which this might be achieved. In Chapter 3 we described how a few authorities have made widely available special leaflets and other publicity on appeals, which encourage claimants to ask for reviews if they are dissatisfied with their awards and provide full details of how to go about appealing. This practice seems to generate a relatively high level of appeals. It could be emulated by other authorities, either by using a national appeals leaflet or by local authorities producing their own.

5.120. Those officers who saw appeals as largely unnecessary doubted the wisdom of any strategies which might encourage more appeals and were not in favour of local authorities producing extra publicity. Nevertheless, the vast majority supported the idea of appeals leaflets and saw no major feasibility problems. There were some differences on whether such a leaflet was best produced on a national level
or by individual authorities. Slightly more preferred the local production of leaflets because they would allow more scope for incorporating special local issues, information on contact points and local sources of advice. It was also suggested that people did not take much notice of, or have much faith in, national DSS leaflets. Others argued that some local authorities would be unlikely to meet their publicity obligations adequately and that national consistency could only be achieved by a standard national format. A compromise suggested by several officers would be for the DSS or the local authority associations to produce a model leaflet with the minimum standard information requirements and for local authorities to customise it as required.

5.121. A further way of making appeals potentially simpler and more widely understood by claimants, while at the same time making it easier for officers to recognise appeal request, would be to introduce standard appeal forms. This might also reduce the likelihood of requests for explanation or other queries entering the appeal system unnecessarily. Claimants would also need to be able to submit appeals outside the official form and officers would still have to identify these. Nevertheless, this option has the potential advantage of pushing the appeals recognition problem from the centre of appeals administration to the margins. At present the DSS accept appeals not lodged on the official form, but where there is some doubt as to claimants' intentions, the practice is to write back explaining the original decision, enclosing an appeals form and inviting the claimants to appeal if they are not satisfied.

5.122. Well designed appeal forms can also help claimants organise their thoughts on the authority's determination in such a way that the grounds for appeal are more apparent than they often are in unstructured letters. They might, on the other hand, be off-putting to claimants who find using forms difficult. If appeal forms were adopted, there might be a strong argument for a standard national form to ensure consistency of approach, though the discussions with officers suggested that there would be a preference for allowing local authorities to produce their own. One option, as with the proposal for appeals leaflets, might be for the DSS or the local authority associations to issue a model form, which authorities could adapt as required.

`Review' versus `appeal'

5.123. In earlier chapters of this report we referred to the confusion and difficulty surrounding the use of the word `review' rather than `appeal' to describe a claimant's challenge to a local authority housing benefit determination. In our view there is nothing to be gained by the continued use of `review'. A distinction was made earlier in discussing the Inspectorate set up to examine disputed decisions under the social fund, between reconsideration of the exercise of discretion and a challenge under a statutory scheme of entitlement. Whatever view is taken of the social fund itself, where there is no legal entitlement to a benefit a system of `review' of decisions may be appropriate. For housing benefit, however, as a scheme based on legal entitlement, a challenge to an authority's decision should properly be thought of as an appeal.

5.124. There are three further points in favour of replacing the word `review' in legislation with `appeal'. First, the evidence suggests that claimants are more familiar with the concept of the `appeal'. Secondly, such a move would bring housing benefit in line with other social security benefits. Thirdly, it would avoid the confusion in terminology which currently exists in local authorities between `reviews' of determinations and the rolling reviews of cases which authorities periodically carry out to check continued entitlement.

DSS guidance

5.125. One way of bringing together many of the proposals on clearer definitions of how reviews should be carried out, on appeals publicity, forms and other documents, would be for the DSS to issue a guidance pack for authorities specifically on appeals. Apart from clearer guidance it should also contain such items as draft leaflets, appeal forms, and pro formas for Review Board documents. A manual of this kind might be drawn up in collaboration with the local authority associations, in order to harness the maximum support and could perhaps also include examples of best practice.

Representation at appeals

5.126. A last point concerns claimant access to representation at appeals. There is ample evidence to suggest that representation is important at all tribunals and housing benefit is no exception. A recent study, for the Lord Chancellor's Department, of the effectiveness of representation at tribunals discusses the argument sometimes made that the informality and accessibility of administrative tribunals have rendered representation unnecessary or
even counter-productive. It concludes that:

While simplicity in initiating proceedings, informality in surroundings, and procedural flexibility are valuable qualities worthy of preservation, they should not be used as a justification for taking the contribution that representatives make to tribunal decision-making processes, nor the need of appellants to have cases advocated on their behalf.

(Gene and Genn 1989, p. 248)

5.127. Although some councillors and officers in this study suggested that Review Boards may be more sympathetic to unrepresented appellants, the evidence is that being represented significantly increases claimants’ chances of winning at Review Board. This is consistent with the evidence from SSATs and other tribunals in the above study.

5.128. Claimants were professionally represented in only a fifth of the Review Board cases observed, the same proportion as in the sample of 250 cases from the workshop authorities. There was some evidence from the fieldwork that authorities did not always provide potential appellants with full information about local sources of advice and representation. Where they did, this information was on occasions provided too late to allow the appellant to find a representative. There was also an indication from some advice workers that because they had less confidence in Review Boards as effective tribunals than others such as SSATs, they were less inclined or prepared to take on representing housing benefit appellants.

5.129. Two options relating to advice and representation were put forward by the researchers for discussion at the workshops. These were first that local authorities should make a point of supplying lists of local advice agencies to all housing benefit claimants, and second that the authorities should co-operate positively with local welfare rights and advice agencies to ensure that all appellants had the opportunity of being represented at hearings. Many authorities already do the first to varying degrees, and this would combine well with the production of local appeal leaflets and forms. The second requires authorities to promote representation more actively, possibly by direct referral to agencies or even by supporting a form of duty representation by agencies where large numbers of Review Boards take place.

5.130. A majority of the officers were in favour of both proposals, with most seeing them as feasible. In discussion, however, the attitudes of some officers towards welfare rights and advice workers suggested that the level of cooperation required would in practice be unlikely to emerge in a number of authorities. A few officers also questioned the necessity for the housing benefit office to provide information when it was already available from other sources.

Summary

5.131. This chapter has presented a range of policy options which aim to address the problems identified in the research. There are many ways in which the current review procedures could be improved, though all would require the co-operation of local authorities and their officers. The major question remains, however, whether claimants are best served by perpetuating the anomalous position of housing benefit within social security. To do so preserves elements of local authority autonomy and may be beneficial to some claimants in certain parts of the country. The inconsistencies of local authority practices mean, however, that other claimants lose out. The alternative is to risk losing some of the possible advantages of the local connection for a system which is more able to provide established expertise and consistent interpretation of the law affecting entitlement. The concluding chapter of this report presents the researchers’ views on this question in the light of all the evidence.
6.1. In the previous chapters of the report we presented our findings on the operation of the housing benefit review system and an assessment of various policy options for future reform. In this concluding chapter we attempt to do two main things. First, we review our findings and summarise the main shortcomings identified. Secondly, we draw inferences from the data as to the ways in which these shortcomings can most effectively be overcome. In so doing, we have been aware throughout of the political context in which housing benefit is administered and the review system operates.

6.2. Our terms of reference were to describe the operation of the review system and the extent to which it is used, to seek the views of the participants, to set out policy options, and to advise on the future monitoring of the system.

6.3. A number of research methods were employed for the study. A telephone survey of a sample of local authorities provided data on the administration of housing benefit and the nature and extent of review activity. During fieldwork in six local authority areas the views of the participants in the review system were gathered, and Review Board hearings were observed. A postal survey was undertaken on the views and experience of local councillors. Three workshops for housing benefit officers were held at which further factual information on the operation of the review system were collected and possible options for reform discussed. Finally, data was collected from local authorities on the extent of Review Board activity since 1982.

6.4. Our evaluation has been pluralistic in the sense that the effectiveness of an appeal system can only be fully assessed from the different perspectives and interests of all the participating individuals and groups. However, administrative appeal systems also have to be evaluated against certain benchmarks established over the years since the influential Franks Committee Report. To this end we have adopted a set of criteria as a framework for analysis which we have used as a way of underpinning our evaluation of the various stages of the review process. This has meant assessing the review system according to its accessibility, accountability, accuracy of decision making, consistency, cost, levels of expertise, freedom from technicality, impartiality, independence, opportunities for claimant participation, standards of courtesy, and promptness of processing.

6.5. In order to understand the housing benefit review system it is necessary to view it within the political context in which it was introduced. Until the very end of the passage of the Social Security and Housing Benefits Bill through Parliament in 1982, housing benefit had no appeal system at all. The review system was introduced as a last minute compromise between the welfare rights organisations, who argued for a fully independent tribunal system, and the local authority associations who, in taking on administration of a new national benefit, were reluctant to see appeal arrangements taken out of their hands. The resulting review system, with its two tiers, its use of councillors as the appeal body and its lack of further appeal rights, is unique among social security benefits.

6.6. The speed with which the whole debate was conducted meant that many of the details of the review system were not fully defined. This left local authorities with the difficult task of implementing the new arrangements with little guidance. Some authorities have undoubtedly risen to the challenge and have come to operate the system in a way that emulates the best practices of other similar administrative tribunals. Others, however, have virtually ignored its existence.

6.7. Official statistics do not provide a clear picture at present of how extensively the system is used by claimants. This is due partly to the inconsistent or non-existent recording of reviews by local authorities. These inconsistencies make it impossible even to
estimate the number of cases coming to internal review, although we are in a better position regarding Review Boards. The number of claimants exercising their rights to a Review Board hearing has risen sharply in the past two years. This increase may be expected to continue following the introduction of community charge benefit in April 1990. The number of Review Boards held in most authorities still remains very low, however. It is not possible to predict the number of appeals that might be expected in each authority and numbers by themselves do not give us a satisfactory answer to whether the system is `working'. Nevertheless, our research findings strongly suggest that there are many potential appellants who are not pursuing their case to a Review Board.

6.8. The research has identified some of the reasons why this might be so. Some claimants' attitudes towards claiming and receiving housing benefit, or their perceptions of the local authority, dissuade them from taking their case further than an internal review. Other reasons concern the practices and attitudes of housing benefit staff. The provision of effective information and publicity on appeal rights is patchy. Internal review procedures give officers considerable control over which cases might go on to Review Boards; where negative attitudes towards appeal rights prevail this control can be exercised to minimise the number which take place. Conversely, where officers and members take a positive stance the numbers are higher.

6.9. The same kind of inconsistencies exist in the actual processing of internal reviews. What is described as a `review' can vary from a perfunctory check on the calculations by the officer who made the original determination in one authority, to a detailed re-examination of the case by a panel of senior officers in another. Some authorities take their duties in this respect very seriously, but others have little concept of the internal review as part of a legal process and, in some instances, have instituted practices which are strictly unlawful. Claimants themselves can, to a large extent, be excluded from the process altogether once they have written requesting a review and often they can expect long delays before they receive a reply.

6.10. In Chapter 5 we identified several measures which might foster easier access to reviews and greater national consistency of review processing and decision making. However, on balance we conclude that there is no justification for housing-claimants having to request review-twice for their case to come before an appeal body, and that the internal review as presently carried out by many authorities is an inadequate response to claimants who want to appeal against a housing benefit determination. In spite of possible administrative difficulties for local authorities, wards a one-stage appeal process `appeals' for other social seemingly being in the best interests of housing benefit claimants. As we explain in Chapter 5, this does not deny the local authority an opportunity to look at a case again when an appeal is lodged, nor prevent claimants from withdrawing their appeal if they wish. The advantage of the one-stage process is that it guarantees access to an appeal body as a consequence of claimants lodging a single appeal request.

6.11. Our evaluation of the internal review process has also led us to consider the effect of adopting the term `review' rather than `appeal' as the descriptive title for the system of grievance redress for housing benefit. In Chapters 3 and 4 we have referred to the confusion and difficulties that the term `review' causes for the various participants in the system. In our view there seems nothing to be gained by continuing to use `review'. Our reasons are based partly on the benefits that would accrue to claimants for whom the term `appeal' carries more weight and authority than `review' and partly on the desirability of consistency with other comparable benefits. Whatever the reasons for the choice of `review' in 1982, we consider that challenges to housing benefit decisions, which are made under a statutory scheme of entitlement, should properly be thought of as `appeals'.

6.12. Turning to the Review Board itself, we found examples of good practice, but we have also identified a range of shortcomings. Only a minority of Review Board members have received any training either on housing benefit law or on tribunal procedure and the lack of expertise among members can lead to over-reliance on the advice of the local authority legal officer. Impartiality is not always maintained and some decisions are made unlawfully or based on factors which should not properly be taken into account. The conduct of proceedings can break down where hearings are poorly chaired, or when informality degenerates into disorder. This hinders all the parties involved in their efforts to establish the facts and to put across their
arguments. Excessive delays can take place in bringing cases to a hearing, and the general inconsistency of approach taken by different authorities extends from the quality of papers prepared for the hearing to the explanations of decisions given to appellants.

6.13. If Review Boards as the appeal body to her cases then a number of changes which would improve their er. m~ These include the introduction of appeal forms, greater assistance claimants with representation, m~ e and better training for Review Board members. Enforcement of time limits, increasing the impartiality of the Review Board through careful selection of members and by reducing the reliance on the local authority legal officer, introducing comprehensive standard appeal documents, and holding hearings in less imposing surroundings, preferably away from council premises.

6.14. We have already noted that the number of Review Boards might be expected to rise following the introduction of community charge benefit. If the existing two-stage structure is replaced by a one-stage process then Review Boards may expect an even larger increase in the volume of cases they will be required to hear. Without the improvements listed above we doubt the ability of the Review Board as presently constituted in most local authorities to cope with any major increase in work.

6.15. The most frequently voiced criticism of Review Boards is that they are not independent of the local authorities whose decisions are the subject of appeal, and therefore contravene one of the principles of natural justice that no one should be a judge in their own cause. We acknowledge that empirical research cannot resolve this issue. However, drawing on our fieldwork, we have been able to comment on the impact of the close relationship between local authorities and their Review Boards. There can be both negative and positive effects; for example, impartiality can be undermined, and some claimants discouraged from exercising their right to a further review. On the other hand, some claimants find local councillors approachable and friendly and rely on them for help and advice on a range of problems. Review Board members generally have a good knowledge of the local area and of their authority’s policies and practices, although this local knowledge may not always be relevant in deciding housing benefit cases. They can also

6.16. There are arguments for and against retaining Review Boards. Deciding between the two options will depend upon whether the current shortcomings in structure and operation can be rectified by changes such as those discussed above (para. 6.13). A key issue in the choice must be independence. We have established that there is a widespread view amongst all groups of participants that Review Boards are not truly independent of local authorities. We have also shown that despite this lack of independence some Review Boards do satisfy some of our other evaluative criteria, including impartiality. In contrast, we also found that not all Review Boards acted impartially. Furthermore, some claimants and advisers lack confidence in Review Boards because of their close connection with the local authority, and some to the extent that they are deterred from taking their cases to a Review Board. In discussing independence, therefore, we are not simply considering a matter of principle in isolation; independence has important implications for the users of the housing benefit review system. How one views independence will influence how one assesses the policy options discussed in chapter 5. Retaining Review Boards requires an acknowledgement that however well they perform in practice an inherent lack of independence will remain which must be tolerated. If one considers that independence must be embodied in the appeal system as a matter of principle or that the negative effects of a lack of independence cannot otherwise be overcome then an alternative to Review Boards must be sought.

6.17. The main alternative to using Review Boards composed of councillors is to introduce an independent tribunal. We can see no intrinsic reason why appeals against decisions of local authority officers could not be heard by independent tribunals, in the same way that
tribunals hear appeals against the decisions of civil servants of the DSS, with whom they have no connection. Furthermore, we do not believe that such a move would create any major problems for officers administering housing benefit, though preparing cases for and liaising with a tribunal would undoubtedly need some adjustments in work practices and may in some cases require extra resources. We believe that the arguments for such a change are very strong, given the wide variety of practice and performance of Review Boards and their lack of independence.

6.18. One argument against independent tribunals is that outside bodies should not make decisions which have an impact on local authority expenditure; such decisions should be the legitimate responsibility of the authority itself. There is some force in this argument, although in practice we would not expect the amounts involved to be significant in comparison with a local authority’s total housing benefit budget, even with the increase in the numbers of Review Boards that we foresee. Nevertheless, it might be necessary to consider the possibility of devising some mutually acceptable arrangement for meeting the costs of the decisions of independent tribunals if they replaced Review Boards.

6.19. There should be few, if any, problems for independent tribunals hearing cases on the parts of the housing benefit scheme over which a local authority has discretion. These have been reduced since 1988 to the single issue of the treatment of war pensioners and war widows. Although local authorities can decide as a matter of policy how much of these pensions to disregard when calculating a claimant’s income, an independent tribunal would simply need to treat the policy of each authority as binding upon them.

6.20. If the idea of an independent tribunal is accepted, there are several options. A new body could be set up separately from the local authorities, for which the Northern Ireland system might provide a model. Alternatively, an existing tribunal with relevant expertise could expand its responsibilities to include housing benefit. In our view the present Social Security Appeal Tribunals are best placed to take on housing benefit appeals. They are experienced in hearing appeals on similar benefits, training is provided for their members and their Chairs are legally qualified. They also have an established independent administrative machinery to arrange hearings, they are monitored by their own network of Regional Chairs and they are subject to the external scrutiny of the Council on Tribunals. These are the theoretical strengths of SSATs; from this study we are not able to comment about the effectiveness of SSATs in practice. We have also identified some potential disadvantages of SSATs compared with Review Boards. Appellants may have to travel longer distances, some may be put off appealing by associating SSATs negatively with the DSS, and SSAT members may seem to them to be more remote than local councillors. Nevertheless, if an independent tribunal were the favoured option, then little would appear to be gained from establishing a new tribunal to carry out functions similar to SSATs purely for housing benefit.

6.21. One of the weaknesses of the housing benefit review system is that there is no means by which case law can be easily developed, since the tier of appeal beyond the Review Board, the High Court, hears so few cases. Within the law of housing benefit there are many areas which cause problems of interpretation for both housing benefit officers and Review Board members. The inevitable consequence is that there is a lack of consistency in the way these regulations are interpreted. Officers are driven to adopt informal methods, such as treating Review Board decisions as precedent, to help them make consistent determinations. Furthermore, judicial review provides only a limited right of further redress for housing benefit claimants compared with that for other social security claimants, who can lodge an appeal against the decision of an SSAT with the Social Security Commissioners.

6.22. Again there is a strong case for introducing an appeal tier between the Review Board (or independent tribunal, if appropriate) and the Courts. This would remove the inequitable treatment of housing benefit claimants and provide a means by which case law could develop. The Social Security Commissioners already perform this function for other social security benefits: their jurisdiction could be extended to cover housing benefit. This would give these claimants a right to appeal on points of law comparable to that of other claimants, and the local authorities themselves the opportunity to challenge the decisions of the appeal body.

6.23. Introducing the right of appeal to the Social Security Commissioners would be a major reform to the housing benefit appeal system. It raises a number of issues which would need to be addressed; for example, the administrative arrangements for local authorities wishing to
take cases to the Commissioners, how to distribute the burden of costs, and how best to disseminate case law. However, these do not appear to be insuperable problems. In the late 1970s the case for extending the Commissioners’ jurisdiction to supplementary benefit cases was accepted. In the early 1990s there are equally strong arguments for extending their jurisdiction to housing benefit cases.

6.24. Whilst a further tier of appeal can be an important check upon the decisions of the Review Board (or other appeal body) it does not provide a systematic monitoring of standards of decision making or of procedural conduct. As part of her study of Supplementary Benefit Appeal Tribunals in the 1970s Kathleen Bell also considered external monitoring and scrutiny. Her conclusion is short and to the point:

... I find no justification for leaving SBATs in a position in which they are virtually uncontrolled.

(Bell, 1975, p. 24)

6.25. Bell reached this conclusion despite the fact that the operation of SBATs was already subject to the scrutiny of the Council on Tribunals. The position now, as explained in the previous chapter, is that SSATs are kept under review by OPSSAT, and appeals preparation monitored by the Chief Adjudication Officer. The contrast with Review Boards is stark. They are subject to less oversight and control than SBATs were in the 1970s. Apart from a handful of individual decisions which are taken to judicial review, their decisions are not subject to any form of scrutiny. Like Bell on SBATs we can find no justification for this lack of control. Machinery already exists for the scrutiny of other social security appeals and there is a strong argument that it should be extended to housing benefit. This could be either in its present form or by some special arrangement, depending on whether Review Boards are retained or replaced by an independent tribunal.

6.26. In considering measures which can be taken to improve the operations of the housing benefit review system, we have been aware of the desirability of promoting equity between housing benefit and other social security claimants. Housing benefit is a scheme based on entitlement and shares common provisions with the two other main means-tested benefits, income support and family credit. So, although housing benefit is administered by a body separate from the DSS, it has increasingly become harmonised with other social security benefits. In our view there have to be powerful arguments why housing benefit claimants should be treated differently in any fundamental way from other social security claimants.

6.27. We do not find the arguments in favour of different treatment persuasive. There are not sufficient differences between either the content or the administration of housing benefit and other benefits to suggest that appeals on housing benefit should be treated substantially differently from the mainstream of social security appeals. In concluding her study of Supplementary Benefit Appeal Tribunals in the 1970s Kathleen Bell argued that,

... it has become increasingly clear that [Supplementary Benefit Appeal Tribunals] cannot be isolated from general trends and must be subject to the same constitutional principles which ... have gradually been applied in the tribunal world.

(Bell, 1975, p. 19)

6.28. We have reached the same conclusion in respect of the housing benefit review system. Many of the ‘general trends’ referred to are already part of the review system, such as the requirement for reasoned decisions and for appellants’ rights to be enshrined in legislation. However, others such as independence and rights of further appeal from tribunals have not been adopted. That Review Boards already conform closely to the model of other administrative tribunals, and in particular SSATs, only serves to convince us that the remaining differences between them should be removed.

6.29. We have taken seriously the views expressed by some claimants that they prefer informal resolutions of their problems to formal appeals mechanisms. Nevertheless, drawing on all our research findings we have come to the conclusion that the housing benefit review system is failing to serve the interests of the majority of housing benefit claimants. Under the present system claimants in different local authority areas are treated in widely different ways. There is not only inconsistency in the way internal review requests are defined and processed and the way in which Review Boards operate, but claimants are also vulnerable to administrative practices of their authority’s housing benefit department which may deter or prevent them from pursuing their rights of appeal effectively.
6.30. Since the introduction of housing benefit in 1982, the review system has stood isolated from the mainstream of social security adjudication. Some of the conditions that prevailed then do not prevail now and we consider that many of the arguments for treating housing benefit appeals differently carry little weight or are no longer relevant. We believe there is a compelling need for change to a review system flawed in its structure and its operation. The need for change will become more pressing if the recent upward trend in housing benefit appeals continues.
Appendix A

Extract from the Housing Benefit General) Regulations 1987

Notification of determinations

77. An authority shall notify in writing any person affected by a determination made by it under these Regulations—

(a) in the case of a determination on a claim, forthwith or as soon as reasonably practicable thereafter;

(b) in any other case, within 14 days of that determination or as soon as reasonably practicable thereafter,

and every notification shall include a statement as to the matters set out in Schedule 6.

Time and manner of making notifications, requests or representations

78.-(1) Any notice or other document that is to be given or sent to an authority shall be deemed to have been given or sent on the day it is received at the designated office.

(2) Any notice or other document that is to be given or sent by an authority to any person shall be deemed to have been given or sent if sent by post to that person's last known or notified address, on the date it was posted.

(3) The times specified by regulations 79(2) (review of determinations), 80 (requests for statement of reasons) and 81 (further review of determinations) for making a request for a statement or representations may be extended for special reasons, by the appropriate authority or where relevant a Review Board, even though the time specified may have already expired.

(4) Any application for an extension of time shall be in writing, shall be sent or delivered to the designated office and shall be determined by the appropriate authority or where relevant decided by a Review Board.

(5) There shall be no review or further review of a determination or decision of a Review Board under paragraph (3) or (4).

Review of determinations

79.-(1) Any determination of decision of a Review Board may be reviewed at any time by the appropriate authority if—

(a) there has been any relevant change of circumstances since the determination or decision was made; or

(b) it is satisfied and, in the case of a decision, satisfied by fresh evidence, that the determination or decision was made in ignorance of, or was based on a mistake as to, some material fact; or

(c) except in the case of a decision made by a Review Board, it is satisfied that it was based on a mistake as to the law.

(2) Notwithstanding paragraph (1), if a person makes written representations to an authority concerning a determination which it makes in relation to him within 6 weeks of the date of notification to him of the determination, the authority shall review the determination in the light of those representations.

(3) Subject to paragraph (4), where a determination is revised on review, the determination as revised shall have effect—

(a) in a case to which paragraph (1)(a) applies, from the date on which the relevant change of circumstances is to have effect, in accordance with regulation 68 (date on which relevant change of circumstances is to take effect);

(b) in a case to which paragraph (1)(b) or (c) or (2) applies, in place of the original determination;

(c) in the case of a determination under regulation 72(15) (time and manner in which claims are to be made), not to allow a claim to be treated as made on a date earlier than it was made, which is revised in favour of the claimant, from the date on which in accordance with regulation 72(15) that claim is treated as made.

(4) For the purposes of calculating the period of 6 weeks mentioned in paragraph (2) no account shall be taken of any period beginning with the receipt by an authority of a request for a statement under regulation 80 (requests for statement of reasons) and ending with the provision to that person of that statement.

(5) Except as provided by paragraph (3)(c) a determination or decision shall not be revised upon review so as to make housing benefit payable or to increase the amount of benefit payable in respect of any period which is more than 52 weeks before—

(a) where written representations were made in accordance with paragraph (2), the date on which those written representations were made; or

(b) in any other case, the date on which the determination was revised.
Regulations 77 to 80 shall apply to the revision of any determination as they apply to a determination.

Requests for statement of reasons

80.-(1) A person to whom an authority sends or delivers a notification of determination may request in writing the authority to provide a written statement setting out the reasons as to its determination of any matter set out in the notice.

(2) The written statement referred to in paragraph (1) shall be sent to the person requesting it within 14 days or as soon as is reasonably practicable thereafter.

Further review of determinations

81.-(1) A person who has made representations under regulation 79(2) (review of determinations) may give or send to the appropriate authority written notice requesting a further review of the determination within 4 weeks of the date on which the determination on those representations was sent to him.

(2) The notice given under paragraph (1) shall set out the grounds on which a further review is requested.

(3) The further review shall be conducted by a Review Board appointed by the appropriate authority and constituted in accordance with Schedule 7.

(4) Notwithstanding paragraph (3) where-
(a) a person has request a further review of a determination, and
(b) he has also, in connection with a claim for community charge benefit, request a further review of a determination relating to community charge benefit in accordance with regulation 69 of the Community Charge Benefits (General) Regulations 1989(a) (further reviews of determinations with respect to community charge benefit),

a Review Board appointed in accordance with that regulation may also be appointed under this regulation to conduct a further review of the determination in respect of housing benefit at the same time, provided that the person who has made the representation against each determination and any person affected agree to this course.

Reg. 81(4) substituted by reg. 12 of S.I. 1990/546 as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

Procedure on further review

82.-(1) Within 6 weeks of receipt by an authority of a notice under regulation 81(1) (further review of determinations) requesting a further review or, if that is not reasonably practicable as soon as possible thereafter, the Review Board shall hold an oral hearing in order to conduct a further review.

(1A) Notwithstanding paragraph (1) where the appropriate authority has applied for a re-determination by a rent officer in exercise of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988 the Review Board may, if it considers it appropriate in the circumstances, hold the hearing after the re-determination but as soon as is reasonably practicable thereafter.

(2) Subject to the provision of these Regulations-
(a) the procedure in connexion with a further review shall be such as the Chairman of the Review Board shall determine;
(b) any person affected may make representations in writing in connexion with the further review and such representations shall be considered by the Review Board;
(c) at the hearing any person affected has the right to-
(i) be heard, and may be accompanied and may be represented by another person whether that person is professionally qualified or not, and for the purposes of the proceedings at the hearing any representative shall have the rights and powers to which any person affected is entitled under these Regulations;
(ii) call persons to give evidence; and
(iii) put questions to any person who gives evidence;
(d) the Review Board may call for, receive or hear representations and evidence from any person present as it considers appropriate.

(3) Reasonable notice (being not less than 10 days beginning on the day on which notice is given and ending on the day before the hearing of the further review) of the time and place of the oral hearing before the Review Board shall be given to any person affected, and if such notice has not been given the hearing may proceed only with the consent of every person affected or his representative.

(4) If any person affected should fail to appear at hearing, notice having been given to him in accordance with paragraph (3), the Review Board may, having regard to all the circumstances including any explanations offered for the absence, proceed with the hearing notwithstanding his absence, or give such directions with a view to the conduct of the further review as it may think proper.

(5) Any person affected to whom notice has been given under paragraph (3) may apply in writing to the Chairman requesting a postponement of the hearing or withdrawing his application for a further review at any time before the decision on further review is given and either before or after the hearing has begun, and the Chairman may grant or refuse the application as he thinks fit.
(6) A hearing may be adjourned by the Review Board at any time during the hearing on the application of any person affected or of its own motion, and, if a hearing is adjourned part heard and after the adjournment the Review Board is differently constituted, otherwise than through the operation on the occasion of paragraph (7), the proceedings shall be by way of a complete rehearing of the case.

(7) Any hearing may, with the consent of every person affected or his representative but not otherwise, by proceeded with in the absence of any member of the Review Board provided that at least two members are present and one member present is or acts as the Chairman of the Board.

(8) The decision of the majority of the Review Board shall be the decision of the Board, and where the Board consists of an even number, the Chairman shall have a second or casting vote.

(9) An authority may pay travelling expenses in respect of attendance at the hearing to any person affected and to one other person representing or accompanying him at the hearing.

Decisions upon further review

83.-(1) Upon further review the Review Board shall decide whether to confirm or revise the determination of the appropriate authority and, where the determination has been reviewed and revised under regulation 79 (review of determinations), it shall decide whether to confirm or revise the determination so revised.

(2) In reaching its decision the Review Board shall apply the provision of these Regulations as though any duty imposed on, or power or discretion conferred on, an authority were imposed or conferred upon the Review Board.

(3) In its application to a decision of a Review Board, the 52 week period referred to in regulation 79(5) (review of determinations) shall be calculated from the date that the appropriate authority either confirmed or revised its determination on review.

(4) The Chairman of the Review Board shall-
(a) record in writing all its decisions; and
(b) include in the record of every decision a statement of the reasons for such decisions and of its findings on questions of fact material thereto.

(5) Within 7 days of the Review Board's decision or, if that is not reasonably practicable, as soon as possible thereafter, a copy of the record of that decision made in accordance with this regulation shall be given or sent to every person affected.

Effect of revising a decision

84. Where a Review Board has decided that a determination or, as the case may be, a revised determination of an authority shall be revised, the authority shall alter its determination or, as the case may be, revised determination in accordance with that decision with effect from the date of determination or, as the case may be, revised determination.

Correction of accidental errors in determinations and decisions

85.-(1) Subject to regulation 87 (provisions common to regulations 85 and 86), accidental errors in any determination or record of a decision may at any time be corrected by the determining authority who gave the determination or decision or by an authority of like status.

(2) A correction to a determination or to the record of a decision shall be deemed to be part of that determination or of that record and written notice of it shall be given as soon as practicable to any person affected.

Setting aside of determinations and decisions on certain grounds

86.-(1) Subject to regulation 87 (provisions common to regulations 85 and 86), on an application made by any person affected by the determination or decision, a determination or decision may be set aside by the determining authority which gave the determination or decision or by an authority of like status, in a case where it appears just to set the determination or decision aside on the ground that-

(a) a document relating to the matters relevant to the determination or decision was not sent to, or was not received at an appropriate time by, any person affected by the determination or decision, his representative, or the determining authority which gave the determination or decision; or

(b) in the case of a hearing before the Review Board, any person affected by the determination or record of a decision was not present; or

(c) the interests of justice so require.

(2) An application under this regulation shall be made in writing and sent or delivered to the determining authority which gave the determination or decision, within 13 weeks of the day on which notice of that determination or decision was given.

(3) Where an application to set aside a decision of the Review Board is entertained under paragraph (1), any person affected shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(4) Notice in writing of a determination or decision on an application to set aside a determination or decision shall be given to any person affected, as soon as may be practicable, and the notice shall contain a statement giving reasons for the determination or decision.

(5) For the purposes of determining under these Regulations an application to set aside a determination or decision there shall be disregarded regulation 78(2) (time
and manner of making notifications, requests or representations) and any provision in any enactment or instrument to the effect that any notice or document required or authorised to be given or sent to any person shall be deemed to have been given or sent if it was sent by post to that person’s last known or notified address.

**Provisions common to regulations 85 and 86**

87-(1) In regulations 85 and 86—

“authority of like status” means a Review Board of different composition to that giving the decision where it is inexpedient for that same Review Board to correct or set aside its decision.

“determining authority” means an appropriate authority or a Review Board.

(2) In calculating the time specified in regulations 79(2) (review of determinations), 81(1) (further review of determinations), and 86(2) (setting aside of determinations and decisions on certain grounds) there shall be disregarded any day before the day on which notice was given of a correction to a determination or to the record of a decision under regulation 85 (correction of accidental errors in determinations and decisions) or a refusal to make such a correction, or on which notice is given of a determination or decision that a determination or decision shall not be set aside following an application made under regulation 86 as the case may be.

(3) There shall be no review or further review of a correction made under regulation 85 or a refusal to make such a correction or against a determination or decision given under regulation 86.
SCHEDULE 6
Regulations 77 and 79
MATTERS TO BE INCLUDED IN THE
NOTICE OF DETERMINATION
PART I
GENERAL
1. The statement of matters to be included in any notice of determination issued by an appropriate authority to a person, and referred to in regulation 77 (notification of determinations) and 79 (review of determinations) are those matters set out in the following provisions of this Schedule.

2. Every notice of determination shall include a statement as to the right of any person affected by that determination to request a written statement under regulation 80 (requests for statement of reasons) and the manner and time in which to do so.

3. Every notice of determination shall include a statement as to the right of any person affected by that determination to make written representations in accordance with regulation 79(2) and the manner and time in which to do so.

4. Every notice of determination following written representations in accordance with regulation 79(2) (review of determinations) shall include a statement as to whether the original determination in respect of which the person made his representations has been confirmed or revised and where the appropriate authority has not revised the determination the reasons why not.

5. Every notice of determination following written representations in accordance with regulation 79(2) (review of determinations) shall include a statement as to the right of any person affected by that determination to request a further review in accordance with regulation 81 (further review of determinations) and of the manner and time in which to do so.

6. An authority may include in the notice of determination any other matters not prescribed by this Schedule which it sees fit, whether expressly or by reference to some other document available without charge to the person.

7. Parts II, III and VI of this Schedule shall apply only to the notice of determination given on a claim.

8. Where a notice of determination is given following a review of an earlier determination-
   (a) made of the authority's own motion which results in a revision of that earlier determination; or
   (b) made following written representations in accordance with regulation 79(2) (review of determinations), whether or not resulting in a revision of that earlier determination,
that notice shall, subject to paragraph 6, contain a statement only as to all the matters reviewed.

PART II
AWARDS WHERE INCOME SUPPORT IS PAYABLE
9. Where a person on income support is awarded housing benefit, the notice of determination shall include a statement as to-
   (a) his weekly eligible rates, if any; and
   (b) his weekly eligible rent, if any; and
   (c) the amount and an explanation of any deduction made under paragraph 5(2) of Schedule 1 (fuel deductions), if any, and that the deduction may be varied if he provides to the authority evidence on which it may estimate the actual or approximate amount of that service charge; and
   (d) the amount of and the category of non-dependant deductions made under regulation 63, if any; and
   (e) the normal weekly amount of rent allowance, rent rebate or rate rebate, as the case may be, to which he is entitled; and
   (f) in the case of a rent allowance and a rate rebate paid as if it were a rent allowance, the day of payment, and the period in respect of which payment of that allowance is to be made; and
   (g) the first day of entitlement to an allowance or rebate; and
   (h) the date on which his benefit period will end if not terminated earlier; and
   (i) his duty to notify any change of circumstances which might affect his entitlement to, or the amount of, housing benefit and (without prejudice to the extent of the duty owed under regulation 75 (duty to notify changes of circumstances)) the kind of change of circumstances which is to be notified, either upon the notice or by reference to some other document available to him on application and without charge.

PART III
AWARDS WHERE NO INCOME SUPPORT IS PAYABLE
10. Where a person is not on income support but is awarded housing benefit, the notice of determination shall include a statement as to-
   (a) the matters set out in paragraph 9; and
   (b) his applicable amount and how it is calculated; and
   (c) his weekly earnings; and
   (d) his weekly income other than earnings.

PART IV
AWARDS WHERE DIRECT PAYMENTS MADE TO LANDLORDS
11. Where a determination has been made under regulation 93 or 94 (circumstances in which payment is to be made, or may be made, direct to a landlord), the
notice of determination shall include a statement as to the amount of housing benefit which is to be paid direct to the landlord and the date from which it is to be so paid, and the notice shall be sent to both the claimant and the landlord.

PART V
NOTICE WHERE INCOME OF NON-DEPENDANT IS TREATED AS CLAIMANT'S
12. Where an authority makes a determination under regulation 20 (circumstances in which income and capital of a non-dependant is to be treated as claimant's) the notice of determination shall contain a statement as to-
(a) the fact that a determination has been made by reference to the income and capital of the claimant's non-dependant; and
(b) the appropriate authority's reasons for making that determination.

PART VI
NOTICE WHERE NO AWARD IS MADE
13. Where a person is not awarded housing benefit-
(a) either on grounds of income or because the amount of any housing benefit is less than the minimum housing benefit prescribed by regulation 64, the notice of determination shall include a statement as to-
(i) the matters set out in paragraphs 9(a) to (d), and in a case where the amount of entitlement is less than the minimum amount of housing benefit prescribed, paragraph 9(e) also, and
the matters set out in paragraphs 10(b) to (d) where the person is not on income support, and
where the amount of entitlement is less than the minimum amount of housing benefit prescribed, that fact and that such entitlement is not payable;
(b) for any reason other than one mentioned in subparagraph (a), the notice of determination shall include a statement as to the reason why no award has been made.

PART VII
NOTICE WHERE RECOVERABLE OVERPAYMENT
14. Where the appropriate authority makes a determination that there is a recoverable overpayment within the meaning of regulation 99 (recoverable overpayments), the notice of determination shall include a statement as to-
(a) the fact that there is a recoverable overpayment; and
(b) the reason why there is a recoverable overpayment; and
(c) the amount of the recoverable overpayment; and
(d) how the amount of the recoverable overpayment was calculated; and
(e) the benefit weeks to which the recoverable overpayment relates in each benefit period or, where the recoverable overpayment relates to a past period of entitlement as a result of backdating a claim under regulation 72(14) (time and manner in which claims are to be made), in that past period; and
(f) where recovery of the recoverable overpayment is to be made by deduction from a rent allowance or rebate or rate rebate, as the case may be, that fact and the amount of the deduction.

SCHEDULE 7
Regulation 81(3)
CONSTITUTION OF REVIEW BOARDS
1. A Review Board appointed by an authority listed in column (1) of the Table below shall consist of not less than three of the persons specified in relation to that authority in column (2) of that Table.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Composition of Board</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A local authority other that the Common Council of the City of London.</td>
<td>1. Councillors of that authority.</td>
</tr>
<tr>
<td>2. The Common Council of the City of London.</td>
<td>2. Persons who are mayor, aldermen or common councilmen.</td>
</tr>
<tr>
<td>3. A New Town Corporation.</td>
<td>3. Members of that development corporation established under the New Towns Act 1981(a) or the New Towns (Scotland) Act 1968(b) or as the case may be, of the Commission for the New Towns.</td>
</tr>
<tr>
<td>4. The Development Board for Rural Wales.</td>
<td>4. Members of that Board.</td>
</tr>
<tr>
<td>5. The Scottish Special Housing Association.</td>
<td>5. Members of the Council of Management.</td>
</tr>
</tbody>
</table>

2. The members of a Review Board shall appoint one of their number to be the Chairman.

(a) 1981 c.64
(b) 1968 c.16.
Appendix B

Extract from Housing Benefit Guidance Manual

REPRESENTATIONS AND REVIEWS

10.56 Any claimant who is dissatisfied with the treatment of his claim is entitled to make written representations to the authority. This is in addition to his right to ask for a written statement of how entitlement has been calculated (see paragraph 10.14).

Reg 79(2) 10.57 If written representations are received by the authority within 6 weeks of it sending out notification of the determination, the authority must:

i. consider those representations;
ii. review the determination and alter or confirm it;
iii. notify the claimant in writing of its decision, giving its reasons;
iv. inform the claimant of his right to ask for another review or a further review, and the time limits for doing so.

Sch 6 Reg 79(4) The six weeks allowed for asking for a review does not include any time between a request for a written statement (see paragraph 10.14) and the authority providing that statement. The overall six week time limit should be calculated by reference to the date the authority sent the notification of the determination to the claimant, and the date it received representations from the claimant. The claimant may apply for an extension of the limit, and the authority has power to extend it. Its decision is final. The same rules apply to the time limits for requesting a written statement and asking for a further review (see paragraph 10.58).

Reg 79(5) 10.58 Generally, a determination cannot be revised to make housing benefit payable or to increase the amount of benefit payable for more than 52 weeks before the date the claimant made his written representations. However, in the case of a claimant who satisfies the authority, on review, that there was "good cause" for a delay in claiming benefit, benefit can be backdated to the date on which his claim is treated as made under regulation 72(15).

Reg 81(1) Request for further review

10.59 Where a claimant has been notified of the outcome of a review by the authority but remains dissatisfied with the assessment of entitlement, he may write to the authority requesting a further review. This review must be carried out by a review board. The claimant has 4 weeks from the date of being notified of the outcome of the official review in which to ask for a further review. The authority may extend this 4 week period if there were good reasons for the delay.

Reg 81(2) 10.60 The claimant must tell the authority in writing what his grounds are for requesting a further review.

Appointment and composition of Review Boards

Reg 81(3) 10.61 The further review must be carried out by a review board appointed by the authority administering the claim. The review board must consist of at least 3 local councillors (in the case of local authorities) or board members or equivalent in other authorities. One of these must be appointed as the chairperson. A hearing may, if the claimant agrees, be held with only two members present. One of these must act as chairperson.
10.62 Authorities are expected to ensure that individual review board members do not hear cases in which they have had a previous involvement.

10.63 Authorities should provide the review board with the staff, accommodation, services and other facilities necessary for it to carry out its functions.

### Procedure of Review Board

**Reg 82(1)** A review board hearing must be held within 6 weeks of a request by a claimant for a further review or, if that is impractical, as soon as possible afterwards. The claimant must be given reasonable notice of the time and place of the hearing—authorities are expected to allow at least 10 days notice.

**Reg 82(4)** The claimant may apply in writing for a postponement of the hearing or withdraw his request for a further review. It is for the Chairman to decide whether or not to grant the request. If a claimant fails to attend a hearing, it is for the review board to decide, in the circumstances of the case, whether or not to proceed with the hearing. If the review board decides for any reason to adjourn a hearing and the case is subsequently heard by a different board, the latter should hear the whole case again.

**Reg 82(9)** The claimant has the right:

a. to make representations in writing to be considered at the hearing;

b. to attend the hearing, and be represented by another person;

c. to call people to give evidence; and

d. to put questions to anyone else who gives evidence.

The authority is expected to pay reasonable travelling expenses for the claimant and one other person accompanying or representing the claimant.

**Reg 82(8)** The review board may receive representations and evidence from anyone else present, if it considers it appropriate. When the hearing has finished, it must make a decision on the representations, and if necessary the chairperson has a casting vote.

### Decisions by Review Boards

**Regs 83(1)&(2)** After considering all the relevant information put to the hearing, the review board must decide whether to confirm the authority's determination, or alter it. In reaching its decision, the review board is bound by the regulations in the same way as is an authority. It may not disregard any of the provisions of the regulations or make a decision which the authority itself had no power to make. It may exercise any discretion which applies to the authority (for example, it may decide to grant an additional amount of benefit in an individual case under regulation 69(8)—see paragraph 9.54). It may not however resolve to operate a modification to the statutory scheme (see Chapter 14).

10.69 The review board chairman must record its decision in writing, giving the reasons for that decision and its finding on any material question of fact.

### Notification and implementation of decision

**Reg 83(5)** The review board must send the claimant a copy of the record of its decision, as set out in paragraph 10.68, within 7 days of its decision or as soon as possible afterwards. If the review board has altered the authority's determination, the authority is required to implement the board's decision with effect from the date on which the original determination was made.
10.71 The 52 week period referred to in paragraph 10.58 runs, in the case of a review board decision, from the date on which the authority concluded its review.

10.72 The review board's decision applies only to the determination it was requested to review. The authority is not bound by the decision when a fresh determination is made at the start of a new benefit period.

**Correction of Errors**

10.73 Authorities and review boards have power to correct accidental errors (see paragraph Reg 85(1)) in their determinations and decisions. Corrections may be made at any time, and the correction will take effect from the original date of the determination or decision.

10.74 Authorities and review boards must write to all persons affected informing them of any correction they have made.

10.75 An accidental error is an error which misrepresents what was clearly the intention of the authority or review board. An error can only be regarded as accidental if it is clear from the papers what decision was intended and that the error occurred in giving it expression (eg in a notification or record of a review board decision). Slips of the pen or misprints would therefore count as accidental errors; failure to take account of evidence which was available would not. The distinction is between giving true effect to first thoughts or intentions (which could lead to corrections) and having second thoughts or intentions about a decision (which could not).

10.76 Any time elapsing between the making of a determination or decision and the correction of an accidental error in it (or refusal to correct) should not be included in the time limits for applying for a review, further review, or for setting aside the determination or decision (see paragraph 10.77).

**Setting aside Determinations and Decisions**

10.77 Any person affected may apply to have a determination or decision set aside. Setting aside means effectively deleting a determination or decision as if it had never been made. (In contrast, a review replaces one determination or decision by another). In the case of a review board decision, persons affected would include the authority concerned. The authority or board to which application is made must inform all other people affected and give them reasonable opportunity to make their own representations. Applications must be made in writing, within 13 weeks of the date of the determination or decision concerned.

10.78 An authority may set aside a determination, or a review board may set aside its decision, where it appears just to do so because
   i. a relevant document was not duly sent or received when the original decision was taken;
   ii. a person affected, or a representative, was not present at a hearing; or
   iii. the interests of justice require it.

The authority or board's decision whether or not to set aside must be notified in writing to all persons affected. To allow full consideration of all the circumstances, the normal rules for determining whether a document has been issued (see paragraph 10.56) should not be applied.
10.79 The setting aside procedure should only be considered in the interests of justice and is not available simply to challenge determinations or decisions with which there is disagreement. Appropriate grounds for setting aside would include instances where a determination or decision had been unlawfully corrected; or where a person had not attended a review board hearing because he had not been given notice or had been prevented through unforeseen circumstances.

Reg 87(2) 10.80 In applying the time limits for seeking review or further review, no account should be taken of any period between the date of the determination or decision, and a decision not to set it aside.
Preliminary Note

Under the Housing Benefits Regulations where a claimant remains dissatisfied with the treatment of his claim (notwithstanding notification of the Authority's determination and receipt of a further written explanation) he may require the Authority to consider written representations concerning the determination.

An Authority is required to consider these representations, alter or confirm its original determination, as appropriate, and notify the claimant of its decision with reasons. It must also tell the claimant that, if he remains dissatisfied he may, within 28 days of receiving such notification ask for a further review of his entitlement.

The function of making this further review is not that of the Authority but that of a Review Board appointed by the Authority and constituted in accordance with the Regulations.

This Code has been prepared by officers and advisory officers of the Association of District Councils, the Association of Metropolitan Authorities, the Convention of Scottish Local Authorities and the London Boroughs Association. It provides a guide to the appointment of Review Boards and practice and procedure to be followed by them, and it is hoped that the member authorities of the Associations will find this Code of value as they make their local arrangements for the Review Boards. To that end the Code has been circulated to the Authorities in advance of its adoption by the Associations. Authorities will be advised if there are any amendments to the Code arising from its consideration by the Associations.

CODE OF PRACTICE AS TO THE CONSTITUTION AND PROCEDURES OR REVIEW BOARDS APPOINTED UNDER THE HOUSING BENEFITS REGULATIONS 1982

1. MEMBERSHIP OF THE REVIEW BOARD

A Review Board appointed by an Authority under Regulation 47(3) of the Housing Benefits Regulations 1982 must consist of not less than three members of the Authority as specified in Schedule 5 to the Regulations (See Appendix A, Part II).

Although the Review Board is formally a separate body from the Authority an existing Committee or Sub-committee of the Authority may be appointed as the Review Board (or such members of the existing Committee or Sub-Committee as are eligible for Board membership—for example, a co-opted member is not eligible). However, Authorities may wish to consider whether it is appropriate for the Committee that is responsible for the operation of housing benefits to be appointed as the Review Board, as it may on occasion be the decision of the Committee that is the subject of the appeal to the Review Board.

As an alternative to establishing a single Review Board the Authority may appoint a panel of members from which a Board of at least three can be selected to hear any particular case or cases. It appears to the Associations that this approach has the greatest flexibility.

A person should not be a member of a Review Board for the consideration of any particular case if he was among those who made, altered or confirmed the determination which is to be reviewed, or if he has any close connection with the claimant.
3. **ABSENCE OF MEMBER OF REVIEW BOARD**

Any matter may be proceeded with in the absence of one or more members of a Review Board provided that:-

(a) there are at least two members present;

(b) where there are only two members present the claimant consents;

(c) one member present shall act as Chairman.

4. **CLERK TO THE REVIEW BOARD**

A Review Board will require the services of a Clerk. If the Board withdraws or invites the parties to do so when it wishes to consider its decision the Clerk or his representatives attending the hearing may remain with the Board on the invitation of the Chairman but only for the purpose of offering advice as to procedure on the Housing Benefits Regulations or any other particular point of law.

_The Clerk may be the Chief Executive, secretary, appropriate Officer of the Authority, or other person appointed by the Authority._ The person attending a Review Board as Clerk or representing the Clerk should not be an employee who in the course of his employment by the Authority deals with the determination of Housing Benefits applications. Nor should a person appointed as the Clerk have any continuing connection with an agency likely, from time to time, to represent claimants before the Review Board. The Clerk will be responsible for ordering the business of the Review Board and advising the Board on matters of law and procedure as required.

A Review Board, where necessary, may call for expert advice on any aspect of the Housing Benefit Regulations from any person provided that such a person does not in the course of their employment deal with a determination of Housing Benefits applications in connection with that authority. _The Associations do not envisage, however, that any such expert advice will normally be required._

5. **ORGANISATION OF CASES FOR HEARING**

The Regulations require that a hearing shall be held within six weeks of the claimant's request or if this is not reasonably practicable as soon as possible thereafter. It will be a matter for local arrangement whether a Review Board meets during the morning, afternoon or evening but in practice any session of the Review Board is unlikely to exceed three hours and it will be a question of experience whether it is normally possible to deal with, say, three cases during a session. In time it should prove possible to deal with cases a little more quickly, particularly as members of the Review Boards become more familiar with the procedures and matters for decision. If it is not possible to complete scheduled business a Review Board will have to adjourn to another session, and in any such case before adjourning the Board should if possible fix the day and time for an adjourned session so that any claimants still waiting may be so informed on the spot. Proper notice of the adjourned session would then be given by the Clerk to the Review Board.

Every claimant is entitled to a fair hearing and it is important not to give any claimant the impression that this hearing is being hurried or that the time available to him is limited.

It is suggested that each claimant should be given a scheduled time to arrive at the place for the hearing, initially at say hourly intervals until there is sufficient experience to determine otherwise. In a particular case it may be possible to make a better forecast of the time likely to be needed having regard to the written representations made by the claimant. Claimants should be advised of the possibility that a Review Board may not be able to adhere strictly to the scheduled programme but that every effort will be made to deal with a case at the session indicated. Claimants might also be requested to attend 15 minutes in advance of the time given for their hearing, as the previous case may be dealt with more expeditiously than anticipated.

_Authorities are also advised to prepare and supply claimants with a note on the arrangements for the Review Board Hearing._ This may be based, in part, on Appendix B to this report (Suggested guidance notes for members of Review Boards). It will also need to make reference to a number of matters that can only be determined locally, and be prepared with an appropriate emphasis and style for the claimant.

6. **HEARING**

The regulations for a Review Board Hearing are set out in Appendix A. This paragraph is substantially based on those regulations.

(1) Within six weeks of receipt of notice from the claimant requiring further review of a determination (or, if that is not reasonably practicable, as soon as possible thereafter) the Review Board shall hold a hearing in order to further review the determination.

(2) Reasonable notice of the time and place of the hearing shall be given to the claimant by the Clerk to the Review Board. (Unless the claimant consents in writing to a lesser period he should normally be given at least fourteen days notice of the time and place of hearing.)
Hearings should take place in premises reasonably accessible to the claimant by public transport. With notice of the hearing the claimant should be supplied with a note of the procedure which will be followed at the hearing and of any related practical points, such as where copies of the Housing Benefits Regulations and any local scheme adopted by the authority may be inspected, how to get to the venue where the hearing is to take place, where to report/wait, travelling expenses, etc.

(3) If the claimant has made representations in writing in connection with the further review these representations must be considered by the Review Board at the hearing.

(4) At least seven days before the hearing the Clerk should supply members of the Review Board and the claimant with copies of the following documents:--

(i) The determination of the Authority.
(ii) Any statement supplied by the Authority showing how the amount of benefit has been calculated, or, as the case may be, showing how the claimant is not entitled to benefit. Where such a statement has not previously been supplied to the claimant, then it should be prepared and supplied at this time.
(iii) The representations made by the claimant and the notification of decision by the Authority following its consideration of such representations.
(iv) The grounds on which the claimant has required a further review.
(v) Any written representations made by the claimant in connection with the further review.

A Review Board may regulate its own procedure at the hearing and in particular receive evidence from such persons that it considers appropriate. The Associations accept that there are good reasons that can be advanced in favour of either the claimant or the authority being asked to present their case first. A formal professional view would be that the claimant should first present their case, as it is the claimant that has sought the review. However, if the authority were to present their case first this may help the claimant to become familiar with the form of the hearing, and to be more prepared and at ease when he came to present his case. On balance, therefore the Associations suggest that the proceedings should normally be arranged in the following order:-

(a) Case on behalf of the Authority
(b) Questioning by the claimant
(c) Case for the claimant
(d) Questioning on behalf of the Authority
(e) Summing up by the Authority
(f) Summing up by the claimant

Individual authorities may, nonetheless, wish to arrange that the claimant first presents his case. In any event the Review Boards should adopt a general approach to the order of proceedings, and advise claimants and the authorities' officers of that approach. In a particular case, however, the Review Board should be prepared to adopt the alternative order of proceedings if the claimant has a clear reason or preference for that approach.

(6) Appeals should be heard in private. Only persons involved in the particular case should be present, except any person or expert who may be present with the express consent of both the claimant and the Authority.

(7) REPRESENTATION

The claimant shall be entitled to be present at the hearing, other than any part of it set aside by the Review Board exclusively for the purpose of arriving at a decision, and

(a) To be heard by the Review Board:
(b) to call persons to give evidences and;
(c) to put questions to any other person who gives evidence;

and may for this purpose be accompanied or represented at the hearing by another person (whether having professional qualifications or not).

Any person to be called to give evidence during the hearing should be present for the duration of the hearing, unless there is some particular objection to this arrangement by either the claimant or the authority. In the case of such an objection the Chairman of the Review Board should decide whether that person should be excluded for any or all of the remainder of the hearing when they are not giving evidence.

An authority may pay travelling expenses in respect of attendance at the hearing to the claimant and to one other person representing him or accompanying him at the hearing. Where the authority decides that appropriate bus or rail fares should be reimbursed this should be done as a matter of routine when the claimant attends the hearing. Exceptionally arrangements could be made for the payment of such expenses in advance of the hearing.
8. DECISIONS OF THE REVIEW BOARD

(1) Upon a further review the Review Board shall decide that the determination of the Authority shall either be confirmed or be altered and where the determination has already been altered by the Authority it shall decide that the determination as so altered shall either be confirmed or be altered.

(2) It would be desirable, wherever possible, for unanimous decisions to be reached but in the event of disagreement between members of the Review Board any matter under consideration shall be decided by a simple majority of votes case and in the case of equality of votes the Chairman shall have a second or casting vote.

(3) The Review Board shall record in writing every decision which it makes on further review and shall include in every such record a statement of the reasons for each decision and of its findings on material questions of fact. The reasons and material findings as well as the decision must all be clearly determined by the Review Board. It should not be left to the Clerk to devise the reasons and the findings in support of the Review Board's decision.

(4) Within seven days of the Review Board's decision (or, if that is not reasonably practical, as soon as possible thereafter) a copy of the record of that decision is required to be given or sent to the Authority and to the claimant. The Associations are of the view that it should normally be the case that decisions are despatched (by first class post) by the Clerk to the Review Board within two working days following the day of the hearing. The Associations would advise against the Boards delivering oral decisions. This would not, in any event, obviate the requirement for a written decision, and it would be likely to prolong the duration of the hearing.

(5) Where the Review Board has made a decision that a determination of an Authority shall be altered the Authority which made the determination shall alter it in accordance with the decision and such alteration shall take effect as though it were made on the date of that determination.

9. RECORD OF THE PROCEEDINGS OF A REVIEW BOARD

The Clerk to the Review Board will collate the decisions, reasons and findings of the Review Board members and despatch these to the parties concerned. In addition the Clerk shall keep brief notes of the proceedings, the attendance, the voting and the decisions in such form as the Authority may agree as appropriate. Such documents will not be public.

10. SERVICE OF DOCUMENTS

The documents required to be serviced under this Code may be sent by post or delivered to a claimant addressed to him at the address given by him to the Authority in the course of dealing with his claim under the Housing Benefits Regulations.

Appendix

SUGGESTED GUIDANCE NOTES FOR MEMBERS OF REVIEW BOARDS

This note is intended to provide members with a guide to their participation in Review Board hearings. These hearings are of a quasi-judicial character, and the arrangements are, therefore, markedly different to the usual arrangements for Committee meetings.

(a) As a matter of principle, no member of the Review Board should have been involved in making, altering or confirming the determination. Preferably, Review Board members should have no connection with the consideration of applications for housing benefits.

Quite apart from the operation of the provisions of the Local Government Act 1972 and the Local Government (Scotland) Act 1973 dealing with pecuniary interest, no member of the Review Board should have any close connection with the claimant. Where the connection is more remote it may be sufficient for the member concerned to declare his interest and to continue to participate, in the absence of any objection from the claimant or the Authority's representative. The matter is one of degree and it will be necessary for the Chairman of the Review Board to decide what is appropriate in each case where such a question arises.

It must be noted that the proceedings of the Review Board are governed by adjudication procedures and that the rules of natural justice therefore apply. Members must be present throughout the hearing. If for any reason a member needs to withdraw during the proceedings the hearing should be temporarily adjourned until the member returns, or the member should not participate any further in the hearing. This should, therefore, be avoided wherever possible. Nor can a member who arrives late, after the hearing has commenced, be allowed to participate in that hearing.

If the number of members who leave prematurely is such as to reduce the Board to one person only, then the hearing would have to be adjourned.
Otherwise, the hearing may continue but if there are only two members present this is subject to the claimant being prepared to give consent. (See (a) (ii) above.)

**Clerk to the Review Board**

The Clerk to the Review Board or a person representing him) will attend hearings of the Board.

The Clerk to the Board is responsible for ordering the business of the Board and advising the Board on matters of law and procedure, as required.

If the Board withdraws or invites the parties to do so when it wishes to consider its decision, the Clerk or the person representing him may remain with the Board on the invitation of the Chairman but only for the purposes of offering advice as to procedure or the Housing Benefits Regulations or any other particular point of law. In addition, the Review Board, when necessary, may call for expert advice on any aspect of the Housing Benefit Regulations.

None of the officers advising the Review Board shall be an employee who in the course of his employment by the Authority deals with the determination of housing benefits applications.

The Clerk or the person representing him shall keep notes of the proceedings, the attendance, the voting and the decisions in such form as the Authority may agree as appropriate. Such documents will not be public.

(c) **Documents**

At least seven days before the hearing the Clerk to the Review Board will supply to members of the Review Board the claimant copies of the following documents:-

(i) The determination of the Council.

(ii) Any statement supplied by the Authority showing how the amount of benefit has been calculated or, as the case may be, showing how the claimant is not entitled to benefit.

(i) The representations made by the Authority following its consideration of such representations.

(iv) The grounds on which the claimant has required a further review.

(v) Any written representations made by the claimant in connection with the further review.

d) **The Hearing**

Cases coming before the Review Board involve private and personal information relating to the claimant. All sessions of the Review Board will therefore be held in private and its proceedings will be treated as confidential and not for publication.

When the particular case is reached on the list the claimant, any person representing or accompanying him and any witnesses and at the same time the Authority's representative and any witnesses will be invited to come before the Review Board. It is important to make it clear to the Claimant that the Review Board only have access to the Authority's representative and witnesses during the hearing when the claimant is also present.

Whilst it is intended that the proceedings shall be kept as informal as possible it is necessary to maintain a logical approach and it is suggested that as far as practicable the procedure to be followed at the hearing shall be on the following lines:-

(a) **Opening remarks** by the Chairman of the Review Board, introducing those present at the hearing, and ensuring that the claimant understands the procedure to be followed at the hearing.

(b) **The Authority's Case**

(i) Opening remarks by the Authority's representatives.

(ii) The Authority's representative to call any witnesses.

m) The claimant or his representative may question any witness.

iv) The Chairman or members of the Review Board may wish to ask questions.

(v) The Authority's representative then to have the opportunity of asking any further questions of any Authority witness to clear up any points in the earlier questioning.

(c) **Claimant's Case**

(i) The claimant (or his representative) will open his case. This will usually comprise a summary of the main points the claimant is making.

(ii) The claimant (or his representative) to call any witness and/or give evidence in support of his case.
(iii) The Authority's representative may question any witness, including the claimant if he gave evidence.

(iv) The Chairman or members of the Review Board may wish to ask questions.

(v) The claimant or his representative then to have an opportunity of asking any further questions of any witness to clear up any points raised in the earlier questioning.

(d) Closing Statements

   (i) By the Authority's representative
   
   (ii) By the claimant or his representative.

(e) The Chairman of the Review Board will then ask the Clerk if there are any other matters to be raised or resolved before the hearing is closed. If not the Chairman will then close the proceedings, indicating that a copy of the board's decision and the reasons for it will be sent to the claimant and the Authority.

(f) Both the claimant and Authority's sides will withdraw from the hearing

NOTE: The Chairman may, if he considers it appropriate, call on the Claimant to "go first" in which case the order would be (1) claimant's case; (2) Authority's case; (3) Closing Statements by (i) the Authority's representative and (ii) the claimant. However, it is considered that it would generally be more helpful for the Authority to start, as this may help the claimant to become more familiar with the form of the hearing, and to be more prepared and at ease when he came to present his case. Any persons called to give evidence will normally be present throughout the hearing. In a particular case, however, following representations by either party, the witness can be excluded from any or all of the remainder of the hearing when he is not giving evidence.

(e) After the Hearing

Once the hearing is over and both sides have withdrawn, the Review Board will agree on its decisions, the reasons for it and any material findings. Whilst it would be desirable wherever possible for unanimous decisions to be reached, in the event of disagreement between members of the Review Board any matter under consideration must be decided by a simple majority of votes cast and in the case of equality of votes the Chairman will have a second or casting vote. During this process the Review Board may seek the advice and guidance of its Clerk or his representative or any other independent expert, as referred to in (b) above. The decision, reasons and finding must, however, all be determined by Review Board members.

It should also be made quite clear that the Authority's representative who presented the case and any witnesses at the hearing should not be involved in any way in any discussions after the completion of the hearing. So far as the Review Board is concerned involvement of the Authority's representative and any witness at the hearing ceases when they, together with the claimant, his witnesses and any representative, withdraw from the room at the conclusion of the hearing.

(f) The Decision

In the normal course of events a copy of the decisions of the Review Board will be despatched by first class post to the claimant and the Authority's representative within (two) working days of the hearing.

(g) Any further Appeal

There is no statutory right of appeal from any decision of the Review Board. However, a claimant might apply to the Courts for redress if there had been some breach of the rules of natural justice, or some error in law on the face of the record or some material procedural error.
Appendix D

Extract from the Housing Benefit Management Information System Return F88/9/1

Reviews

6. Total number of reviews requested under Reg 81, April-March

7. Total number of review board hearings within 6 weeks of request under Reg 82, April-March

8. Item 7, as % of item 6

Revised Determinations

9. Total number of reviews requested under Reg 79(2), April-March

10. Total number of determinations revised under Reg 79(2), April-March

11. Item 10, as % of Item 9

12. Total number of determinations revised under Reg 83, April-March

13. Item 12, as % of Item 6
Appendix E

Previous Research on Housing Benefit Reviews

There has been little published research on the operation of the housing benefit review system. The main themes that emerge from the limited work on the reviews system to date fall into two categories, those concerned with principle and those concerned with practice.

The principles of the housing benefit review system

The question of the independence of Review Boards has probably aroused most interest from critics of the current review system. It was raised repeatedly in the Parliamentary debates on the Social Security and Housing Benefit Bill in 1981 and 1982 and has been reiterated since by, inter alia, the Public Accounts Committee, the Social Security Advisory Committee (see, for example, the Annual Report, 1984), the Council on Tribunals (see, for example, the latest Annual Report for 1988/89) as well as numerous pressure groups and welfare rights organisations. The Housing Benefit Team set up by the then Secretary of State, Norman Fowler, as part of the government's Social Security Reviews, summarised the problem in their report as follows:

Councillors are perceived as an integral part of local government and, contrary to the principles of natural justice, as acting as judge and jury.

(DHSS, 1985, p.22)

That Review Boards have a legal status independent of the local authority, in that their decisions are not subject to the ratification of the authority, does nothing to promote confidence in the independence of the Board (Wikeley, 1986). For example, in an account of a hearing in Birmingham, Shelly reported that,

... the chairwoman of the Board is well known as an ex-chairperson of the City Housing Committee, and she referred to the Housing and Treasurer's Departments as `We' throughout the hearing. The board was at pains to supplement the Treasurer's Department's tales of the problems of housing benefit implementation. As the hearing broke up, a member of the Treasurer's Department was introduced in first name terms to the councillors.

Partington and Bolderson's early analysis of the review procedures (1984) concluded that Housing Benefit Review Boards come within the definition of 'tribunals' developed by the Courts for administrative law yet do not come under the jurisdiction of the Council on Tribunals, and are not subject to the Tribunals and Inquiries Act 1971. As presently constituted Review Boards were unsatisfactory as an adjudication model.

A further criticism of the current structure, reported by the Housing Benefit Review Team, is that it does not allow for the effective development of a published body of case law. For other social security benefits case law is created primarily by the Social Security Commissioners who, in considering some 1,500-2,000 cases per year, are able to identify and report on important areas of social security law. The Commissioners have no jurisdiction over housing benefit and hence case law can only be created by the Courts. In contrast to the workload of the Commissioners, only 17 housing benefit cases were heard by the Courts up to the end of 1987 (an average of roughly four per year).

A repeated criticism from the Council on Tribunals has been that Review Boards do not come under their jurisdiction and are therefore effectively uncontrolled (see, for example, the latest Annual Report for 1988/89).

The housing benefit review system in practice

The Housing Benefit Review Team felt unable to judge whether weaknesses in principle were translated into deficiencies in practice since there was little evidence about the operation of Review Boards. Nevertheless, there was anecdotal evidence from groups and organisations assisting claimants to challenge the decisions of the local authorities. It is not possible from what little has been published to gauge the extent and severity of the problems raised, but several different types of criticism are apparent.

Review Boards were criticised for their lack of expertise in the detail and the complexities of housing benefit legislation, and in tribunal procedures. The Housing Benefit Review Team echoed this point in reporting that 'necessary standards' might not be attained due to the lack of a legally qualified chairman and proper training for Review Board members (DHSS, 1985, p.22). As a result the Review Board might have to rely heavily on advice from housing benefit officers (DHSS, 1985, p.22) or from the legal adviser to the Board who will often be a solicitor in the local authority legal department (Partington and Bolderson, 1984).
Standards of decision-taking are not only affected by Review Board’s knowledge of the law, but also by a failure to follow a proper adjudicatory model of distilling the material facts of the case from the evidence and then applying the relevant statutory provisions. Decision making was criticised for being too often based on a judgement of the client’s ‘deservingness’ or on political grounds.

According to Luba (1985) standards of Review Board procedure were inadequate. The formal requirements of procedure laid down in the 1987 Housing Benefit Regulations (Reg. 84) are so frequently infringed in practice that most Review Boards actually err in law more often than not, thus rendering their decisions invalid and therefore automatically challengeable in the Courts.

Local authorities were also criticised for failing to publicise claimant’s rights to review: in a survey of 38 local authorities, Clews (1988) reported that only 11 (40 per cent) mentioned review rights in their general publicity material on housing benefit and only six (16 per cent) issued specific publicity about housing benefit reviews.

The small amount of evidence available on the claimant perspective was not wholly negative. There were a few examples from the advice agency sector of satisfaction with the new system. One welfare rights office in Scotland reported their local Review Board to be “extremely helpful to claimants”. Another rights office, in Manchester, had been successful in 20 of the 29 cases that had come before local Boards in the period November 1982 to July 1985 (Welfare Rights Bulletin, 70, February 1986).

Loveland’s research on the administrative processes at work within local authority housing benefit sections found that they were characterised by the adoption of practices shaped by local political, moral, organisational and environmental factors, which were also evident at the internal review stage of the review process (Loveland, 1987a).

Some officers who carried out the internal review were often anxious that the case should be dealt with at this level rather than allow it to go forward to a Review Board. This attitude was often based on a fear of criticism from the council that the housing benefit section could not be doing its job properly if it could not settle disputes with claimants internally (Loveland, 1985a).

If there was an expectation that a Review Board would support the claimant regardless of the case put forward by housing benefit officers then it was thought better to give in sooner rather than to lose (and be criticised) later (Loveland, 1987a). This attitude was reinforced further if it was thought by housing benefit officers that the membership of the Review Board had been manipulated by a local authority in order to be pro-claimant (Loveland, 1987b).

Resolving disputes at the internal review stage, however, did not always entail ‘buying off’ claimants. In authorities where councillors displayed an indifferent attitude to housing benefit and its administration, other means were sometimes employed by officers to deal with reviews. Not all of those were cynical attempts to prevent Review Board hearings; often the opportunity to explain to a claimant why he or she had not received housing benefit was sufficient to leave all parties convinced that the correct decision had been made. However, the absence in the Regulations of a time limit for internal review allowed other officers to ‘cool out’ a review by an aggrieved claimant. In one authority studied by Loveland the indifference of the council was so marked that housing benefit officers had no fear of rebuke if Review Boards overturned their decisions; no one was interested enough to comment. Here the imperative to avoid reviews was absent; indeed the housing benefit department encouraged, in its publicity, claimants to seek further information regarding their claims even if this resulted in a formal request for a review.

Loveland’s research identified numerous ways in which the handling of initial claims for housing benefit and internal reviews could be influenced by external factors. However, it should not be concluded from the brief account above that most housing benefit officers are so much in awe of their councils that they invariably yield to claimants’ demands rather than run the risk of criticism from a Review Board. Clews’ (1988) survey results suggested the opposite, that internal reviews lead to a decision being changed in the claimant’s favour only in a minority of cases. (Eighty-nine per cent of the local authorities who answered the question judged that reviewed decisions favoured the authority more often than the claimant.) Part of Loveland’s analysis did receive some support, however, in that 37 per cent of local authorities treated internal reviews as an opportunity to accommodate claimants’ views sufficiently to avoid ‘troubling councillors with a Review Board hearing’ (Clews, 1988, p.58).

Some officers did not want to appear to be acting against council policy of allowing claimants maximum awards of housing benefit (Loveland, 1988a). In addition, some housing benefit departments did not wish to adopt procedures which could be construed as ‘snooping’ (Loveland, 1988b) since the council were perceived to be opposed to this type of practice.
Appendix F

Sampling strategy and achieved sample for the telephone survey

Sampling methods

A telephone survey of local authorities was conducted in November and December 1988. The aim was to collect sufficient information on the operation of the review system to be able to select six suitable authorities for later fieldwork. The survey was necessary because of the inadequacies of the data supplied by the local authorities to the DSS.

This project took advantage of the sampling frame adopted by Walker et al in their study of housing benefit reforms in the mid-1980s (Housing Benefit: Discussion about Reforms, 1987). Their study constructed a representative sample of authorities in England, Scotland and Wales based on four levels of stratification. First, authorities were stratified according to metropolitan status: London boroughs, metropolitan authorities, non-metropolitan authorities, and Scottish districts. In the secondary stratification, designed to ensure geographic dispersion, metropolitan and non-metropolitan authorities were divided into economic planning regions, and Scottish districts by administrative region. The third level of stratification was based on levels of rent arrears and numbers of rent allowances using CIPFA data for England and Wales (data for Scotland was not available). Finally, the non-metropolitan authorities were stratified according to population size. The target sample derived from the stratification is presented in Table F1 below.

Table F1: Target sample used for telephone survey

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<td><strong>35</strong></td>
<td><strong>11</strong></td>
<td><strong>70</strong></td>
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Includes Scottish Regional Councils and Islands Councils

Successful interviews were carried out with 54 authorities. Table F2 below presents the achieved sample.

Table F2: Achieved sample in telephone survey.

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<td><strong>TOTAL</strong></td>
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<td><strong>10</strong></td>
<td><strong>31</strong></td>
<td><strong>5</strong></td>
<td><strong>54</strong></td>
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Includes Scottish Regional Councils and Islands Councils

99
Successful interviews were conducted with 54 of their representative sample of 70 authorities.

The telephone survey gathered basic data on the reported number of requests made for an internal administrative review and for Review Board hearings and their outcomes. In order to put these data into context information was also sought on the size of the authorities' housing benefit workloads. Other questions sought information on the administrative arrangements in each authority for the processing of claims and review requests.
Fieldwork methods and samples

The telephone survey was conducted primarily to provide data to allow the selection of suitable authorities in which to carry out fieldwork. The intention was to choose six authorities which displayed diversity in the number of internal reviews and Review Boards held, in the size of the housing benefit workload, and in their geographical location.

However, there were some problems with the quality of the data supplied. There were discrepancies between 'live caseload' figures supplied by the local authorities themselves and the DSS year-end statistics, and a lack of consistency between authorities in the definition of what constituted an internal review. It was decided to use the DSS figure as an indicator of the workload of each authority and not the 'live load' figure, on the basis that some authorities were only able to provide estimates of the latter. The achieved sample of 54 authorities was therefore stratified first into authorities with a 'large' workload (ie those with more than 20,000 awards in payment) and those with a 'small' workload (of fewer than 20,000). The lack of reliable data on the number of internal reviews held precluded the use of this figure as an indicator of appeals activity. As a substitute the number of Review Boards held was used for the purposes of a secondary stratification, those with no Review Board experience forming one group and those who had held at least one hearing forming a second group. Table G1 below presents the results of the primary and secondary stratification of the sample.

Table G1: Achieved sample of 54 local authorities-
Primary and secondary stratification
(Number of authorities)

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<th>Experience of Review Boards</th>
<th>Large</th>
<th>Small</th>
<th>Total</th>
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<tr>
<td>Some</td>
<td>15</td>
<td>17</td>
<td>32</td>
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<tr>
<td></td>
<td>(26%)</td>
<td>(31%)</td>
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<tr>
<td>None</td>
<td>9</td>
<td>13</td>
<td>22</td>
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<tr>
<td></td>
<td>(17%)</td>
<td>(23%)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>24</td>
<td>30</td>
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To maintain the sampling fractions two authorities each were selected from the 'some Review Board experience' categories and one each from the 'no Review Board experience' categories. The final choice of six fieldwork authorities was therefore based on their Review Board experience, their current housing benefit workload, and their geographical location. They were also selected to include an equal number under Labour and Conservative political control. The authorities were:

Authority A-a North West non-metropolitan district
Authority B-a Midlands metropolitan district
Authority C-a Northern non-metropolitan district
Authority D-a Northern metropolitan district
Authority E-a South East non-metropolitan district
Authority F-a London Borough

Each authority was approached requesting them to participate in the fieldwork phase of the study; all six agreed. Fieldwork visits were made between April and September 1989 and lasted four weeks in each location. The following data were collected in each authority:

- interview transcripts (claimants, officers, councillors, and advice agency workers);
- notes and background data (for example, age, housing tenure, household type) from the case papers of each claimant interviewed;
- observation notes of the work of housing benefit departments;
- observation notes from 31 Review Board cases (and the relevant case papers);
- miscellaneous local authority documents (for example, policy documents, statistics, management reports, and committee minutes).

Below we describe first how the claimant samples were constructed and the characteristics of the achieved sample. Secondly we describe the characteristics of the claimants whose cases were heard by the Review Boards observed.

Claimant samples interviewed in the fieldwork authorities

Claimant samples for interview were drawn where possible from the internal review records of the participating authorities. Claimants were contacted in writing by the authority using a standard letter outlining the research and inviting them to participate. Because of the small numbers of cases recorded as reviews in most of the authorities, it was decided that claimants would be asked to opt out of being contacted further by returning an enclosed slip. Four of the authorities agreed to this strategy, but the other two insisted, on confidentiality grounds, that the claimants must opt in before being contacted by the researcher.
A further difficulty was that the authorities' records
covered different time periods, so that in one, for
example, the record covered only those held in the
previous two months, whereas for another it included all
those held since April 1988. This meant that in order to
achieve sufficient responses in each authority, samples
had to be drawn from reviews over periods of time that
were not exactly equivalent between authorities.

A final problem was that two of the authorities held no
records at all of internal reviews. In these authorities
samples were drawn by the researchers conducting a
random sift through case papers held in the housing
benefit departments. A number of cases equivalent to the
samples drawn in other authorities were selected where
the claimant had written to the department querying or
disputing their benefit award.

These sampling difficulties obviously required the
researchers to look at the achieved responses with some
care. However, the subsequent study of the authorities'
methods of carrying out and recording reviews made it
clear that a true population of claimants whose cases
have been internally reviewed would be virtually
impossible to define. Nothing in the claimant interviews
emerged to suggest that the method of sampling
introduced any systematic biases which would invalidate
the findings on claimants' views and experiences of the
review system.

The characteristics of the claimants interviewed

The total number of claimants interviewed was 88, of
whom 46 were men and 42 women. In a few cases
couples were interviewed together and the gender
recorded is that of the main respondent. Slightly under a
quarter (19) of those interviewed had been to a Review
Board and the rest (69) had decided not to take their
problem further than the internal review stage (Fig. G).
These proportions were similar for men and women,
with 10 men and 9 women going to Review Boards.

Age

There was a wide spread of ages, but the largest
concentration was of elderly people, with those over
retirement age and under 80 making up one third (29)
and a further 7 over 80 years. Eight of the 19 Review
Board appellants were over retirement age.

Household Type

There were respondents from all the main household
types, with single pensioners and pensioner couples
making up just over 40 per cent of the sample. Table
G2 shows the distribution of household types, broken
down by gender and the stage of review the claimant
had reached.

Tenure

Nearly 60 per cent (52) of the claimants interviewed
were local authority tenants, with the rest almost equally
divided between private or housing association tenants
and owner occupiers. However, the tenure distribution
varied between authorities (Table G3).
Table G3: Claimant tenure, by authority

<table>
<thead>
<tr>
<th>Authority</th>
<th>Council</th>
<th>Private and Housing Ass.</th>
<th>Owner Dec.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>13</td>
<td>2</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>B</td>
<td>6</td>
<td>4</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>C</td>
<td>9</td>
<td>2</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>D</td>
<td>7</td>
<td>7</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>E</td>
<td>9</td>
<td>1</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>F</td>
<td>8</td>
<td>3</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>52</strong></td>
<td><strong>19</strong></td>
<td><strong>17</strong></td>
<td><strong>88</strong></td>
</tr>
</tbody>
</table>

**Income sources**

All but seven of the claimants interviewed received some form of state pension or welfare benefit, apart from housing benefit. Twenty-four were receiving income support and 36 retirement pensions. Nine were receiving family credit and 16 some form of sickness or disability benefit.

**Characteristics of the claimants at observed Review Boards**

Since two authorities were selected on the basis that they had not held a Review Board since April 1988, hearings could only be observed in four of the fieldwork authorities visited. The intention was to observe as many Review Boards as possible. Most were observed during the visits but one sitting of the Board in authority D was attended later.

Of the 31 appellants 19 were men and 12 were women. There was a wide spread of ages among the appellants but again the largest group were those between retirement age and 80; one appellant was over 80. Eighteen were council tenants, four owner occupiers and nine private tenants.
Appendix H

Workshops for local authority housing benefit officers

Invitations to the workshops were sent to the same representative sample of 70 authorities used for the telephone survey (see Appendix F). For any authority which declined the invitation, we approached an authority equivalent in terms of its location, workload and tenure pattern as a replacement. Sixty-two authorities agreed to attend but eight authorities withdrew at short notice and could not be replaced. The final attendance was 54. Table H1 below presents their metropolitan status and geographical location.

Workshops were held in London, Bristol and York, each taking place over two days. The first day was devoted to gathering information on and discussing the operation of internal reviews and Review Boards in the participant authorities. The second day was devoted to identifying the strengths and weaknesses of the current arrangements, and to considering a range of policy options for the future generated partly by the researchers and partly by the participating officers.

The main technique employed over the two days was small group discussions involving between five and seven housing benefit officers. The discussions were tape-recorded. Two questionnaires were completed during the workshops. The first was based on the postal questionnaire previously sent to Review Board panel members and explored officers’ attitudes towards the review system (see below). The second required officers to scale the desirability and feasibility of a range of policy options for the future (see Appendix K).

Table H1: Local authorities attending workshops

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Scotland</td>
<td></td>
<td></td>
<td></td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>North</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yorkshire and Humberside</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>North West</td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>East Midlands</td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>West Midlands</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>East Anglia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>South East</td>
<td></td>
<td></td>
<td></td>
<td>9</td>
<td>16</td>
</tr>
<tr>
<td>South West Wales</td>
<td></td>
<td></td>
<td></td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>10</td>
<td>27</td>
<td>8</td>
<td>54</td>
</tr>
</tbody>
</table>

includes Scottish Regional Councils and Islands Councils.
Please circle one number for each of the statements below, showing whether you agree or disagree with the propositions.

| Q1. In making decisions, Review Boards in my authority take into account the following: | Neither Agree nor Disagree  |
|---|---|---|---|---|
| - local authority policies | 1 | 2 | 3 | 3 |
| the character of the appellant | 1 | 2 | 3 | 4 |
| - the housing benefit regulations | 1 | 2 | 3 | 5 |
| the financial cost to the authority | 1 | 2 | 3 | 6 |
| - whether the appellant is a deserving case | 1 | 2 | 3 | 7 |
| the political views of Board members | 1 | 2 | 3 | 8 |

Q2. The advice of the Review Board's legal adviser is an important influence on decision making

1 | 2 | 3 | 9 |

Q3. It is not necessary for appellants to attend Review Board hearings for the Board to make decisions

1 | 2 | 3 | 10 |

Q4. In making decisions, the Review Board acts independently of the council

1 | 2 | 3 | 11 |

Q5. The Review Board does not always bring to light all the facts of a case

1 | 2 | 3 | 12 |

Q6. I often disagree with the final decisions made by the Review Board

1 | 2 | 3 | 13 |
<table>
<thead>
<tr>
<th>Question</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q7. Appellants have a better chance of <em>winning</em> their appeal if they are professionally represented</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>14</td>
</tr>
<tr>
<td>Q8. If the Review Board acts impartially it does not matter whether or not claimants see it as independent of the council</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Q9. Appellants are more likely to win their appeal if they attend their hearing in person</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>Q10. Review Board members would benefit from more training in:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- the housing benefit regulations</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>- tribunal procedures</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>18</td>
</tr>
<tr>
<td>Q11. Review Boards are a useful way of clarifying how officers should interpret parts of the Regulations</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>19</td>
</tr>
<tr>
<td>Q12. Review Boards have very little impact on the day to day administration of housing benefit</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>20</td>
</tr>
<tr>
<td>Q13. Comments by the Review Board have sometimes led to improvements in administrative practice.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>21</td>
</tr>
<tr>
<td>Q14. Review Board decisions are likely to influence the way we treat other similar cases</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>22</td>
</tr>
</tbody>
</table>
Appendix I

Postal survey of Review Board members

The main purpose of the postal survey, conducted in April and May of 1990, was to gather data on Review Board members’ experience of and attitudes towards Review Boards. Our intention was to send questionnaires to councillors from the same authorities which were to be invited to the workshops. We therefore used the same representative sample of authorities that was used for the telephone survey (see Appendix F). As each authority accepted the workshop invitation, questionnaires were sent to all the councillors on its Review Board panel. For any authority which declined the invitation, we approached an authority equivalent in terms of its location, workload and tenure pattern as a replacement. However, having accepted the invitation, some authorities withdrew from the workshops at short notice and could not be replaced, although questionnaires had already been sent to their Review Board panels.

Two questionnaires were designed (see below), one for those councillors who had actually heard a housing benefit review case, and the other for those who had not yet sat on a Review Board. Each questionnaire was in three sections. Section A requested details of Review Board experience and training; section B asked for personal biographical information (for example, age, sex, and employment status) and details of membership of other tribunals; section C comprised a number of questions on councillors’ attitudes towards the operation of Review Boards in their authority.

404 questionnaires were sent out to councillors from 60 authorities and 184, from 55 authorities, were returned; a response rate of 46 per cent. Table II below gives the number of authorities and councillors replying from each geographical area.

Table II: Review Board member survey: Number of authorities and number of councillors replying

<table>
<thead>
<tr>
<th>Economic Planning Region</th>
<th>London Boroughs Authorities (Cllrs)</th>
<th>Metropolitan Authorities (Cllrs)</th>
<th>Non-metropolitan Authorities (Cllrs)</th>
<th>Scotland Authorities (Cllrs)</th>
<th>Total Authorities (Cllrs)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scotland</td>
<td></td>
<td></td>
<td></td>
<td>8 (22)</td>
<td>8 (22)</td>
</tr>
<tr>
<td>North</td>
<td>2 (8)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yorkshire &amp; Humberside</td>
<td>4 (15)</td>
<td>7 (28)</td>
<td></td>
<td>16 (65)</td>
<td></td>
</tr>
<tr>
<td>North West</td>
<td>3 (14)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Midlands</td>
<td>2 (9)</td>
<td>8 (21)</td>
<td></td>
<td>10 (30)</td>
<td></td>
</tr>
<tr>
<td>West Midlands</td>
<td>8 (32)</td>
<td>7 (22)</td>
<td></td>
<td>15 (54)</td>
<td></td>
</tr>
<tr>
<td>East Anglia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South East</td>
<td>8 (32)</td>
<td>7 (22)</td>
<td></td>
<td>15 (54)</td>
<td></td>
</tr>
<tr>
<td>South West</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wales</td>
<td>6 (13)</td>
<td>6 (13)</td>
<td></td>
<td>12 (26)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>8 (32)</td>
<td>11 (46)</td>
<td>22 (84)</td>
<td>8 (22)</td>
<td>55 (184)</td>
</tr>
</tbody>
</table>

includes Scottish Regional Councils and Islands Councils
Of the completed questionnaires, 124 were received from councillors with some Review Board experience and 60 from councillors with no Review Board experience. The personal characteristics of the respondents is presented in Table I2 below.

### Table I2: Characteristics of respondents to Review Board member survey

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>47</td>
<td>(26)</td>
</tr>
<tr>
<td>Male</td>
<td>137</td>
<td>(74)</td>
</tr>
<tr>
<td>Age:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 26</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>26-45</td>
<td>55</td>
<td>(30)</td>
</tr>
<tr>
<td>46-65</td>
<td>86</td>
<td>(47)</td>
</tr>
<tr>
<td>Over 65</td>
<td>43</td>
<td>(23)</td>
</tr>
<tr>
<td>Employment status:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employed</td>
<td>70</td>
<td>(38)</td>
</tr>
<tr>
<td>Unemployed</td>
<td>14</td>
<td>(8)</td>
</tr>
<tr>
<td>Self-employed</td>
<td>25</td>
<td>(14)</td>
</tr>
<tr>
<td>Keeping house</td>
<td>14</td>
<td>(8)</td>
</tr>
<tr>
<td>Retired</td>
<td>60</td>
<td>(33)</td>
</tr>
<tr>
<td>Ethnic group:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>176</td>
<td>(96)</td>
</tr>
<tr>
<td>Black-Caribbean</td>
<td>2</td>
<td>(1)</td>
</tr>
<tr>
<td>Indian</td>
<td>2</td>
<td>(1)</td>
</tr>
<tr>
<td>Not known</td>
<td>4</td>
<td>(2)</td>
</tr>
<tr>
<td>Political affiliation:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conservative</td>
<td>67</td>
<td>(37)</td>
</tr>
<tr>
<td>Labour</td>
<td>87</td>
<td>(47)</td>
</tr>
<tr>
<td>Liberal Democrat</td>
<td>17</td>
<td>(9)</td>
</tr>
<tr>
<td>SNP</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Independent</td>
<td>11</td>
<td>(6)</td>
</tr>
</tbody>
</table>
This questionnaire is only for those members who have attended at least one hearing of their Review Board. Members of Review Board panels who have never attended a hearing should fill in the other (pink) questionnaire. Please try to answer all the questions.

SECTION A: REVIEW BOARD EXPERIENCE

Q1. When did you become a member of your authority's Review Board panel?

Please write in the year 19

Q2. How many separate housing benefit appeal cases have you heard at a Review Board?

(Please estimate if you cannot give an exact number)

Q3. Have you received any formal training as a Review Board member?

RING ONE NUMBER
yes 1 go to Q4
no 2 go to Q5

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109
Q4. Please specify what formal training you have received

<table>
<thead>
<tr>
<th>Year</th>
<th>19</th>
<th>12-13</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>15-16</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>18-19</td>
<td></td>
</tr>
</tbody>
</table>

Q5. Do you act as the Chair of the Review Board?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>20</td>
</tr>
<tr>
<td>Occasionally</td>
<td>2</td>
</tr>
<tr>
<td>Regularly</td>
<td>3</td>
</tr>
<tr>
<td>Always</td>
<td>4</td>
</tr>
</tbody>
</table>

Q6. In your experience, what kinds of cases does the Review Board find most difficult?

Q7. In your authority, who writes the letters to appellants, setting out the Review Board's findings and decisions?

<table>
<thead>
<tr>
<th>Role</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Chair</td>
<td>2</td>
</tr>
<tr>
<td>The legal officer</td>
<td>2</td>
</tr>
<tr>
<td>The Review Board clerk</td>
<td>3</td>
</tr>
<tr>
<td>A housing benefit officer</td>
<td>4</td>
</tr>
</tbody>
</table>
Q8. Who checks these letters before they are sent out to appellants?

<table>
<thead>
<tr>
<th>Option</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only the Chair</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>All Review Board members</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>None of the members</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Don't know</td>
<td>4</td>
<td>4</td>
</tr>
</tbody>
</table>

SECTION B: PERSONAL INFORMATION

Q9. Which of your local authority committees are you currently a member of?

<table>
<thead>
<tr>
<th>Committee</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Housing Committee</td>
<td>2</td>
<td>28</td>
</tr>
<tr>
<td>The Finance Committee</td>
<td>2</td>
<td>29</td>
</tr>
<tr>
<td>Others (please specify)</td>
<td></td>
<td>30</td>
</tr>
</tbody>
</table>

Q10. Are you a member of any of the following tribunals or similar panels?

<table>
<thead>
<tr>
<th>Tribunal</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security Appeal Tribunal</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Medical Appeal Tribunal</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Industrial Tribunal</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Education Appeals Committee</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

OFFICE USE ONLY

RING ONE NUMBER ONLY

RING ALL NUMBERS THAT APPLY
Q11. Are you qualified as:

<table>
<thead>
<tr>
<th></th>
<th>yes</th>
<th>no</th>
</tr>
</thead>
<tbody>
<tr>
<td>A solicitor</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>A barrister or advocate</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Q12. Which political party do you belong to?

<table>
<thead>
<tr>
<th>Party</th>
<th>RING ONE NUMBER ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservative</td>
<td></td>
</tr>
<tr>
<td>Labour</td>
<td>2</td>
</tr>
<tr>
<td>Liberal Democrat</td>
<td>3</td>
</tr>
<tr>
<td>SDP</td>
<td>4</td>
</tr>
<tr>
<td>Scottish National Party</td>
<td>5</td>
</tr>
<tr>
<td>Plaid Cymru</td>
<td>6</td>
</tr>
<tr>
<td>None I'm an Independent</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>8</td>
</tr>
<tr>
<td>(please specify)</td>
<td></td>
</tr>
</tbody>
</table>

Q13. Are you:

<table>
<thead>
<tr>
<th>Gender</th>
<th>RING ONE NUMBER ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>1</td>
</tr>
<tr>
<td>Male</td>
<td>2</td>
</tr>
</tbody>
</table>

Q14. How old are you?

<table>
<thead>
<tr>
<th>Age Group</th>
<th>RING ONE NUMBER ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 26</td>
<td></td>
</tr>
<tr>
<td>26-45</td>
<td>2</td>
</tr>
<tr>
<td>46-65</td>
<td>3</td>
</tr>
<tr>
<td>Over 65</td>
<td>4</td>
</tr>
</tbody>
</table>
Q15. Are you:

<table>
<thead>
<tr>
<th>Employment</th>
<th>Ring One Number Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employed</td>
<td>1</td>
</tr>
<tr>
<td>Unemployed</td>
<td>2</td>
</tr>
<tr>
<td>Self-employed</td>
<td>3</td>
</tr>
<tr>
<td>Keeping house</td>
<td></td>
</tr>
<tr>
<td>Retired</td>
<td>5</td>
</tr>
</tbody>
</table>

Q16. What is your present or most recent occupation?

Q17. To which of the following ethnic groups do you consider yourself to belong?

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Ring One Number Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>1</td>
</tr>
<tr>
<td>Black - Caribbean</td>
<td>2</td>
</tr>
<tr>
<td>Black - African</td>
<td>3</td>
</tr>
<tr>
<td>Black - Other</td>
<td>4</td>
</tr>
<tr>
<td>(please describe)</td>
<td></td>
</tr>
<tr>
<td>Indian</td>
<td>5</td>
</tr>
<tr>
<td>Pakistani</td>
<td>6</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>7</td>
</tr>
<tr>
<td>Chinese</td>
<td>8</td>
</tr>
<tr>
<td>Any other ethnic group</td>
<td>9</td>
</tr>
<tr>
<td>(please describe)</td>
<td></td>
</tr>
</tbody>
</table>
SECTION C: YOUR OWN VIEWS AND EXPERIENCES

The purpose of this section is to gather information on your own views and experiences on a range of issues connected with Review Boards. Please put a ring around one number for each of the statements below, showing whether you agree or disagree with the propositions. There are no right or wrong answers. Please make sure you respond to every statement even if you do not feel strongly about some of them.

We are asking for your own views and experiences of what happens in your authority, rather than what you think may happen in other places.

RIN G WHICHEVER APPLIES

Q18. In making decisions, Review Boards in this authority take into account the following:

- local authority policies
- the character of the appellant
- the housing benefit regulations
- the financial cost to the authority
- the deservingness of the appellant
- the political views of board members

Q19. The advice of the Review Board's legal adviser is an important influence on decision making in this authority

Q20. It is not necessary, in this authority, for appellants to attend Review Boards hearings for the Board to make decisions

Q21. In making decisions, the Review Board in this authority acts independently of the council
<table>
<thead>
<tr>
<th>Question</th>
<th>Agree</th>
<th>Neither</th>
<th>Disagree</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q22. The Review Board in this authority does not always bring to light all the facts of a case</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>57</td>
</tr>
<tr>
<td>Q23. I often disagree with the final decisions made by the Review Board</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>58</td>
</tr>
<tr>
<td>Q24. In this authority appellants have a better chance of winning their appeal if they are professionally represented</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>59</td>
</tr>
<tr>
<td>Q25. If the Review Board acts impartially it does not matter whether or not claimants see it as independent of the council</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>60</td>
</tr>
<tr>
<td>Q26. In this authority appellants are more likely to win their appeal if they attend the hearing in person</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>61</td>
</tr>
<tr>
<td>Q27. As a Review Board member I would benefit from more training in:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- the housing benefit regulations</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>62</td>
</tr>
<tr>
<td>- tribunal procedures</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>63</td>
</tr>
<tr>
<td>Q30. All Chairs of Review Boards should be legally qualified</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>64</td>
</tr>
<tr>
<td>Q31. Housing benefit appeals should be heard by another body completely separate from the local authority</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>65</td>
</tr>
</tbody>
</table>
Q30. a) In your experience, what are the advantages, if any, of having local councillors as the Board dealing with housing benefit appeals?

b) What are the disadvantages?

Q31. If you have any other comments you would like to make on Review Boards, please add them briefly in the space below.

THANK YOU VERY MUCH FOR YOUR HELP. PLEASE RETURN THIS QUESTIONNAIRE IN THE PREPAID ENVELOPE BY TO:

SOCIAL POLICY RESEARCH UNIT
UNIVERSITY OF YORK
YORK
YO1 5DD

If you have any queries please ring Tony Eardley or Roy Sainsbury on York (0904) 433608
This questionnaire is only for those members who have never attended a hearing of a Review Board (perhaps because none have been held in your authority). Members of Review Board panels who have attended at least one hearing should fill in the other (green) questionnaire. Please try to answer all the questions.

SECTION A: REVIEW BOARD EXPERIENCE

Q1. When did you become a member of your authority’s Review Board panel?

Please write in the year 9

5-6

Q2. Have you received any formal training as a Review Board member?

RING yes 1 go to Q3
ONE NUMBER ONLY no 2 go to Q4

FOR OFFICE USE ONLY

7-9 blank

10
Q3. Please specify what formal training you have received

<table>
<thead>
<tr>
<th>1.</th>
<th>11</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>14</td>
</tr>
<tr>
<td>3.</td>
<td>17</td>
</tr>
</tbody>
</table>

SECTION B: PERSONAL INFORMATION

Q4. Which of your local authority committees are you currently a member of?

<table>
<thead>
<tr>
<th>yes</th>
<th>no</th>
<th>RING ALL NUMBERS THAT APPLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Housing Committee</td>
<td>2</td>
<td>26</td>
</tr>
<tr>
<td>The Finance Committee</td>
<td>2</td>
<td>27</td>
</tr>
</tbody>
</table>

Others (please specify)

|  | 28 |
|  | 29 |
|  | 30 |
|  | 31 |
Q5. Are you a member of any of the following tribunals or similar panels?

<table>
<thead>
<tr>
<th>Tribunal</th>
<th>Yes</th>
<th>No</th>
<th>Ring All Numbers That Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security Appeal Tribunal</td>
<td>2</td>
<td></td>
<td>32</td>
</tr>
<tr>
<td>Medical Appeal Tribunal</td>
<td>2</td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>Industrial Tribunal</td>
<td>2</td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>Education Appeals Committee</td>
<td>1</td>
<td>2</td>
<td>35</td>
</tr>
</tbody>
</table>

Other (please specify)

Q6. Are you qualified as:

<table>
<thead>
<tr>
<th>Qualification</th>
<th>Yes</th>
<th>No</th>
<th>Ring All Numbers That Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>A solicitor</td>
<td>2</td>
<td></td>
<td>38</td>
</tr>
<tr>
<td>A barrister or advocate</td>
<td>2</td>
<td></td>
<td>39</td>
</tr>
</tbody>
</table>

Q7. Which political party do you belong to?

<table>
<thead>
<tr>
<th>Party</th>
<th>Ring One Number Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservative</td>
<td></td>
</tr>
<tr>
<td>Labour</td>
<td></td>
</tr>
<tr>
<td>Liberal Democrat</td>
<td>3</td>
</tr>
<tr>
<td>SDP</td>
<td>4</td>
</tr>
<tr>
<td>Scottish National Party</td>
<td>5</td>
</tr>
<tr>
<td>Plaid Cymru</td>
<td>6</td>
</tr>
<tr>
<td>None I'm an Independent</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>8</td>
</tr>
</tbody>
</table>

(please specify)

Q8. Are you:

<table>
<thead>
<tr>
<th>Gender</th>
<th>Ring One Number Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>2</td>
</tr>
</tbody>
</table>
Q9. How old are you?

<table>
<thead>
<tr>
<th>Age Range</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 26</td>
<td>2</td>
</tr>
<tr>
<td>26-45</td>
<td>43</td>
</tr>
<tr>
<td>46-65</td>
<td>44</td>
</tr>
<tr>
<td>Over 65</td>
<td>45</td>
</tr>
</tbody>
</table>

Q10. Are you:

<table>
<thead>
<tr>
<th>Employment Status</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employed</td>
<td>43</td>
</tr>
<tr>
<td>Unemployed</td>
<td>44</td>
</tr>
<tr>
<td>Self-employed</td>
<td>45</td>
</tr>
<tr>
<td>Keeping house</td>
<td>46</td>
</tr>
<tr>
<td>Retired</td>
<td>47</td>
</tr>
</tbody>
</table>

Q11. What is your present or most recent occupation?

Q12. To which of the following ethnic groups do you consider yourself to belong?

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>47</td>
</tr>
<tr>
<td>Black - Caribbean</td>
<td>48</td>
</tr>
<tr>
<td>Black - African</td>
<td>49</td>
</tr>
<tr>
<td>Black - Other (please describe)</td>
<td>50</td>
</tr>
<tr>
<td>Indian</td>
<td>51</td>
</tr>
<tr>
<td>Pakistani</td>
<td>52</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>53</td>
</tr>
<tr>
<td>Chinese</td>
<td>54</td>
</tr>
<tr>
<td>Any other ethnic group (please describe)</td>
<td>55</td>
</tr>
</tbody>
</table>
SECTION C: YOUR OWN VIEWS AND EXPERIENCES

The purpose of this section is to gather information on your own views and experiences on a range of issues connected with Review Boards. Please put a ring around one number for each of the statements below, showing whether you agree or disagree with the propositions. There are no right or wrong answers. Please make sure you respond to every statement even if you do not feel strongly about some of them.

Because you have not yet attended a review board hearing, some of your views will inevitably be a matter of speculation, but we would still like to know what your expectations are of the housing benefit appeal system.

Q13. I would think that in making decisions, Review Boards would take into account the following:

<table>
<thead>
<tr>
<th>Statement</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>local authority policies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the character of the appellant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the housing benefit regulations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>how much decisions would cost the authority</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>whether the appellant is a deserving case</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the political views of board members</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Q14. The advice of the Review Board’s legal adviser is likely to be an important influence on decision making in this authority

Q15. It is not necessary, in this authority, for appellants to attend Review Boards hearings for the Board to make decisions

<table>
<thead>
<tr>
<th>Statement</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

121
<table>
<thead>
<tr>
<th>Q16. In making decisions, the Review Board in this authority would act independently of the council</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>56</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q17. In this authority appellants would have a better chance of winning their appeal if they are professionally represented</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>59</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q18. If the Review Board acts impartially it would not matter whether or not claimants see it as independent of the council</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>60</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q19. In this authority appellants would be more likely to win their appeal if they attended the hearing in person</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>61</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q20. As a Review Board member I would benefit from more training in:</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>- the housing benefit regulations</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>- tribunal procedures</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q23. All Chairs of Review Boards should be legally qualified</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>64</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Q24. Housing benefit appeals should be heard by another body completely separate from the local authority</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>3</td>
<td>65</td>
<td></td>
</tr>
</tbody>
</table>
Q23. a) In your experience, what are the advantages, if any, of having local councillors as the Board dealing with housing benefit appeals?

b) What are the disadvantages?

Q24. If you have any other comments you would like to make on Review Boards, please add them briefly in the space below.

Would you like to receive a summary of the results of this research when it is completed? If yes, please tick [ ]

THANK YOU VERY MUCH FOR YOUR HELP. PLEASE RETURN THIS QUESTIONNAIRE IN THE PREPAID ENVELOPE BY 14 MAY 1990, TO:

SOCIAL POLICY RESEARCH UNIT
UNIVERSITY OF YORK
YORK
Y01 5DD

If you have any queries please ring Tony Eardley or Roy Sainsbury on York (0904) 433608
The local authorities invited to participate in the workshops were also sent an advance questionnaire requesting two types of information on Review Board activity. First, information was sought on the number of Review Boards held and the number of decisions in the claimant's favour for each year since the inception of the review system in 1982. Second, authorities were asked to complete a pro forma (see below) for the ten most recent Review Board cases heard in the two years since April 1988. Data were collected on 250 Review Board cases. Sixteen authorities had held at least ten Review Boards since April 1988 and hence completed all ten pro formas. Twenty-five authorities sent at least one pro forma each. Thirteen authorities had not held a Review Board in the last two years.
Please complete the following questions for each of the last ten Review Board cases heard since 4 April 1988 (see explanatory notes).

Q3. Date Review Board requested (see note)

Q4. Date Review Board held

Q5. What was the appeal about?

| Backdating | 1 |
| Overpayment recovery | 2 |
| Exceptional circumstances | 3 |
| Assessment of income | 4 |
| Assessment of capital | 5 |
| Restricted rent | 6 |
| Contrived tenancy | 7 |
| Non-dependant deduction | 8 |
| Student deduction | 9 |
| Other (please write in) |  |  |

Q6. Tenure of appellant

<table>
<thead>
<tr>
<th>CT</th>
<th>PT</th>
<th>00</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>00</td>
</tr>
</tbody>
</table>

Q7. Appellant receiving Income Support? Yes 1 No 2

Q8. Who attended the hearing?

<table>
<thead>
<tr>
<th>The appellant</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

Q9. What was the outcome of the appeal?

| Determination upheld | 1 |
| Determination revised in favour of appellant | 2 |
| Hearing adjourned | 3 |

Q10. If hearing adjourned, who attended second hearing?

<table>
<thead>
<tr>
<th>The appellant</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A friend or relative of the appellant</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>A professional representative</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

Q11. What was the outcome of the second hearing?

| Determination upheld | 1 |
| Determination revised in favour of appellant | 2 |

Q12. Date of second hearing
Appendix K

Workshop exercise on options for changes
to the Housing Benefit Review System

At the end of the workshops with benefit officers from a representative sample of 54 local authorities, the participants were asked to evaluate a series of policy options and ideas for changes to the housing benefit review system. They were first asked to evaluate a set of six 'strategic' options, by ranking them in order of preference and scoring them for desirability and feasibility on a scale of +2 to -2.

Officers were also asked to evaluate for desirability and feasibility a number of other 'operational' ideas—changes which could take place within the existing structure, or which might be desirable whichever overall structure is favoured.

The options included a list prepared in advance by the researchers, derived initially from the findings of the fieldwork investigations and modified and enlarged in consultation with the Department. Further options were added to this list as new ideas arose from the group discussions held in the three separate workshops. This meant that some ideas generated by the later workshops could not be evaluated by all the participating officers. It was also a selective process. As some ideas put forward by individual officers in the first two workshops received either negligible support or such overwhelming agreement as to make it unnecessary to explore them further, certain options were dropped from subsequent workshops.

As an explanation of the desirability/feasibility scale, officers were given the following document:

**Rating Scale for DESIRABILITY**

+2 VERY DESIRABLE
- Will have a major positive effect and little or no negative effect
- Benefits will far outweigh costs
- Justifiable on its own merits

+1 DESIRABLE
- Will have a positive effect with minimum negative effect
- Benefits greater than costs
- Justifiable in conjunction with other changes

0 NEUTRAL/NO OPINION
- Neither desirable nor undesirable
- Don’t know

-1 UNDESIRABLE
- Will have a negative effect with minimum positive effect
- Costs greater than benefits
- May only be justifiable in conjunction with another, highly desirable, change

-2 VERY UNDESIRABLE
- Will have a major negative effect
- Costs far outweigh any benefits
- Not justifiable

**Rating Scale for FEASIBILITY**

+2 DEFINITELY FEASIBLE
- Can be implemented; no administrative difficulties
- Necessary resources (staff; finances) are presently available
- No major political obstacles; acceptable to the general public

+1 POSSIBLY FEASIBLE
- Some indication that this could be implemented; some minor administrative difficulties
- Currently available resources would have to be supplemented
- Some minor political obstacles and/or further consideration may need to be given to public reaction

0 NEUTRAL/NO OPINION
- Feasibility unknown

-1 POSSIBLY NOT FEASIBLE
- Some indication that this cannot be implemented; some major administrative difficulties
- Large scale increase in resources would be needed
- Major political obstacles and/or unacceptable to a large proportion of the general public

-2 DEFINITELY NOT FEASIBLE
- Cannot be implemented; administrative difficulties too great
- Unprecedented allocation of resources would be needed
- Politically unacceptable and/or unacceptable to the general public
The highest number of officers' first preferences went to Option A-to retain the status quo. However, adding first and second preferences together indicated a high level of overall support for a two-stage appeal with an independent tribunal (Option C). None of the options involving a one-stage appeal met with more than minority support. Table K1 presents the officers' rankings of strategic options and Table K2 the aggregate scores for desirability and feasibility.

### Table K1. Strategic Options: ranking of preferences

| Option                                 | Preferences
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1st</td>
</tr>
<tr>
<td>A. Two stage appeal/Review Board</td>
<td>19</td>
</tr>
<tr>
<td>B. One stage appeal/Review Board</td>
<td>3</td>
</tr>
<tr>
<td>C. Two stage appeal/Independent Tribunal</td>
<td>18</td>
</tr>
<tr>
<td>D. One stage appeal/Independent Tribunal</td>
<td>8</td>
</tr>
<tr>
<td>E. Two stage appeal/Inspectorate</td>
<td>3</td>
</tr>
<tr>
<td>F. One stage appeal/Inspectorate</td>
<td>0</td>
</tr>
</tbody>
</table>

N = 51 Missing cases = 3

### Table K2. Strategic Options: aggregate scores for desirability and feasibility

| Option                                 | Desirability | Feasibility
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Two stage appeal/retain Review Board (the status quo)</td>
<td>+44</td>
<td>+91</td>
</tr>
<tr>
<td>B. One stage appeal/retain Review Board</td>
<td>-36</td>
<td>+19</td>
</tr>
<tr>
<td>C. Two stage appeal/Independent Tribunal</td>
<td>+33</td>
<td>+30</td>
</tr>
<tr>
<td>D. One stage appeal/Independent Tribunal</td>
<td>-35</td>
<td>-3</td>
</tr>
<tr>
<td>E. Two stage appeal/Inspectorate</td>
<td>-32</td>
<td>+2</td>
</tr>
<tr>
<td>F. One stage appeal/Inspectorate</td>
<td>-79</td>
<td>-20</td>
</tr>
</tbody>
</table>

N = 51 Missing cases = 3

Maximum positive score = +102
Maximum negative score = -102

A clearer picture of how strongly officers felt about the various options can be seen from the distributions of scores on the +2 to -2 scale. These are presented in Figures K1-K6.
Table K3 below presents the list of other options and ideas evaluated by officers at the final workshop, together with the distribution scores for desirability and feasibility. The list includes selected ideas generated by officers at the previous workshops and carried forward. Where options were evaluated by fewer than the full 54 officers, this is indicated. Options 1-25 were those put forward for initial discussion by the researchers, and options 26-57 were generated by officers themselves in the workshops.

Table K3. Other options: distribution scores for desirability and feasibility

For numbers 1 - 31 $N = 54$, except numbers 4, 5, 13, 14 where $N = 52$
For numbers 32 - 38 $N = 34$
For numbers 39 - 57 $N = 16$

<table>
<thead>
<tr>
<th></th>
<th>Desirable</th>
<th>Feasible</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$+2$</td>
<td>$0$</td>
</tr>
<tr>
<td>1.</td>
<td>The word 'review' should be replaced in legislation by the word 'appeal'.</td>
<td>21</td>
</tr>
<tr>
<td>2.</td>
<td>The Department of Social Security should introduce a clear definition of what constitutes an 'appeal'.</td>
<td>28</td>
</tr>
<tr>
<td>3.</td>
<td>Local authorities should each produce an information leaflet on appeals.</td>
<td>28</td>
</tr>
<tr>
<td>4.</td>
<td>Local authorities should adopt a national appeals leaflet.</td>
<td>22</td>
</tr>
<tr>
<td>5.</td>
<td>Internal reviews should be carried out by an officer more senior than a team leader.</td>
<td>25</td>
</tr>
<tr>
<td>6.</td>
<td>Each local authority should designate one officer as an 'appeals officer' to process all appeals.</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Desirable</td>
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<tr>
<td></td>
<td>+2 0 -1 -2</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Local authority officers should attend a recognised training course on housing benefit appeals.</td>
<td>37 15 1 0 0 26 23 3 2 0</td>
</tr>
<tr>
<td>8.</td>
<td>Local authorities should each produce a standard form for internal review requests.</td>
<td>13 16 11 10 111 6 3 0</td>
</tr>
<tr>
<td>9.</td>
<td>Local authorities should adopt a national standard form for internal review requests.</td>
<td>12 15 6 1111111111111111 2</td>
</tr>
<tr>
<td>10.</td>
<td>All claimants should be offered the opportunity of a personal interview as part of the appeals process.</td>
<td>111111111111 8 0</td>
</tr>
<tr>
<td>11.</td>
<td>Letters to claimants notifying them of the outcome of internal reviews should include a detailed explanation of the decision and the reasons for it.</td>
<td>40 10 0 39</td>
</tr>
<tr>
<td>12.</td>
<td>Local authorities should each produce a standard form for appeals to a Review Board/Tribunal.</td>
<td>18 8 19 24 7 3 0</td>
</tr>
<tr>
<td>13.</td>
<td>Local authorities should adopt a national standard form for appeals to a Review Board/Tribunal.</td>
<td>13 15 7 12 18 19 6 6 3</td>
</tr>
<tr>
<td>14.</td>
<td>Local authorities should compile and supply lists of local welfare rights and advice agencies to all housing benefit claimants.</td>
<td>22 18 6 19 111 6</td>
</tr>
<tr>
<td></td>
<td>Desirable</td>
<td>Feasible</td>
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<tr>
<td>0</td>
<td>-1</td>
<td>-2</td>
</tr>
<tr>
<td>+1</td>
<td>0</td>
<td>-2</td>
</tr>
<tr>
<td>-1</td>
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<td>-1</td>
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</tbody>
</table>

15. Local authorities should co-operate with local welfare rights and advice agencies to ensure that all appellants have the opportunity of representation at appeal hearings.  

16. Review Board/Tribunal members should all attend a recognised training course on housing benefit in Town Halls or council offices.  

17. Local authorities should prepare a summary of their case on a standard form for the use of all parties to the appeal.  

19. Chairs of Review Boards/Tribunals should be legally independent of the local authority.  

20. Chairs of Review Boards/Tribunals should be independent of the local authority.  

21. Legal advisers to Review Boards/Tribunals should record their decisions on a standard form.  

22. Chairs of Review Boards/Tribunals should record their decisions on a standard form.
<table>
<thead>
<tr>
<th></th>
<th>Desirable</th>
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<tbody>
<tr>
<td></td>
<td>0</td>
<td>-2</td>
</tr>
<tr>
<td>23.</td>
<td>Internal reviews should be monitored by a body independent of the local authority.</td>
<td>5</td>
</tr>
<tr>
<td>24.</td>
<td>Review Boards/Tribunals should be monitored by a body independent of the local authority.</td>
<td>14</td>
</tr>
<tr>
<td>25.</td>
<td>There should be no right of appeal where regulations are definitive.</td>
<td>16</td>
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<tr>
<td>26.</td>
<td>Review Boards should serve more than one local authority.</td>
<td>7</td>
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<tr>
<td>27.</td>
<td>Review Board decisions should be treated as precedents.</td>
<td>5</td>
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<tr>
<td>28.</td>
<td>There should be regular set dates for Review Board hearings, (similar to 'court days').</td>
<td>8</td>
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<tr>
<td>29.</td>
<td>There should be a third tier of appeal beyond the Review Board.</td>
<td>7</td>
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<td>30.</td>
<td>Appeals should be decided on the basis of written submissions, without the claimant attending a hearing.</td>
<td>2</td>
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<tr>
<td>31.</td>
<td>Local authorities should set up appeals units to handle all appeals against local authority decisions.</td>
<td>4</td>
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<tr>
<td>32.</td>
<td>Creche facilities should be provided at Review Board hearings.</td>
<td>12</td>
</tr>
<tr>
<td>33.</td>
<td>Welfare rights workers directly employed by the local authority should not be allowed to represent claimants at Review Boards.</td>
<td>3</td>
</tr>
<tr>
<td>34.</td>
<td>Hospitality (i.e. refreshments etc.) should be provided for claimants at Review Board hearings.</td>
<td>6</td>
</tr>
<tr>
<td>35.</td>
<td>The DSS should provide a guidance document on Review Boards for claimants.</td>
<td>25</td>
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<tr>
<td>36.</td>
<td>There should be a statutory time limit within which local authorities should deal with internal reviews.</td>
<td>13</td>
</tr>
<tr>
<td>37.</td>
<td>Claimants should be told of the decision of the Review Boards on the same day as the hearing.</td>
<td>15</td>
</tr>
<tr>
<td>38.</td>
<td>The legal adviser to the Review Board should have the power to set aside decisions made by the Board which are outside the regulations.</td>
<td>19</td>
</tr>
<tr>
<td>39.</td>
<td>Review Boards should comprise councillors from different authorities.</td>
<td>8</td>
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<tr>
<td>40.</td>
<td>Review Boards should include one independent member.</td>
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<tr>
<td>41.</td>
<td>Time limits for claimants to make an appeal should</td>
<td>+2</td>
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<td>42.</td>
<td>Regulations should be amended to minimise the</td>
<td></td>
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<tr>
<td>43.</td>
<td>A national register of Review Boards decisions should be distributed to</td>
<td></td>
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<tr>
<td>44.</td>
<td>Review Board panels should not be nominated by party</td>
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<tr>
<td>45.</td>
<td>It should be made easier for local authorities to</td>
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<td>46.</td>
<td>There should be an independent observer at</td>
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<td>47.</td>
<td>Claimants should receive a verbal briefing about Review Board procedures</td>
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<tr>
<td>48.</td>
<td>Claimants attending a Review Board should be compensated for loss of</td>
<td></td>
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<tr>
<td>49.</td>
<td>Local authorities should provide 'a kind of legal</td>
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<tr>
<td>50.</td>
<td>Councillors should be paid a fee for sitting on a</td>
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<td>Desirable</td>
<td>Feasible</td>
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<tr>
<td></td>
<td>+1</td>
<td>0</td>
</tr>
<tr>
<td>51. Review Boards should be held at the claimants' convenience.</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>52. The six week time limit should be reduced.</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>53. The <strong>six</strong> week time limit should be enforced.</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>54. Clerical support for Review Boards should be independent.</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>55. The requirement to record the outcome of internal reviews should be scrapped.</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>56. Review Board members should have at least three years council experience.</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>57. There should be subsidy incentives for holding more Review Boards.</td>
<td>2</td>
<td>3</td>
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</tbody>
</table>
References


Loveland, I. (1988a) Housing benefit: administrative law and administrative practice Public Administration, 66, 57-75


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136