

THE ANNUAL REPORT
of
the
SCOTTISH COMMITTEE
of the
COUNCIL on TRIBUNALS

For the period 1 August 2000 to 31 July 2001

Laid before the Scottish Parliament
at the request of the Scottish Ministers

SE/2001/272

PREFACE

This sixteenth Annual Report of the Scottish Committee of the Council on Tribunals describes our work over the past year, ranging from providing advice on proposals for new tribunals and for amendment of existing appeal procedures, to keeping under review the working of the tribunals and inquiries which come under our statutory supervision by virtue of the Tribunals and Inquiries Act 1992.

This has been a year of anticipation.

Sir Andrew Leggatt delivered his wide-ranging Review of tribunal systems to the Lord Chancellor in March. We expected that this would have a significant impact on our work. The Report has now been published and we are not disappointed in that respect. Quite apart from fundamental recommendations about tribunals, the Report touches on devolution. It is clear that the governance of tribunals in Scotland has to be addressed; who should be responsible for their operation, training, appointments and so on? On the one hand, should the Lord Chancellor be the responsible person or, on the other, the Scottish Minister for Justice?

We also anticipate our introduction, after consultation, of Standards for Tribunals and feedback on their performance. For too long our criticisms – and praise – have been muted, unheard and frankly unheeded. There is much good practice to be seen and too much bad. We plan to play a creative role in improving performance and in so doing, will ourselves need to raise our game.

This report records our main considerations during the year; and it notes some disappointments, notably in the lack of local authorities' take up of our special report recommendations for education appeal committees.

I want to thank the members of the Committee for their diligence throughout the year. I want to record particular gratitude to Pek Yeong Berry and Ian Penman who have both now retired from the Committee. They have played an important role in the Council's and this Committee's development in recent years and their contributions have been invaluable.

John Elliot, Chairman

Members of the Committee

John Elliot DKS

Chairman of Lindsays WS, Edinburgh. Deputy Keeper of Her Majesty's Writers to the Signet. President of the Law Society of Scotland 1997-98. Member of the Review Board, part of The Accountancy Foundation, 2000 to date. Member, Age Concern Management Group. Chairman of the Committee and member of the Council since 1998.

Mrs Pek Yeong Berry MBE, JP

Retired Director of Central Scotland Racial Equality Council. Member of the Stirling Justices Committee. Member of the Faculty of Advocates Disciplinary Tribunal 1996-98. Member of the National Care Standards Committee. General Secretary of the Central Scotland Chinese Association. Member of the Committee until April 2001.

Mrs Barbara Bruce

Consultant providing post-qualifying training for solicitors. Vice Chairman of the Peterhead Bay Authority. Trustee of Grampian Primary Care NHS Trust. Member of the Committee since 1998.

Michael Buckley

Parliamentary Commissioner for Administration, Scottish Parliamentary Commissioner for Administration and Health Service Commissioner for Scotland. *Ex-officio* a member of the Committee and the Council since 1997.

Douglas Graham

Solicitor in private practice with wide experience in employment law, Employment Tribunals and community organisations. Member of the Scotland Committee of the National Lottery Charities Board and of the Scottish Land Fund Committee of the New Opportunities Fund. Member of the Committee since May 2000.

Ian J Irvine CA

Former Managing Director of George Outram and Co, newspaper publishers. Non-Executive Director of Scottish Opera Ltd and Scottish Opera Theatre Royal Ltd. Trustee of North Glasgow Hospitals University NHS Trust. Member of the Committee and the Council since 1996.

Ian D Penman CB

Former Civil Servant. Held various posts in The Scottish Office including Deputy Secretary in charge of central services from 1984 to 1991. In 1991 seconded to Scottish Homes as interim Chief Executive. Conducted minor public inquiries in Scotland 1992-94. Chairman of Viewpoint Housing Association 1991-95. Member of the Committee and the Council until July 2001.

Mrs Mary Wood

Former senior Governor in the Scottish Prison Service, was involved in developing training in the new Prison Service Code of Conduct. Currently deputy Chairman of the Water Commissioner's West of Scotland Consultative Committee. Manager, Ayrshire Centre, Marriage Care. Part-time resource worker with the Richmond Fellowship Scotland and Citizen's Advocacy Support Services volunteer. Member of the Committee since 1 July 2000.

Secretary Mrs Marjorie MacRae
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EXECUTIVE SUMMARY

The topics covered in this Report include:-

- Human Rights: our belief that most tribunal organisations are alive to the implications of the Human Rights Act
- Legal Aid: we welcome the extension to certain tribunal proceedings and look forward to future developments
- Education Appeal Committees: no real improvement and no promise of a review by the Scottish Executive
- Special Educational Needs: our comments on the consultation paper
- National Appeal Panel: a step in the right direction with Guidelines but still flaws in the underlying Regulations
- Childrens' Hearings: our special report to come in the new year

OUR STRATEGY FOR THE FUTURE

In March we were delighted to host and take part in a meeting of the full Council in Edinburgh to discuss the way ahead for us as an organisation. Although we were aware that the outcome of the Leggatt Review might present us with new challenges, we felt that we should focus now on strategic priorities and draw up a policy framework which would see us develop our role in the coming years.

We agreed that the Council had five key priorities: these are standards; feedback; raising our profile; training; and a fundamental look at the way we work. These are not entirely new issues but our approach to taking them forward will be. The following paragraphs describe the progress we have already made on the most important of these.

Standards

We need to develop and publish a list of standards of performance against which we will measure the tribunals which we supervise. We see this falling under three main pillars, setting out broad principles for access to users of tribunals; for the tribunals' judiciary and for their administration. These are the main features which we look at carefully when we make our visits.

Our list of standards will not be prescriptive nor overly detailed but it should become a yardstick. We expect that tribunals themselves will be monitoring their performance against it and setting their own standards. We are consulting interested parties with our draft so that, when published at the end of 2001, our standards framework will become an authoritative document.

Feedback

The issue of feedback, that is the extent to which we can supply information back to a tribunal which we have visited, is a difficult one. Our statutory remit does not include the role of inspectors and we have always been wary of letting our observations be construed as inspection. But many tribunals want feedback from us and we can understand those who question why we are there at all if our observations are left buried in our internal deliberations.

Feedback is closely linked with standards; it is very difficult to give constructive criticism or praise unless we have made clear what we regard as good practice. We therefore intend to introduce a formal feedback mechanism to become operative once we have published our standards. This will give us a framework to report back to tribunals, their president or relevant departments as a matter of course after we have observed a hearing.

The Leggatt Review

In his Review Sir Andrew dealt not only with tribunals operating in England but also with GB tribunals operating in Scotland. Clearly, any proposals he has which relate to these tribunals must be seen against the background of the devolution of responsibility for law to the Scottish Parliament. The Lord Chancellor does not have responsibility for tribunals operating purely in Scotland, which remain the sole responsibility of the Scottish Executive and Parliament, and therefore the Review could not make recommendations about these although their position was discussed.

The Review noted the different types of tribunal operating in Scotland as: cross-border public authorities; Scottish public authorities with mixed functions; and Scottish devolved bodies.

The key issue in the Review report is that of Governance. Four possible models for tribunals with reserved and mixed functions are proposed: these are:-

- The Lord Chancellor becomes responsible for them, consulting Scottish Ministers where necessary
- A UK Minister with Scottish responsibilities, for example the Advocate General, runs them in Scotland
- The Justice Department of the Scottish Executive runs them on an agency basis for the Lord Chancellor
- The Scottish Minister for Justice becomes fully responsible for all tribunals in Scotland

Clearly there will be many differing and strong views about which option is better and we shall participate fully in the ensuing deliberations.

TRIBUNALS' REVIEW 2000-2001

Human Rights

Along with no doubt countless other organisations we have been watching how the implementation of the Human Rights Act will affect us and those tribunals which we supervise. Opinion has been divided on the impact which the legislation will have on administrative justice but we have already seen how the non-availability of legal aid for appellants has been called into question and is having to be addressed. We know that in the Children's Hearing system there are challenges about the lack of legal representation and the independence of the Reporter; and in the next section we mention the consequences of the Compliance Rights (Compliance) (Scotland) Bill in extending legal aid for civil proceedings to ensure a fair hearing. Apart from the need for tribunal systems to change their practices and procedures, there will be an inevitable impact on resources, both human and monetary, and we need to ensure that these do not constrain the service provided to appellants.

Some of the successful challenges have related to the availability of an interpreter; we noted with interest that the President of the VAT and Duties Tribunals in Scotland is changing hearing arrangement letters to include reference to the need for an interpreter. We know

that the need to give reasons for decisions has resulted in several tribunals, including the Rent Assessment Committees in Scotland and the Pensions Appeal Tribunal, changing their practices.

Some challenges are ongoing such as the procedure for appointing Reporters to consider objections to planning proposals. There will no doubt be others but we believe that most tribunal organisations are now alive to the implications of the Act and will be able to react positively if the need arises.

A Human Rights Commission for Scotland?

In our comments to the Scottish Executive on their consultation paper we confirmed our view that there has been a mixed response to the Human Rights Act within tribunals. We know that some organisations have done much on their own to understand the Act's requirements including the establishment of databases containing relevant case law and precedents. Others have relied on central Government initiatives to give general advice. We said it would be an advantage if the implementation of the Act's provisions were done on a uniform basis provided the standard was set at an appropriately high level: and that a central advice point which could, over time, become almost a reference library on human rights

issues might also be helpful.

But we would be concerned if any Commission had some sort of supervisory or investigative role over public authorities involved in administrative justice. We concluded that many of the difficulties we observed could adequately be dealt with if there were good training.

We repeat what we have said in several recent Annual Reports – there is no Scottish equivalent to the Judicial Studies Board in England and Wales which has put significant effort and leadership into comprehensive, relevant human rights training for tribunals. Tribunals which operate on a UK-wide basis have benefited from that. Scottish tribunals have been left to plough their own furrow.

Legal Aid

We have been following with interest the developments taking place in the provision of legal aid in Scotland.

We had an interesting discussion with Jean Couper and Philip Shearer from the Scottish Legal Aid Board in December when we were particularly interested to explore the impact which human rights legislation has had on the legal aid fund in Scotland. The Board itself is directly affected by the Human Rights Act as a public decision making body but it is also very conscious of article 6 of the ECHR which stipulates the rights of an individual to gain access to justice. The Board has noted most

activity in relation to human rights under criminal legal assistance, but expects to see an increase in applications relating to civil matters in the future.

Extension of qualifying tribunal systems

We welcomed the decision of the Executive to provide assistance by way of representation in certain circumstances for Employment Tribunals in Scotland. We were asked to comment on the proposal in the Convention Rights (Compliance) (Scotland) Bill that civil legal assistance in Scotland would be extended to any proceedings which determine civil rights and obligations where this is necessary, under ECHR, to ensure a fair hearing. We very much welcomed this proposal and we agreed with the Scottish Executive's conclusions that the main circumstances in which legal aid should be available were that the applicant cannot fund or find representation; that the case is arguable; and that the case is too complex to be presented to a minimum standard of effectiveness by the applicant. We did ask that, in defining 'civil rights and obligations', consideration be given to tribunals where the deprivation of liberty and livelihood were factors.

We were glad to learn that the Deputy First Minister has decided, in principle, to make legal aid available for proceedings before the Social Security and Child Support Commissioners and the VAT and Duties Tribunals. We look forward to seeing draft regulations in due course and we understand that

consideration is still being given to extending the list.

Earlier in the year we noted that, in England and Wales, the Lord Chancellor has brought certain tribunals into the scope of the Community Legal Service there by allowing advocacy services to be funded. They are the VAT and Duties Tribunals and the General and Special Commissioners of Income Tax in respect of penalty cases that might be regarded as criminal for human rights purposes; and the Protection of Children Act Tribunal in respect of all cases because of the importance of the issues at stake for the applicants.

Community Legal Service for Scotland?

Our discussions with the Scottish Legal Aid Board also included the development of a community legal service for Scotland. In contrast to the English system, which was introduced mainly as a result of rapidly increasing legal aid costs, Mrs Couper told us that the system being considered for Scotland revolves around the concept of enabling people to take action by initially providing them with easier access to advice and assistance regarding their rights and will build on resources and partnerships which already exist. The working group, established to provide a detailed picture of a service for Scotland and to propose a way forward, is expected to report to Ministers in October 2001 and we will be interested in seeing the proposals in due course. We believe that if better advice is readily available and more

accessible to individuals, they will be able to make an informed decision as to how they should proceed at an early stage. It could also stop many individuals submitting appeals that stood little chance of success and thereby reduce the number of cases going through to the hearing stage.

Education Appeal Committees

Last year we referred to the Special Report on Education Appeal Committees (EACs) which we had published in June 2000 and sent to each Director of Education and each Head of Legal Services in Scotland. In our Annual Report we repeated the list of our main recommendations covering the independence of the hearing venue; training; the difficulties for unrepresented appellants; and the need for the committees' deliberations to be more structured with greater adherence to the provisions of the regulations.

In the current reporting year we have visited a further 11 hearings. We regret that, with just one or two exceptions, we have not observed much improvement. We were particularly disappointed to find that in four of the education authority areas, our report had not even been shown to the EAC members and to those acting as clerks to the hearings so it is perhaps not surprising that there continues to be serious flaws in this appeal system. We have seen some good practice but that in itself, by contrast, highlights the fact that the majority of EACs is not working satisfactorily.

Independence?

There are still too many instances where appeals are held in education authority buildings thus compromising at least the perception of an independent process. In reality, the process is sometimes not independent: we are concerned at the inclination of some councillor panel members to bring forward to the deliberations their external knowledge of the education authority's policies which undoubtedly unduly influences the proceedings.

Still no training

Although some authorities have produced relevant background material for new committee members there is still no formal system of training: several committees which we observed are clearly unaware of the impact of human rights legislation on their deliberations. We can find no good reason why even the basic human rights guidance issued by the Scottish Executive to all public authorities should not have been provided to each local authority employee, councillor or person acting in any significant capacity in regard to this appeal system. We are still concerned at the method of questioning and presentation by some committees. We have found occasions where a committee has paid scant regard to the regulations. Members find themselves reaching a decision and then end up having to find reasons to justify it.

We were disappointed that, for a significant period, there was no response to our Report by the

Scottish Executive. However, in January, our Chairman met representatives of the Scottish Executive Education Department. We believed that the Department supported our views. We were told that a wide-ranging consideration of appeal committees was being undertaken but we understand that detailed plans for the review have yet to be formulated.

COSLA Code

We commend COSLA for fulfilling its promise to revise and update the Code of Practice for EACs in Scotland. But unless this excellent guidance is disseminated to **every** person involved in the appeal process things will not improve. This Committee wants the Scottish Executive to take a lead; we do not accept the view that each local authority must be left to determine its own practice in operating what should be a consistent and equitable appeal system throughout Scotland under Scottish legislation. At the very least, we want the Executive to ensure that each education authority operates properly in accordance with the regulations and with the advice set out in the COSLA Code. We expect that the recommendations in our Special Report are at least seen by all EAC chairmen, members and clerks. We strongly believe that there needs to be a nationally directed and resourced training regime.

Special educational needs

In our Special Report last year we touched on hearings dealing with special educational needs,

but acknowledged that we had visited very few of these. We concluded that one of the difficulties is that education authorities categorise tribunals either as placement or exclusion, regardless of whether the child involved has been assessed as having special needs, and so we were unable to identify special needs cases to observe their operation.

At our meeting with the Scottish Executive we were given to understand that the shortcomings which we had identified in EACs were totally in line with the representations made over recent years about the operation of special needs hearings. We were therefore pleased to see the Executive's consultation paper *Assessing our Children's Educational Needs* which explored, *inter alia*, whether a separate Special Educational Needs Tribunal (SENT) should be established in Scotland.

As part of the Council on Tribunals we are aware of the high regard in which the SENT for England and Wales is held; an independent organisation, led by a senior legally qualified president, which is effective and has built up a high degree of expertise in a complex and specialist field. We therefore supported the possibility of establishing a specialist tribunal in Scotland because we believe that the arguments for professional, expert input into the appeal process are very strong. We also stated our belief that the whole process would be perceived as more open and fair if it were separated from the local authority which is required to make

the necessary educational provision for a child with special needs, often turning on the difficult balance between the child's individual needs and the cost of specialist education.

Mediation

We also supported the benefit of some form of mediation ahead of an actual hearing. In our Special Report we had recommended that local authorities should adopt a policy of holding pre-hearing meetings to explore facts and options outwith the highly charged environment of a formal hearing. Provided the mediation process is time limited, so as not to introduce delays, parents and children could be helped to understand the hearing process and the options open to them whilst giving the authorities time to fully explore the facts of each case. Any means of resolving disagreement can only be beneficial.

National Appeal Panel for entry to Pharmaceutical Lists

In last year's Report we called for some underpinning procedural guidelines which, we believed, would include changes to the underlying Regulations. Draft guidelines were produced earlier in the summer; we welcome that but we were very disappointed that the Regulations themselves were not to be amended. We have major concerns which stem from flaws and inconsistencies in the legislation. Therefore procedural guidelines based on them cannot solve problems such as the panel

membership structure, which provides for non-voting members

from within the pharmaceutical industry, making the panel operate almost like an industry arbitration scheme.

However we do acknowledge that some of the criticisms we had formed during our visits have been addressed in the guidelines, including the need for reasons to be given with any decision; clarification of who can address the panel and which papers could be presented; and confirmation of the statutory facts which the panel has to test.

We will be pleased if the guidelines improve and make clear the procedures but without any statutory basis we hope the Scottish Executive can give the document sufficient weight to ensure all panel members adhere to its principles. We shall continue to urge for changes to be made to the Regulations.

Training

We also mentioned last year that further training for panel members was to be provided and one of our members attended the session held in Edinburgh. She was very impressed with the presentations; a lot of good, relevant information and discussion and those attending all believed they would benefit. It is clear that the Department and the Scottish Executive solicitor put a great deal of time and effort into the arrangements and into providing a comprehensive pack of literature for people to take away and digest. We do not understand why attending one of the training

days was not made a requirement for continued NAP panel membership, as it would have been in some other jurisdictions.

Freedom of Information

We were glad to see from the published Bill that some of the concerns from the original consultation paper had been addressed. In particular the Bill now makes clear that the administration of justice and court, including tribunal, records will be exempt from the provisions of the legislation.

But no further right of appeal

However we are disappointed that the Scottish Executive does not propose to establish an Information Tribunal as a further right of appeal. We do believe that, in this particular subject, there should be consistency with the parallel provisions for England and Wales which are now enshrined in the UK Freedom of Information Act. It remains a concern to us that the concepts of openness and public access are not being addressed by a wholly internal appeals procedure by the proposed Information Commissioner. We do not agree that a second avenue of appeal would 'add an unnecessary layer of bureaucracy and undermine the Commissioner's powers' as is reasoned in the commentary to the Bill.

Supervision

Our parent Council on Tribunals has been given statutory

supervision over the non-executive functions of the Information Commissioner in England. We believe that we should be given matching statutory supervision in Scotland: this is even more relevant if the second avenue of appeal to an Information Tribunal is not established and the decision process remains an internal one within the Commissioner's organisation.

Immigration Adjudicators

We have made several visits this year. Although we believe the system works effectively and fairly, we do have some concerns, such as the ability of interpreters to work properly if they are not given all relevant documentation, the facilities available for agents and the policy of listing cases. We will need to look at some of these matters in the coming year.

Appeals Service

We made six visits to Disability Appeal hearings during the year. We continue to be impressed with the training programmes organised by the Appeals Service; we believe this enhances the panels' performance and on all of our visits we were impressed with the skill and effectiveness of the panel chairmen and members. On two occasions we noted some deficiencies in the paperwork provided by the Benefits Agency and we will keep our eye on this aspect.

Protecting Children

We commented to the Scottish Executive on the proposals in its consultation paper to introduce an index of adults deemed unsuitable to work with children. We concentrated on the proposed appeals procedure and concluded that it was a finely balanced decision between opting for a new tribunal or for the sheriff courts to deal with appeals. Whilst we do not generally favour the proliferation of tribunal systems, in this case we felt that the necessary expert knowledge and professional expertise might not always be available within the court system. However the number of cases is likely to be small and for that reason a new tribunal seemed unnecessary. We have said that any legislation should include a further right of appeal to the Court of Session.

It concerns us that the proposed Index would include names of those who are deemed to be unsuitable by reason of what could be unsubstantiated referral from outwith the court system. Such names might represent a vast range of activities, both remunerated and voluntary, and what is a suitable person for one organisation might not be appropriate for another.

We still have some concerns about how the system for provisional listing will operate but we shall see what the draft legislation proposes. If an individual's livelihood is at

stake by being placed on an Index, speed yet fairness will be essential.

We are pleased to see that the Executive now proposes that the sheriff will have discretion to allow for a review sooner than the 10 years originally proposed: we did believe that a shorter time interval should be provided for those persons who could clearly demonstrate that the instance leading to the inclusion in the Index was a short-term social, rather than criminal, one. However we see no justification to continue the distinction between those over and under 18 years of age.

Regulating Care

One of the tribunals which we have supervised for many years is to be discontinued under the provisions of the Regulation of Care (Scotland) Act. The Registration of Establishments Appeal Tribunal was set up in 1968 to hear appeals against the refusal by a local authority to allow registration of an establishment providing accommodation for the purpose of the Social Work (Scotland) Act. From now on appeals will go before a sheriff following a period of independent arbitration facilitated by the new Scottish Commission for the Regulation of Care.

When we were consulted on the proposal we accepted that there had been a very low number of cases and in any event the regulations had required any tribunal, which was set up on an *ad hoc* basis, to be

chaired by a sheriff principal. We concluded that there was no strong argument in this case for keeping a dedicated tribunal in the light of the anticipated wide powers of the Commission.

The Parliamentary

Commissioner for Administration

We had a direct interest in the Scottish Executive's paper 'Modernising the Complaints System – consultation on public sector ombudsmen in Scotland' since the present Parliamentary Commissioner (PCA) for both Scotland and the rest of Great Britain, Michael Buckley, is a member of both this Committee and the main Council on Tribunals by virtue of his office. We have always found his knowledge and his involvement with a wide range of administrative justice systems to be of great assistance to our deliberations. We suggested that the Scottish Executive should consider whether a separate Scottish PCA should also become an *ex officio* member of our Committee in so far as his responsibilities will include those devolved systems which we supervise.

We now note from the latest consultation that the Executive does propose that the Scottish Commissioner should become a member of our Committee. We think there will be benefits both ways; although we each have our own remits and responsibilities we are all involved in the wider picture of an open and fair system of administrative justice.

Children's Hearings

This tribunal system is arguably one of the most important in Scottish legislation and on our occasional visits over recent years we have been impressed with the care and attention shown by the panels in arriving at, sometimes, very difficult decisions which could affect a child's future. In particular we applaud the regular and compulsory training programmes for panel members and we note the transferable skills demonstrated by them.

The Reporters are the linchpins within the hearing system and their role is a specialist one. We do not doubt their experience but in view, especially, of the recent challenges to the system under human rights legislation we are pleased that they too have been included in relevant training to help them meet any new challenges.

Resources

Some panel members have raised with us their concerns about the level of resources being made available by local authorities actually to deliver the panels' recommendations. We would be concerned to think that a panel might have to tailor its recommendation to suit what it knows the local authority will, or will not, be able to do; or indeed that a local authority's proposed course of action is based on resources rather than on what is best for a child. We also have some concern that a panel's recommendation might not be

implemented at all because of scarce resources within the local authority, thus lessening the panel's credibility.

More visits

We have decided to concentrate some of our efforts on making more visits to children's hearings with a view to publishing our findings in another special report later in the new reporting year.

Premises for hearings

We observe many aspects of a hearing but perhaps the most obvious - and arguably the most important - is the venue being used. A few tribunal organisations are fortunate in having dedicated office suites with all the necessary facilities.

For many, however, holding a hearing is a case of finding something suitable, hopefully within reasonable reach of an appellant and preferably at little or no cost. At times this is not easy and we continue to have concerns that appellants are having to make do with sub-standard facilities: perhaps no waiting rooms or basic refreshments, no suitable private area for a medical examination, nowhere to discuss their case with advisers, poor access for anyone with a disability. We even observed one hearing in a public building where there were insufficient chairs and the family solicitor was shown to the disabled toilet for a private talk with his clients: this is not acceptable.

The question of independence from the body which is being appealed against is also very relevant; as discussed earlier in this Report, it continues to worry us very much that the majority of education appeal committee hearings is held in Education Department offices.

We do draw attention to what we see as unacceptable facilities with the tribunal concerned. In some instances this has resulted in considerable improvement and we record our appreciation of the efforts made by the Appeals Service to rectify problems, especially in locations where there are no permanent hearing facilities. In other cases we are continuing to press for change so that appellants can get the facilities and privacy which should be theirs of right.

APPENDIX A: THE ROLE OF THE SCOTTISH COMMITTEE

The Visits Programme

Throughout the course of the reporting year, members of the Scottish Committee visit a wide variety of tribunals and public inquiries to see at first hand the operation of current procedures in force. Our limited resources, and the infrequency of sitting of some tribunals, do not allow the Committee to make an annual visit to each tribunal system. However, we do try to ensure that each tribunal receives at least one visit every two years and on occasion, when there had been a change in the legislation governing tribunal procedures, our members may wish to make a determined effort to observe the tribunal in action to see how such changes are bedding in. We have a statutory right to attend all the tribunals and inquiries coming under our supervision.

In total the Committee will aim to undertake some fifty visits during the reporting year. This reporting year our members have attended 38 tribunal hearings; 1 public inquiry; 7 training events and 5 other meetings. A full list of the 51 visits made by the Committee is at **Appendix E**.

Observation Not Inspection

We wish to re-emphasise that visiting members of the Committee are not involved in the proceedings, nor the decisions taken at hearings, nor the recommendations following inquiries. Members' backgrounds cover a wide range of professions and experience but we are not expert in any one of the diverse subjects dealt with by tribunals. We are present only to observe the procedures and not to inspect the performance of the individuals involved. Visiting members take a close interest in matters such as the suitability of the premises; the working of the tribunal and its staffing; the membership and its training; and the quality of any guidance literature. Our members find it particularly beneficial during a visit to have the opportunity to discuss the operation of the tribunal with the Chairman, members and Clerk involved in the hearing.

The Committee's prime concern is to be satisfied that the hearing is seen to be conducted in an open, fair and completely impartial way. Our visiting member produces a report on each visit which is confidential to the Scottish Committee and the Council. There is no specific report back to the tribunal or inquiry visited. Perceived shortcomings identified in a report are, however, evaluated and the Committee may consider that the problem is sufficiently serious to warrant raising it with the body responsible for the administration of the tribunal or inquiry concerned.

We wish to record our appreciation of the assistance and co-operation of the appeal systems we visit, without which we could not properly carry out our statutory duties.

Not a Complaints Body

The Scottish Committee has no authority under the Tribunal and Inquiries Act 1992 to investigate or adjudicate on complaints about the handling of individual cases by tribunals or inquiries under our supervision. Our statutory role, and that of our parent organisation, the Council, is to advise the Government and their Departments on matters such as the composition of tribunals; the training of members; and the rules of procedure under which tribunals operate. We also provide advice on proposals to change the jurisdiction, constitution or procedures of the tribunals we supervise.

We sometimes receive complaints from members of the public about tribunals and inquiries and we make it clear that we have no power to review or change decisions; nor do we have the resources to undertake investigations when errors in procedure are alleged to have occurred. However, in some instances the complainant may raise points about the procedures adopted by a tribunal which suggest that changes may be required to improve the system for those who may appeal in the future. We then take our concerns to the Department or other body with responsibility for the policy of the tribunal in question.

Those who are unhappy about the handling of an individual case should seek advice from a Citizens' Advice Bureau, legal advice centre, or solicitor. Such advice can sometimes be obtained at a reduced fee, or at no charge. In cases of alleged maladministration by the administrative staff of certain tribunals, either the Parliamentary Commissioner for Administration or the Scottish Parliamentary Commissioner for Administration may be able to investigate. Broadly speaking, those tribunals dealing only with devolved Scottish matters, and cross-border tribunals when dealing with such matters, are within the jurisdiction of the Scottish Commissioner. Enquiries about these and other matters should be made to the Commissioners' offices at either 28 Thistle Street, Edinburgh, EH2 1EN (telephone 0845 601 0456) or Millbank Tower, Millbank, London SW1P 4QP (telephone 0845 015 4033).

The Cost of the Scottish Committee

A breakdown of the expenditure for 2000-2001 and the comparative costs incurred for the 1999-2000 financial year are detailed below:-

	1999-2000	2000-2001
	£	£
Staff Salaries	49,532	51,904
Members' retainers*	29,144	30,766
Administrative costs (including travel and subsistence costs in respect of Committee work)	10,212	15,882
	_____	_____
Total	88,888	98,552

* Excludes the salary of the Chairman and the retainers for members of the Scottish Committee who also serve on the Council. These costs are met by the Council.

APPENDIX B : THE CONSTITUTION AND THE FUNCTIONS OF THE COUNCIL AND THE SCOTTISH COMMITTEE

1. The Council on Tribunals and its Scottish Committee are independent bodies first established in 1958 and now operating under the Tribunals and Inquiries Act 1992.

2. The principal functions of the Council, as laid down in the 1992 Act, are:

- to keep under review the constitution and working of the tribunals specified in Schedule 1 to the Act, and, from time to time, to report on their constitution and working;
- to consider and report on matters referred to the Council under the Act with respect to tribunals other than the ordinary courts of law, whether or not specified in Schedule 1 to the Act; and
- to consider and report on these matters, or matters the Council may consider to be of special importance, with respect to administrative procedures which involve or may involve the holding of a statutory inquiry by or on behalf of a Minister.

3. The term "statutory inquiry" means (i) an inquiry or hearing held in pursuance of a statutory duty, or (ii) a discretionary inquiry or hearing designated by an Order under section 16(2) of the Act. The relevant Order now in force is the Tribunals and Inquiries (Discretionary Inquiries) Order 1975 (SI 1975/1379) as amended (SI 1976/293, SI 1983/1287, SI 1990/526 and SI 1992/2171).

4. The 1992 Act stipulates that the Council must be consulted before procedural rules are made for any tribunal specified in Schedule 1 and on procedural rules made by the Lord Chancellor or Scottish Ministers which relate to statutory inquiries. They must also be consulted before any exemption is granted from the requirement in section 10 of the Act to give reasons for decisions. In turn, the Council must consult the Scottish Committee on any rules relating to tribunals which come under its direct supervision or on any matter referred by Scottish Ministers prior to finalising any report. In addition, the Scottish Committee has the right in certain circumstances to report directly to Scottish Ministers.

5. In general terms the Scottish Committee supervises those tribunals and inquiries that are constituted under Scottish legislation and acts for the Council in overseeing tribunals held in Scotland that have a basis in "United Kingdom" legislation. It has long been accepted practice for Departments to approach the

Scottish Committee directly with proposals relating to tribunals and inquiries in Scotland.

6. The Council consists of 15 members appointed by the Lord Chancellor and Scottish Ministers, one of whom is appointed as Chairman. The Scottish Committee is made up of 3 members of the Council designated by Scottish Ministers plus a further 4 persons, not Council members, whom they also appoint. The Parliamentary Commissioner for Administration (Ombudsman) has a right to sit on both the Council and the Scottish Committee by virtue of his office. Appointees to the Scottish Committee normally hold office for a 3 year period which can, with the agreement of Scottish Ministers and the member concerned, be extended by a further 3 year appointment. Salaries and certain travel expenses are paid to all members of the Council and Scottish Committee.

7. The Scottish Committee meets on a quarterly basis with those members who sit on the Council additionally attending a monthly meeting in London.

8. The Council is required to make an annual report which must be presented to both the Westminster and Scottish Parliaments and may, at any time, make a special report on its own initiative under paragraphs 2.1 or 2.3 above. Although not required to do so by statute, the Scottish Committee also produces an annual report which concentrates heavily on Scottish issues and details consultations handled directly by the Scottish Committee. The report is laid before the Scottish Parliament and is given a very wide circulation to interested bodies throughout Scotland.

APPENDIX C: CODE FOR CONSULTATION WITH THE COUNCIL AND THE SCOTTISH COMMITTEE

Introduction

1. This Code has been prepared by the Council on Tribunals to restate the obligation on Departments to consult the Council and the Scottish Committee on proposals for certain subordinate legislation and to suggest the desirability of consulting them on proposals for certain other primary and subordinate legislation. It also suggests the form and timing of such consultations. The Code was originally circulated to coincide with the coming into force of the Tribunals and Inquiries Act 1992.

Subject Matter and Timing of Consultation

2. Under Section 8 of the Tribunals and Inquiries Act 1992 no power of a Minister, the National Assembly for Wales, the Lord President of the Court of Session, the Commissioners of Inland Revenue or the Foreign Compensation Commission to make, approve, confirm or concur in procedural rules for certain tribunals is exercisable except after consultation with the Council: a similar obligation to consult the Council is placed on the Treasury. Rules made after such consultation usually state that consultation has taken place. The tribunals concerned are referred to in this Code as "scheduled tribunals", a term further explained at paragraph 9 of this Code. Similarly, the Lord Chancellor and Scottish Ministers are under a statutory obligation to consult the Council with regard to procedural rules for statutory inquiries. Where consultation is mandatory, it is necessary for instruments containing the proposed rules to be submitted to the Council in draft form before they are made.

3. Before seeking advice on procedural rules, the Council and the Scottish Committee recommend those responsible for drafting them to consult and make use of, so far as may be appropriate, the Council's Report on Model Rules of Procedure for Tribunals (Cm 1434, March 1991). An interim revised edition of the Model Rules, incorporating amendments to take account of jurisprudential developments on Article 6 of the European Convention on Human Rights since 1991, was prepared in September 1999 and is available from the Scottish Committee Secretary.

4. Consultation on proposals for primary legislation affecting tribunals or statutory inquiries, or on rules for statutory inquiries other than those referred to in paragraph 2, is not mandatory, but usually takes place and is welcomed. As explained in paragraph 8 of this Code, we consider that such consultation is most effective and beneficial to Departments if it takes place at an early stage in the formulation proposals.

5. Consultation on proposals for primary legislation affecting the rights of the citizen which may require consideration of whether, and in what form, new adjudicative procedures are necessary or desirable is also welcomed.

Time allowed for Consultation

6. The Scottish Committee expects that Departments consulting it will always allow as much time as possible to prepare and submit its comments. This is particularly important when consultation is mandatory and the statutory instrument will state that such consultation has taken place. The Committee meets quarterly in March, June, September and December. It is hoped that Departments will understand that, if considered advice on any important matter is required, certain minimum periods of consultation are necessary. The Committee suggests that the following should be regarded as the *optimum* periods for consultation:

(a) where proposals are of a routine kind and do not raise major questions of principle or require significant reading: 4 weeks;

(b) where proposals involve major new issues: 6 weeks.

7. Where, for unavoidable reasons, consultation has to be completed in a shorter time, the minimum periods which will enable the Committee to give proper consideration to proposals may be taken to be two weeks and three weeks respectively. If these suggested minimum periods cannot be adhered to and an explanation is given, the Committee will endeavour to complete the consultation process in such time as may be available. The Committee accepts that many proposals cannot be timed to match quarterly meetings and the Secretary frequently undertakes consultation by post. However this of necessity adds a further time factor and makes the above-suggested minimum periods even more relevant.

8. The Committee is very conscious of the constraints imposed on Departments by the Parliamentary timetable. The Committee considers, however, that if difficulty is foreseen in meeting the recommended minimum periods, consultation need not be delayed until a full draft of the new legislation has been produced but in suitable cases may be initiated at an earlier stage, perhaps with regard to specific provisions. Indeed, particularly with regard to non-mandatory consultations, the Committee suggests that the best time for consultation will often be when proposals have taken reasonably firm shape but before Ministers are committed; the Committee may be able to suggest means of solving an adjudication problem which may not have occurred to the Department, eg. by amending the powers of an existing tribunal to enable it to undertake the work rather than by creating a new tribunal.

Scheduled Tribunals

9. The tribunals which come within the jurisdiction of the Council and the Scottish Committee (referred to in this Code as "scheduled tribunals") are (i) those which are listed in Schedule 1 to the Tribunals and Inquiries Act 1992 and

(ii) those tribunals which have been specified in orders made under section 13 of that Act amending Schedule 1. The Committee will be able to give a view of any case in doubt.

Process of Consultation

10. In submitting draft instruments to the Committee in cases of mandatory consultation, a copy of the draft should be sent to the Committee with an explanatory statement and any necessary covering letter. Where proposals for primary legislation are concerned, a letter will usually suffice, although material such as draft clauses or instructions to Parliamentary Counsel is particularly helpful.

11. The Committee's comments will be submitted in writing.

Reporting the Results of Consultation

12. It is usual for the outcome of the consultations between Departments and the Committee to be reported in the Committee's Annual Report, but in every case the accuracy of such reports is cleared with the Departments concerned before publication. Where consultation has taken place on confidential basis, that confidence is respected.

13. Where the Committee has, when consulted, expressed views on an important question of principle, and it is intended to inform Parliament or the public that it has been consulted, the Committee trusts that the general tenor of its advice will be stated at that time.

**APPENDIX D: STATISTICS RELATING TO ALL TRIBUNAL SYSTEMS SUPERVISED BY THE SCOTTISH COMMITTEE
EITHER AS A RESULT OF UK OR SCOTTISH LEGISLATION
1 JANUARY TO 31 DECEMBER 2000 UNLESS OTHERWISE NOTIFIED**

A = Tribunals under the direct supervision of the Scottish Committee

B = UK tribunals supervised in Scotland by the Scottish Committee on behalf of the Council

All figures provided by relevant tribunal/inquiry

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
A AGRICULTURE <i>Agricultural Arbiters</i> S.61 of, or sch.7 to, the <i>Agricultural Holdings</i> (Scotland) Act 1991	(a) 17 ₁ (b) 29 (c) 23 (d) 4 (e) 19	(a) Not available (b) Not available	Not available	(a) to (c) No	(a) No (b) Yes (c) Yes (d) Yes	
B APPEALS SERVICE <i>Unified Appeals Tribunals</i> S.4 of the Social Security Act 1998	(a) 9,544 (b) 38,221 (c) 27,024 (d) 27,231 (e) 11,782 ₂	(a) 13 (b) 20 (UK average)	85% (UK average)	(a) to (c) Yes	(a) to (d) Yes	www.appeals-service.gov.uk
B AVIATION <i>The Civil Aviation Authority</i> in accordance with Section 2 of the Civil Aviation Act 1982	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year	Not applicable	(a) Yes (b) Yes (c) No	(a) Yes (b) Yes (c) Yes (d) Not applicable	www.caa.co.uk
A BANKING <i>The Banking Appeal Tribunal</i> under s.28 of the Banking Act 1987	(a) to (e) 0	This tribunal has not sat during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
B BETTING LEVY <i>The Betting Levy Appeal Tribunal for Scotland</i> under s.29 of the Betting Gaming and Lotteries Act 1993	(a) to (e) 0	This tribunal has not sat during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
B BUILDING SOCIETIES <i>The Building Societies Appeal Tribunal</i> under s.47 of the Building Societies Act 1986	(a) to (e) 0	This tribunal has not sat during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
B COPYRIGHT <i>The Copyright Tribunal</i> under s.145 of the Copyright, Designs and Patents Act 1988	(a) to (e) 0	Not applicable	Not applicable	(a) to (c) No	(a) No (b) No (c) Yes (d) No	www.patent.gov.uk/copy/tribunal/index.htm
B CRIMINAL INJURIES <i>Criminal Injuries Compensation Appeal Adjudicators</i> Appointed under s.5 of the Criminal Injuries Compensation Act 1995	UK Figures (a) 6,901 (b) 5,664 (c) 147 (d) 6,324 (e) 6,964 ₃	(a) Not available (b) Decision given orally at the end of the hearing	77%	(a) to (c) Yes	(a) No (b) Yes (c) Yes (d) Yes	www.cicap.gov.uk
A CROFTING <i>Crofters Commission</i> under s.1 of the Crofters (Scotland) Act 1993	(a) 3 (b) 9 (c) 1 (d) 9 (e) 2	(a) 4-8 (b) 15-35	100%	(a) to (c) Yes	(a) No (b) Yes (c) Yes (d) Yes	www.crofters.commission.org.uk

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
A DAIRY PRODUCE <i>Dairy Produce Quota Tribunal for Scotland</i> under Sch.6 to the Dairy Produce Quota Regulations 1997	(a) to (e) 0	The tribunal has not sat during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
A EDUCATION <i>Education Appeal Committees</i> under s.280 of the Education (Scotland) Act 1980 figures for period 01.08.99 to 31.07.00 <i>Independent Schools Tribunal</i> under s.100 and 103 of and Sch.2 to the Education (Scotland) Act 1980	Placing (a) Not available (b) 803 (c) 224 (d) 578 (e) 1 Exclusions (a) Not available (b) 135 (c) Not available (d) Not available (e) Not available (a) to (e) 0	(a) Not available (b) Not available (a) Not available (b) Not available Not applicable	Not available Not available Not applicable	(a) to (c) No (a) to (c) No Not applicable	Training should be provided on an individual basis by each local authority to chairman, members and clerk. As above Not applicable	
A EMPLOYMENT <i>The Employment Tribunal</i> under s.5(1) of the Industrial Tribunals Act 1996	(a) Not held (b) 7,626 (c) 3,726 (d) 2,208 (e) Not held	(a) 22 (b) Not held	100%	(a) yes (b) No (c) Yes	(a) Yes (b) Yes (c) Yes (d) Yes	Website to go live in Sept.2001
B FAIR TRADING <i>The Director General of Fair Trading</i> under Sch.1 to the Fair Trading Act 1973	(a) 0 (b) 2 (c) 1 (d) 2 (e) 0	(a) Not available (b) Not available	Not available	(a) to (c) No	(a) No (b) Yes (c) Yes (d) No	www.oft.gov.uk
B FINANCE <i>Financial Services Tribunal</i> under s.96 of the Financial Services Act 1996	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
A FOOD <i>Meat Hygiene Appeal Tribunal</i> under s.26 of the Food Safety Act 1990	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year	Not applicable	(a) to (c) No	(a) to (d) No	
A FORESTRY <i>Forestry Committees</i> appointed in Scotland for the purposes of the Forestry Act 1967	(a) to (e) 0	(a) Not applicable (b) Not applicable	Not applicable	(a) to (c) No	(a) to (d) No	
B FRIENDLY SOCIETIES <i>Friendly Societies Appeal Tribunal</i> under s.59 of Friendly Societies Act 1992	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year	Not applicable	(a) to (d) No		

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
B IMMIGRATION <i>Immigration Adjudicators</i> under Sch.3 of the Immigration and Asylum Act 1999	01.04.00 to 31.03.01 (a) Not available (b) 508 (c) Not available (d) 362 (e) 146	(a) 4 (b) 49	Not available	(a) No (b) Yes (c) No	(a) to (d) Yes	www.ein.org.uk/199
<i>Immigration Appeal Tribunal</i> under Sch.2 of the Immigration and Asylum Act 1999	01.04.00 to 31.03.01 (a) Not available (b) 201 (c) Not available (d) 186 (e) 18	(a) 4 (b) 49	Not available	(a) No (b) Yes (c) No	(a) to (d) Yes	as above
B INSOLVENCY <i>Insolvency Practitioners Tribunal</i> under s.396 of the Insolvency Act 1986	(a) to (e) 0	Not applicable	Not applicable	(a) No (b) No (c) Yes	(a) No (b) No (c) Yes (d) No	
A LAND <i>Lands Tribunal for Scotland</i> under s.1(a) of the Lands Tribunal Act 1949	(a) 717 (b) 108 (c) 402 (d) 57 (e) 366	(a) 13 (b) 36	30%	(a) to (c) No	(a) to (d) No	
A LOCAL TAXATION <i>Valuation Appeal Committees</i> under s.29 of the Local Government (Scotland) Act 1994 and Local Government Finance Act 1992	(a) 4,040 (b) 88,518 (c) 7,956 (d) 574 (e) 84,028	(a) Not applicable (b) Not applicable	Not applicable	(a) No (b) No (c) prescribed by regulations	(a) No (b) Yes (c) Yes (d) No	
A MISUSE OF DRUGS <i>Misuse of Drugs Tribunal for Scotland</i> under part 1 of Sch.3 to the Misuse of Drugs Act 1971	(a) to (e) 0	This tribunal has not sat during the year	Not applicable	(a) to (c) No	(a) to (d) No	
A NATIONAL HEALTH SERVICE <i>Discipline Committees</i> in accordance with the NHS (Scotland) Act 1978	(a) 31 (b) 14 (c) 0 (d) 29 (e) 16					
NATIONAL HEALTH SERVICE (cont'd) <i>National Health Service Tribunal</i> under s.29 of the NHS (Scotland) Act 1978	(a) 1 (b) 1 (c) 0 (d) 0 (e) 2	(a) 8 (b) 37	Not applicable	(a) to (c) No	(a) to (d) No	
<i>National Appeal Panel for Entry to Pharmaceutical List</i> under Sch.4 to the NHS (Pharmaceutical Services) (Scotland) Regulations 1995	(a) 6 (b) 14 (c) 0 (d) 18 (e) 2	(a) 18 (b) 5	83%	(a) No (b) No (c) Yes	(a) No (b) No (c) Yes (d) Yes	www.show.scot.nhs/shsc/nap

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
B NATIONAL SAVINGS BANK AND NATIONAL SAVINGS STOCK ADJUDICATOR under s.84 of the Friendly Societies Act 1992	(a) to (e) 0	Not applicable	Not applicable	(a) Yes (b) No (c) No	(a) No (b) Yes (c) No (d) Yes	
B PATENTS, DESIGNS TRADEMARKS AND SERVICE MARKS <i>The Comptroller General</i> under s.7A(4) of the Deregulating and Contracting Out Act 1994	(a) to (e) 0	Not applicable	Not applicable	(a) to (c) Yes	(a) to (d) Yes	www.patent.gov.uk
A PENSIONS <i>Pensions Appeal Tribunals for Scotland</i> under s.8 of War Pensions (Administrative Pensions) Act 1919 or Pensions Appeal Tribunal Act 1943 Entitlement: Assessment: Total:	(a) 40 (b) 129 (c) 16 (d) 139 (e) 14 (a) 21 (b) 184 (c) 20 (d) 165 (e) 20 (a) 61 (b) 313 (c) 36 (d) 304 (e) 34	(a) 10 (b) 5 (a) 10 (b) 5 (a) 10 (b) 5	71% 69% 70%	(a) to (c) No (a) to (c) No (a) to (c) No	(a) Yes (b) Yes (c) Yes (d) Yes (a) Yes (b) Yes (c) Yes (d) Yes (a) Yes (b) Yes (c) Yes (d) Yes	
PENSIONS cont'd <i>Police Pensions Appeal Tribunals</i> under s.1 of the Police Pensions Act 1976	(a) to (e) 0	Not applicable	Not applicable	(a) to (c) No	(a) to (d) No	Under development
B POLICE <i>The Police Appeal Tribunal</i> established under s.55 of the Police and Magistrates Court Act 1994	(a) 1 (b) 1 (c) 0 (d) 2 (e) 0	(a) 16 (b) 1 case 8 days 1 case 70 days	Not applicable	(a) to (c) No	(a) to (d) No	
A RENTS <i>Rent Assessment Committees</i> under Sch. 4 to the Rent (Scotland) Act 1994	(a) 24 (b) 181 (c) 43 (d) 90 (e) 72	(a) 8 (b) 21	30%	(a) to (c) No	(a) No (b) Yes (c) Yes (d) Yes	

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
B RESERVE FORCES <i>Reserve Forces Appeal Tribunal</i> under Part IX of the Reserve Forces Act 1996	(a) to (e) 0	Not applicable	Not applicable	(a) to (c) No	(a) No (b) No (c) Yes (d) No	In development
B REVENUE <i>General Commissioners of Income Tax</i> under s.2 of the Taxes and Management Act 1970	(a) Not provided (b) 4,070 (c) 1,894 (d) 751 (e) Not provided	(a) Not available (b) Not available	26%	(a) to (c) No	(a) No (b) Yes (c) Yes (d) No	
REVENUE cont'd <i>Special Commissioners of Income Tax</i> under s.4 of the Taxes and Management Act 1970	Separate figures for Scotland are not available	Not available	Not available	(a) No (b) No (c) Yes	(a) to (d) Yes	www.courtservice.gov.uk/tribunals/comtax
B ROAD TRAFFIC <i>Scottish Parking Appeals Service</i> under s.73 of the Road Traffic Act 1991 <i>The Traffic Commissioner</i> under Part 1 of the Transport Act 1985 and the Public Passengers Vehicles Act 1981	(a) 143 (b) 1666 (c) 15 (d) 1643 (e) 151 (a) 34 (b) 807 (c) 60 (d) 804 (e) 37	(a) 4 weeks minimum (b) 5 (a) 20 (b) 5	33% 2%	(a) Yes (b) No (c) Yes (a) to (c) Yes	(a) No (b) Yes (c) Yes (d) Yes (a) No (b) Yes (c) Yes (d) Yes	 www.tan.gov.uk
B SOCIAL SECURITY <i>Social Security Commissioners</i> under Sch.4 of the Social Security Act 1998	(a) 601 (b) 1230 (c) 15 (d) 1299 (e) 517	(a) Not available (b) Not available	8.6%	(a) Yes (b) No (c) No	(a) No (b) No (c) Yes (d) Yes	Website due late 2001
SOCIAL SECURITY cont'd <i>Child Support Commissioners</i> under S.22 of the Child Support Act 1991	(a) 3 (b) 21 (c) 1 (d) 10 (e) 13	(a) Not available (b) Not available	60%	(a) Yes (b) No (c) No	(a) No (b) No (c) Yes (d) Yes	Website due late 2001
A SOCIAL WORK <i>Children's Hearings</i> under the Children (Scotland) Act 1995 <i>Residential and Other Establishments Registrations</i> under Sch.5 to the Social Work (Scotland) Act 1968	(a) Not available (b) 52,657 (c) 41,886 (d) 10,771 (e) Not available (a) 1 (b) 0 (c) 1 (d) 0 (e) 0	(a) offence - 24 non-offence - 28 (b) offence - 21 non-offence - 50 Not applicable	100% Not applicable	(a) Yes (b) Yes (c) Yes (a) to (c) No	(a) Yes (b) Yes (c) Yes (d) Yes (a) to (d) No	A website is planned for the future
B TRANSPORT <i>Transport Tribunal</i> under Sch.4 of the Transport Act 1985	(a) 1 (b) - (c) - (d) - (e) -	(a) Not available (b) Not available	Not available	(a) No (b) No (c) Yes	(a) No (b) Yes (c) Yes (d) Yes	

TRIBUNAL (unless otherwise indicated figures relate to hearings held in Scotland)	CASES (a) b/f from 1999 (b) received in 2000 (c) withdrawn before a hearing (d) decided in 2000 (e) c/f to 2001	WAITING TIMES (a) weeks from receipt of appeal to hearing (b) days from hearing to despatch of decision	ORAL HEARINGS % of total of cases decided via an oral hearing	ANNUAL REPORT/ BUSINESS PLAN Does the tribunal publish: (a) Annual Report (b) Business Plan (c) Standards and Targets	TRAINING Does the tribunal have: (a) a user group (b) training for new members (c) ongoing training and support for members (d) training for new clerks	WEBSITE ADDRESS
A VALUE ADDED TAX <i>VAT & Duties</i> <i>Tribunal for Scotland</i> under Sch.12 of the Value Added Tax Act 1994	(a) 511 (b) 201 (c) 387 (d) 87 (e) 238	(a) 24 (b) 21	90%	(a) to (c) No	(a) to (d) Yes	

INQUIRIES

STATISTICS FOR 1 APRIL 2000 TO 31 MARCH 2001

Type of case	Number of cases brought forward from 1999/2000	Number of cases received in 2000/01	Number of cases withdrawn in 2000/01	Number of cases decided by Secretary of State/ local planning authorities in 2000/01	Number of cases decided by Reporters in 2000/01	Number of cases carried forward to 2001/02
Planning Scotland	302	677	70	4	639	266
Planning appeals under the Town and Country Planning (Scotland) Act 1997						
Enforcement Appeals	35	89	26	0	68	30
Local Plans	19	5	0	10	3	11
Inquiries Opened		139				
Inquiries Closed		120				
Reports Issued		85				

Footnotes

AGRICULTURE

Agricultural Advisers

1. The figure carried forward in last year's annual report was counted differently.

APPEALS SERVICE

Unified Appeals Service

2. The figures are not calculated by adding the brought forward figure to the number of appeals received and subtracting the number of cases cleared. There are a number of factors such as reinstated cases that distort the figures.

CRIMINAL INJURIES

Criminal Injuries Compensation Appeal Panel Adjudicators

3. The figures are distorted by a number of cases being transferred over from the old scheme.

APPENDIX E: SCOTTISH COMMITTEE VISITS 2000-2001
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Committee members made the following visits during the year-:

Tribunal System Visited	Number	Location
The Appeals Service Unified Appeal Tribunal: Child Support Appeal	1	Aberdeen
Disability Appeal	6	Ayr, Campbeltown, Dumfries, Falkirk, Hamilton, Inverness
Children's Hearing	7	Aberdeen, Dumfries, Edinburgh, Elgin, Falkirk, Kilmarnock, Kirkwall
Criminal Injuries Compensation Appeals Panel	2	Aberdeen, Glasgow
Crofters Commission	1	Gairloch
Education Appeal Committee	9	Ayr, Banchory, Edinburgh (3), Elgin, Falkirk, Irvine, Livingston
Immigration Adjudicators	2	Glasgow (2)
Immigration Appeal Tribunal	1	Glasgow
NHS Discipline Committee	1	Glasgow
NHS National Appeal Panel	1	Dunfermline
Rent Assessment Panel	2	Aboyne, Inverness
Scottish Parking Appeals Service	1	Glasgow
Special Commissioners of Income Tax	1	Edinburgh
Valuation Appeal Panel	2	Edinburgh, Stirling
Value Added Tax & Duties Tribunal	1	Inverness
<i>Sub Total</i>	38	

Training Events

The Appeals Service	3	Glasgow (3)
NHS-National Appeal Panel	1	Edinburgh
Pensions Appeal Tribunal	1	Edinburgh
Valuation Appeal Committee	2	Glasgow, Hamilton

Sub Total 7

Opening of New Premises

The Appeals Service	1	Edinburgh
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User Groups

Immigration Appeals	2	Glasgow (2)
Special Commissioners of Income Tax	1	Edinburgh

Meetings

Crofters Commission	1	Inverness
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Inquiries

Public Local Inquiry	1	Musselburgh
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Sub Total 6

Grand Total **51**

**APPENDIX F : CURRENT MEMBERSHIP
OF THE COUNCIL**

The Rt Hon the Lord Newton of Braintree OBE - Chairman

Mr R John Elliot DKS - Chairman of the Scottish Committee

Mr Michael Brown JP

Mr Michael Buckley

Mr Rex Davie CB

Mr John Eames

Mrs Ann Galbraith

Mrs Susan Howdle

Mr Ian J Irvine

Mr Sam Jones CBE, DL

Mr Ian Penman CB

Mr Douglas Readings

Professor Geneva Richardson

Mr Emrys P Roberts

Mr Patrick Waring