

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

for the period 1 April 2005 to 31 March 2006

Laid before the Scottish Parliament  
at the request of Scottish Ministers

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## Members of the Committee

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Chairman of Lindsays WS, Edinburgh. Deputy Keeper of Her Majesty's Writers to the Signet. President of the Law Society of Scotland 1997-98. Chairman of the Committee and member of the Council between 1998 and May 2005.

### Alistair MacLeary

Honorary Professor, University of Heriot-Watt and formerly MacRobert Professor of Land Economy at the University of Aberdeen. Member of the Lands Tribunal for Scotland 1989-2005. Chairman of the Committee and member of the Council since September 2005.

### Ann Abraham

UK Parliamentary Ombudsman. *Ex-officio* a member of the Committee and the Council since 2002.

### Alice Brown

Scottish Public Services Ombudsman. *Ex-officio* a member of the Committee and the Council since 2004.

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Formerly worked for the Citizens' Advice Bureau, latterly in Edinburgh Sheriff Court as manager of the In-Court Advice Services and co-ordinator of the Mediation Service. Vice-chair of the Scottish Mediation Network. Lay member of the Scottish Solicitors' Discipline Tribunal. Member of the Committee and the Council since 2002.

### Douglas Graham

Solicitor in private practice with experience in community and voluntary organisations. Chair of the Audit and Risk Committee and member of the Board of the Big Lottery Fund and member of its Scottish Land Fund Committee. Former non-executive director of NHS Highland. Member of the Committee since 2000.

**Steve Mannion QPM**

Former Assistant Chief Constable with Strathclyde Police and former Scottish Area Commander of the British Transport Police. Lay member of the Employment Tribunal Service until 2001. Lead signatory/collator in matters of Child Protection for a national voluntary organisation. Member of the Committee and the Council since 2001.

**Lyndy Boyd**

Solicitor with a background of work in the public sector as a Children's Reporter, Welfare Rights Officer and solicitor with the Care Commission and Aberdeen City Council. Monitor and consultant with the Open University. Freelance trainer in legal aspects of social work and social care regulation. Legal member of the Parole Board for Scotland. Member of the Committee since 2004.

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Former senior Governor in the Scottish Prison Service, involved in developing training in the new Prison Service Code of Conduct. Manager, Ayrshire Centre, Scottish Marriage Care. Former part-time resource worker with the Richmond Fellowship Scotland and Citizen's Advocacy Support Services volunteer. Member of the Committee since 2000.

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## Foreword

I have pleasure in presenting our twenty first Annual Report. This tells you about the work of this Committee in fulfilling its role to keep under review the constitution and working of tribunals and its emerging role in the field of administrative justice.

In last year's report, reference was made to the changes which the anticipated Courts and Tribunals Bill would bring. Matters have moved on significantly. The Tribunals Service has been created successfully although much remains to be done in this transitional period. The Scottish Committee in particular has to ensure that tribunals operating only in Scotland – both large and small, sitting daily or infrequently – are not left behind in the provision of support, training and facilities.

The Scottish Committee is well placed also to observe the wider perspective that is emerging. Just as the Tribunals Service has taken on an enhanced role, the Committee is now looking at issues that go beyond those relevant only to the services which tribunals provide. For example, we look forward to working in strategic partnership with the Scottish Public Services Ombudsman in striving towards improving the administrative justice landscape.

Concern for the user remains at the heart of the Committee's work. It would be very easy for practice to be determined by available resources rather than users' needs in seeking and achieving justice in an appropriate way. Our statutory role to scrutinise procedural rules continues to play a significant part in ensuring that the modernisation of practice does not risk a just outcome for the appellant in his or her case.

My first year as Chair of the Committee has been an interesting and enjoyable one during which I have had much to learn. I am beginning to appreciate the huge diversity which exists in tribunal systems and I look forward to the opportunity which has become available to the Committee to serve administrative justice in a wider sense.

Alistair MacLeary, Chair

## Contents

	Page
Summary	6
The Tribunals Service	7
Scottish Tribunals Forum	8
Additional Needs Tribunal for Scotland	8
Children's Hearings	9
Mental Health Tribunal for Scotland	11
Private Rented Housing Panel	12
Our routine visits to tribunals	13
The Planning (etc) Scotland Bill	18

Annex A	Role and costs of the Scottish Committee
Annex B	Constitution and functions
Annex C	Code for consultation
Annex D	Tribunal statistics
Annex E	Scottish Committee visits
Annex F	Membership of the Council on Tribunals

## Summary

### **The topics covered in this report include:**

- our support for the establishment of the Tribunals Service but our concern to ensure Scottish-only tribunals are not left behind
- our involvement in the newly-created Scottish Tribunals Forum
- our response to the procedural rules for the Additional Support Needs Tribunal for Scotland
- our detailed consideration of proposals by the Scottish Executive for the future of the Children's Hearings system
- our response to the detailed rules of operation for the Mental Health Tribunal for Scotland
- our response to proposals for the Private Rented Housing Panel
- observations from our routine visits to tribunal hearings

## **The Tribunals Service**

1 In last year's report we referred to the development of policy following the White Paper 'Transforming Public Services: Complaints, Redress and Tribunals'.

2 The Tribunals Service came into being on 3 April 2006. Including the 16 tribunals which were already under the auspices of the Department of Constitutional Affairs, there are now 22 tribunals within this new administrative body, an agency of the DCA: some of them, such as the Proscribed Organisations Appeal Commission, sit rarely and are unknown to the vast majority of people. Others such as The Appeals Service (Social Security and Child Support Appeals) which has transferred from the Department of Work and Pensions and the Employment Tribunals Service transferring from the Department of Trade and Industry hold thousands of hearings and are well known. Although each tribunal has always had its own independent judiciary and administration, many were not truly independent of the central Government department which set their policy and made the initial decisions which fall to be challenged under the tribunal process. Now they have been brought together into a single unified service forming a key part of the justice system.

3 We fully support this integration of tribunal resources and functions and in time, through an evolutionary process, we hope it will achieve significant benefits, not least in providing better access to justice and in the recruitment, training and deployment of tribunal members.

4 Some of these tribunals operate on a Great Britain wide basis and many of their hearings are held in Scotland. But the new Tribunals Service does not cover any of the Scottish-only tribunal systems which operate under separate Scottish legislation. Whilst we wish the Tribunals Service well, our own concern will be to ensure that Scottish tribunals do not get left behind and become less well resourced and supported.

5 The Tribunals Service was able to become established because many of the necessary steps have been administrative in nature. There are other facets of its development, such as judicial deployment and changes to rule making, which will require new statutory provision. That proposed Westminster legislation has not yet been introduced but it is also that Bill which will provide for the Council on Tribunals to evolve into the Administrative Justice and Tribunals Council. It seems to have been a long time coming and even now the Bill is not in the parliamentary timetable; this is regrettable and causes uncertainty and

difficulties all round. It remains to be seen whether we can report any progress next year.

### **Scottish Tribunals Forum**

6 We were very pleased when the Lord President decided to establish a forum for discussion of matters of common concern to those involved in the operation of tribunals in Scotland. It is particularly good that those attending the quarterly or so meetings are from the wide tribunal world: systems operating in both the reserved and devolved fields, whether large or small, together with representatives from the Scottish Executive Justice Department and ourselves. We are fortunate that Lord Abernethy chairs the forum's meetings, not least because he himself has significant knowledge of Scottish tribunals. It is also pleasing that representatives from the Department for Constitutional Affairs, and latterly the Tribunals Service, have been prepared to come to our meetings so that we understand each other's problems and current concerns.

7 In particular, we have been able to consider in depth the proposed terms of the Courts and Tribunals Bill; aspects of the Constitutional Reform Act 2005; the outline workings of the Judicial Appointments Commission; the Judicial Discipline Regulations; and the Common Protocol for handling complaints against judicial office-holders within tribunals. All of these have an impact on administrative justice in Scotland and we need to be aware of them.

8 Inevitably the process of change in the tribunal world, not only through the creation of the Tribunals Service but other anticipated legislative changes in the wider administrative justice context, has been the main topic for discussion so far. As time goes on we expect our agenda will become more varied but the important thing is that we continue to meet. It is also crucial that we remain an inclusive forum: at all costs we must not allow to develop a 'them and us' regime between those systems within and outwith the Tribunals Service.

### **Additional Support Needs Tribunal for Scotland**

9 Much work was undertaken by the Scottish Executive during the year in drawing up the procedural rules for this new tribunal and establishing the framework for the tribunal secretariat. We have fully supported the establishment of this new system, since we have long argued that children and young people with additional needs require the more careful attention which these specialist tribunals will offer. Our experience and knowledge of the administrative justice system allowed us to make a number of substantive comments on the draft rules and to seek some amendments. The Executive was able to respond positively, especially on matters surrounding the citation of

specialist witnesses and the interface between this tribunal and the operation of Education Appeal Committees which will continue to hear placing appeals from children who do not meet the criteria for the Additional Support Needs Tribunal. We want to avoid any scope for confusion by appellants as to which appeal route to follow in their own circumstances and we will be watching this aspect in particular.

10 We have been interested to follow the implementation of the alternative dispute resolution provisions. One of our members is Vice-Chair of the Scottish Mediation Network. Under the Network's auspices an initiative group has been set up by the majority of those mediators who have been appointed by Local Authorities to provide mediation in Additional Support Needs cases.

11 As we write this report in the early days of the tribunal, the number of appeals lodged has been fewer than originally predicted. Two of our members attended some of the training days in Bridge of Allan and Glasgow held over the winter. These were very thoroughly and professionally run events and we hope that the members recruited for the appeal panels, and the secretariat staff, will not become demoralised over the slower start-up of the system. We know that the President has adopted various strategies to maintain panel members' involvement and acquired knowledge while the provisions in the Act for Co-ordinated Support Plans gradually work through over the coming months.

### **Children's Hearings**

12 In last year's report we commented on the Scottish Executive's consultation about the future of this unique Scottish system. In the autumn we considered the Executive's publication '*Getting it Right – Proposals for Action*' following that consultation. This subject covers a very wide range of features, including the proposed tests to be brought in as grounds for referral to a Reporter and the preparation of multi-agency agreements, but many of these are not within our somewhat limited remit in connection with the actual operation of hearings.

13 We did make a number of comments in our response, based on our considerable experience of this system. Our points included:

- *The implementation of an action plan* – we have been reminded more than once by panel members that even if a hearing decides on a course of action, there is no requirement currently for the relevant local authority to implement it. It has been suggested to us also that a hearing may have to tailor its decision to something less than ideal because it knows that the facilities which it really wants to recommend will not be available. This is a worrying possibility: therefore we supported the proposal that agencies will be required

to implement any plan agreed at a hearing and that any plan endorsed by a hearing can only be amended by another hearing

- *Flexibility in the timing of hearings* – we support this. As well as avoiding children having to be taken out of school, this measure could increase the ability of working parents to engage in the whole process if they are unable to take time off during the conventional working day
- *Adaptation of procedures* – although we understood the reasoning behind this proposal to allow other, unspecified people to attend hearings, it does worry us that it could lead to more difficulties than it solves. Flexibility for the panel to react to a given set of circumstances is one thing, but it is quite another for possible strangers to be invited to sit in when personal circumstances are being discussed. ‘Community representatives’ were mentioned; we see this as potentially dangerous – they are not parties to the case and their acquisition of detailed information may not be in the child’s or family’s best interests
- *Provision of information on hearings to communities* – this too is inherently dangerous. Personal circumstances and the identity of children and their families can be improperly disclosed so easily and in our view this proposal is not compatible with the right to privacy enshrined in ECHR. It would be a particular problem in rural areas where possible identification is more likely but it is also not compatible with a system where hearings are, rightly, held in private
- *Removing the link to local authority boundaries* – we supported this. We have been made aware of inequality of treatment for panel members throughout Scotland. Proper support is vital and we think that one national body will ensure consistency and transparency and could lead to less turnover in panel membership. However, we cautioned that whatever organisation should assume this role, nothing should dilute the excellent ongoing training currently provided for panel members

14 We are looking forward to seeing the draft Bill in due course, and in particular its treatment of the areas covered by the above comments.

15 Our members made two visits to Children’s Hearings during the year, both of which confirmed all of our previously reported comments about experienced, focused panels working in the best interests of the child. During the forthcoming discussions we will make certain that we stress the many positives in the existing system – there are indeed

beneficial changes which could be made but it would not be in anyone's interest for the dedication of the existing panel membership to be devalued and jeopardised.

### **Mental Health Tribunal for Scotland**

16 As anticipated, this has been one of the most complex subjects which we have had to deal with during the year. As those involved with the subject will know, the Act itself is a very complicated document and drawing up its provisions into workable procedural rules was a difficult task for the Scottish Executive. Several drafts were provided to us, some of which contained provisions about which we had serious reservations. Our greatest concern was – and perhaps still is – the initial impression that the new tribunals were being regarded as an extension of a case conference instead of a judicial forum. We had to point out a number of instances where basic justice was simply not being provided for, especially where the Tribunal was to be allowed to ride roughshod in matters such as representation, alteration of hearing dates and panel composition, and notice to be given to specialist witnesses. We were always conscious that this Tribunal is dealing with compulsory measures and the panel's decision can deprive an individual of his or her liberty: our requests for amendments reflected this at all times. Although we were left with some unresolved points, our greatest concerns were addressed and we were satisfied ultimately that the procedural rules were fair and reflected administrative justice.

17 We are aware of the strong feelings which have been expressed in some quarters about the operation of this tribunal. As we write this report we have made a number of visits to hearings throughout Scotland. We can report that what we have seen so far are focused panels whose overriding concern throughout the whole process is the welfare of the patient. We observed excellent positive and professional interaction between panel members with fairness paramount in an appropriately informal atmosphere. All panel members had to undergo extensive training before sitting and we look forward to hearing how the tribunal plans to build on this excellent initiative for its ongoing training.

18 The successful operation of this new system is critically dependent on local authority actions in discharging their obligations for the support of Mental Health Officers and the provision of advocacy services. The time limits set out in the Act are rightly onerous and unless the proper procedures for engaging the services of an advocate have been adhered to, the Tribunal is unable to dispose of the case. We will continue to pay attention to this.

### **Private Rented Housing Panel**

19 During the year we followed the passage of the Housing (Scotland) Act 2006 in respect of the proposal to allocate additional functions to the present Rent Assessment Panel and to rename it the Private Rented Housing Panel. We welcome the provisions in the Act which will give tenants the opportunity of resolving disputes without the stress and cost implications of taking an action to court. We said also that determining whether landlords have complied with required repairing standards was ideally suited to the Rent Assessment Panel's current remit, given its composition of legal chairs and professionally qualified members: in our Report last year, we noted how sensitively and courteously Rent Assessment Committees dealt with their appellants. In responding to the Scottish Executive's consultation, we made successful representations about the original bar on basic travel expenses being paid to a tenant or his representative attending a hearing because we felt that this would be an unfair deterrent to those who may not have funds to seek redress.

20 We were disappointed initially that the Act does not require or even recommend the use of alternative dispute resolution in the process of ensuring the repairing standard is maintained or of dealing with disputes. We said that this was a missed opportunity, especially as the founding consultation paper in 2004 included the possibility of mediation as a reason for adjourning a hearing. We believe that it could offer significant savings in terms of both time and money and there is existing expertise and knowledge of tenancy and repair matters within the Rent Assessment Panel's organisation to allow a dispute resolution arm to be developed satisfactorily. Our experience dictates that this tribunal would benefit from the availability of such a service.

21 We were therefore very pleased to learn that the provisions in the Act which allow the President to delay referring an application to a Committee 'where there is a reasonable prospect of the dispute being resolved by the parties' will allow the Panel to formally facilitate such resolution on a voluntary, confidential basis. As we write this report, we understand that there has been a meeting between the President of the existing Rent Assessment Panel and a number of mediation services with a view to training some panel members as accredited mediators. This is a very welcome move.

22 We had one further concern which we want to monitor when the new Committees begin operation. This relates to the provision for a panel member to inspect a property, where a tenant has applied for a determination, if such an inspection could enable or assist in that determination. This is perfectly acceptable if it is merely fact-finding but there could be circumstances where that 'investigation' becomes part of a new or revised application in which case the person making the inspection could become compromised. We will press for adequate separation of roles.

## **Our routine visits**

23 One member visited a session of hearings at **The Appeals Service**. We continue to observe excellent hearings where the Council's standards are all met, especially in achieving the correct balance of informality against firm and fair chairmanship. There is no doubt that practice makes perfect in a system where many hearings are held and panel members regularly sit together and thereby are well aware of each other's role: this leads to a professional approach and we believe appellants cannot help but feel that they had a fair hearing. However, we do share the concerns of panel members that the standard of first tier decision-making may need to be improved as, in relation to disability living allowance cases, a very high percentage of appeals were successful.

24 A member was also present at a Medical Training day which was the first time a specialist training session had been arranged for medical panel members. It was interesting to hear about the difficult separation of roles necessary by them as medical practitioners on the one hand and tribunal members on the other since a totally different perspective is required between diagnosing a medical condition but, as a panel member, needing to prioritise on the claimant's level of impairment.

25 In our visit to the **Asylum and Immigration Tribunal** we observed a session of video-linked reconsideration hearings where the parties were in Glasgow whilst the panel was in London. We were impressed by how fairly and openly the hearings were conducted but on that occasion we identified a fairness issue which could potentially arise in such cases. Funding for interpreters is not available at the reconsideration stage on the basis that such hearings involve purely legal argument and no evidence is heard. However, in one of the cases observed, the representative was not well-prepared and displayed a lack of understanding of the new system and his client's case. There was no prejudice to the client at that stage as the panel adopted an enabling role and the presenting officer had to concede that a fresh hearing should be granted. However we believe that, in the interests of fairness, appellants should be able to understand all parts of the process so that they are in a position to instruct those acting for them. No doubt there would be pressure on resources but we do think the whole question of funding of interpreters should be debated.

26 We made seven visits to observe hearings of **Education Appeal Committees**. For many years we have commented on the difficulties encountered in this appeal system where there is no central control by the Scottish Executive and where education authorities are

left to decide themselves whether or not to allocate funds for training. This piecemeal approach is unfortunate and our experience elsewhere dictates that such an approach is inappropriate, produces inequality of treatment and does not do credit to the system concerned.

27 We consider the regulations are outdated and we question their compliance with ECHR because of, amongst other things, the stipulation that a councillor should be a member of the appeal panel. As far back as 2000 we produced a special report which contained a number of recommendations for action which would improve consistency and equality of treatment. We know that the Scottish Executive has been considering what needs to be done and we remain hopeful that proposals will be brought forward to instigate changes which encompass those recommendations. We appreciate that legislative change needs time and commitment from all concerned but we are of the view that justice requires this. Notwithstanding the absence of formal proposals, we have been pleased to note that a number of authorities themselves have taken our comments on board.

28 As a consequence, we are able to report on a much improved picture in many areas. A number of authorities now do carry out training programmes, both on an induction and a refresher basis, so that we see fewer instances of hearings being conducted as if they were council committee meetings and more of a panel being sensitive to the needs of the appellant. There are some good examples of helpful information to parents about the appeal procedures to be expected. There is now a number of appeal hearing clerks who strive to administer an overtly fair experience for their users. The benefit of these measures is clear when we observe hearings with panels working well as a team, weighing the facts and considering the evidence presented. There are still exceptions in some authorities where even basic training would improve the 'council meeting' syndrome and where appeals are held in premises which are blatantly not independent. We cannot accept that authorities do not have some accommodation which is removed from the actual education department and thus perceived to be independent – if Registration offices or conference accommodation can be used by some, why not all?

29 One of our members had the opportunity to attend an induction training seminar organised by one authority. The structured programme covered a lot of relevant material on equality, legislation and the committee process and it is inevitable that those attending would be able to draw on that training, however basic it might have seemed to be, when sitting as part of the appeal process.

30 There are three systems under the **National Health Service** with which we are involved. The first, the **National Appeal Panel for**

**entry to Pharmaceutical Lists**, has seen a number of changes over the years, all for the better. We made one visit this year to a well-run hearing which quickly focused on what was involved and where the panel operated an excellent pre-hearing stage which greatly facilitated the full hearing by exploring the relevant issues. One member also took part in a training day, not only for NAP members but including a large number of members of local health authority Pharmacy Practice Committees. This was very suitable since both groups are involved currently in different stages of the same process. There is a clear commitment by panel members although understandable concern was expressed as to how proposed new pharmacy contracts later this year would impact on the system or indeed question the need for this appeal panel at all. We understand that final decisions have not yet been taken and we look forward to seeing proposals in due course.

31 The second strand is the **NHS Tribunal**. There are very few hearings in this Tribunal but all of those we have seen over the years are extremely professionally organised and chaired. By the very nature of this appeal system, there is a certain inevitability that the appellant has waited a long time for the case to be heard, often because proceedings in other places have to take precedence. It is pleasing to note that the Tribunal itself is well organised to minimise any further delays.

32 The third strand is **NHS Discipline Committees**. Yet again we have observed flaws in the underlying regulations with their lack of time limits for action after a hearing has been held and their absence of any central control from the Scottish Executive. However there was some better news: at the end of our reporting year we were shown proposed new regulations. Unfortunately we feel that these seem to be driven by the Executive's wish to ensure that practitioners who do not adhere properly to the relevant rules can be brought to account rather than through any will to transform the system into a fair, modern appeals process. Some of the amendments do meet concerns we have expressed in the past, especially in removing the previous bar on legal representation and reducing the unwieldy composition of the hearing panel.

33 Further changes are still needed, especially attention to a timeframe on those deciding the outcome of an appeal and the introduction of a dispute resolution mechanism. We would never argue against instances of malpractice and unprofessionalism having to come before a discipline committee. However we have observed cases which revolve around simple record keeping and the delay and cost of bringing a referral and hearing for this type case is disproportionate to the alleged offence. We are continuing to press our points to the Scottish Executive.

34 We have been assured that work will be put in hand on the issue of centralising this appeals system; unfortunately we have been promised that for a number of years but we believe that it is now vital. In our visits to this system we have observed evidence of a lack of training, members who accept that they are not sitting often enough to keep their skills up to date and chronic delays. In contrast, the National Appeal Panel, whose jurisdiction is likely to disappear after the new pharmacy contracts are fully introduced, is a well organised and resourced national system with well trained panel members. We suggest that a cost effective solution might be to consider merging the two systems. We believe that parliamentary time must be allocated to debate this issue and look at the regulations; in the meantime, it is our view that justice is not being carried out.

35 Our visit to a **Pensions Appeal Tribunal** confirmed an experienced panel whose members worked well together as a team and took obvious care in their questioning of the appellant and in their decision-making process.

36 We are involved with some traffic related matters. Firstly, two members attended a **Traffic Commissioner's Public Inquiry** where we noted a most effective combination of formality and informality; the inquiry had the necessary status for a process which could revoke an operator's licence and deprive someone of their livelihood but it was conducted in a manner which showed suitable concern for the appellant with encouragement for all relevant information to be brought forward. We were also pleased to be given the opportunity to join in a **Traffic Commissioners'** training conference when it was held in Edinburgh. It was a useful opportunity for all Commissioners to keep up to date with legal and technical developments but, equally importantly, the presence of first-line decision makers and Government enforcement officers and inspectors allowed valuable interaction. It concerns us to be told that Commissioners have no option but to retire on reaching age 65 under Department of Transport policy. Not only is this unusual when compared with other tribunal jurisdictions; it is discrimination on the basis of age which is not really in keeping with modern developments in working life. We hope that the Department will reassess its policy soon.

37 Appeals to the **Scottish Parking Appeals Service** also come within our remit. It is often argued that these appeals are of less importance than the matters brought before many other tribunal systems but we disagree: parking appeals are part of the administrative justice system and must be treated properly as such. We consider this system sets an excellent example of oral hearings, being one where appellants almost invariably represent themselves, and the adjudicators are highly skilled yet friendly and informal in their dealings with appellants.

38 We sometimes wonder how local authorities review decisions on parking and we are still to be satisfied that there is a sufficiently rigorous system in place so that representations by motorists on genuine cases, such as wrongly issued tickets, can be resolved speedily and thus save a number of cases having to go forward to appeal. We hope there is no 'it is only a parking appeal' syndrome when it comes to local authority resources being allocated.

39 We also have concerns about the variation in standards and quality of the correspondence sent by local authorities to motorists informing them of their right of appeal. We accept that certain facts have to be included, including the warning that, under statutory provisions, a motorist may be liable for costs if the appeal is considered vexatious or the appellant's conduct is unreasonable. But there are ways of transmitting that information: we find that some authorities have managed to find a softer approach whereas others are almost threatening and because of the prominence given to this warning in the letter, motorists may be discouraged from lodging a valid appeal. We appreciate that this aspect is one which we will have to take up with the participating councils who are exercising their statutory duties with regard to notices, rather than the independent Scottish Parking Appeals Service, and we hope to make progress with this in the coming year.

### **User Groups**

40 We have mentioned in the past that the emergence of user groups was interesting because their meetings give insight to the operation of the whole system as opposed to observing just one hearing in isolation. One unfortunate limitation is that they do not actually include those whom we really consider to be the users, that is appellants; the audience is invariably stakeholders. However it does allow us the opportunity to hear of developments and problems within the tribunal system and to meet some of those who represent appellants. For example, we have encountered difficulties in an apparent lack of communication between an asylum and immigration user group and the Tribunal although the mechanisms in place are *prima facie* adequate. We discussed the matter with both sides and recommended that the subject should be explored between them with a view to raising confidence in the existing procedures or modifying them to better enable the airing of any concerns.

41 We attend regularly meetings of the Employment Tribunal; at one of these we were given to understand that a tightening of resources within the Advisory, Conciliation and Arbitration Service is beginning to result in a reduction of the service which that organisation is able to provide. The consequence seems to be that resources are

now directed towards large cases of discrimination at the expense of the more routine cases which have only a short window for ACAS involvement. Our concern is that as a result of this, a number of cases are going forward to hearings unnecessarily. We will monitor this apparent trend.

42 Members were pleased to attend meetings of the VAT and Duties and Asylum and Immigration Tribunal user groups and the unified group which includes the Appeals Service, The Commissioners Office in Scotland and, for the first time, the Pensions Appeal Tribunal for Scotland. We also understand that the Additional Support Needs Tribunal for Scotland has established a user group and we look forward to participating in that.

43 These events are becoming less formal and more useful; it seems that as more representatives attend, the greater and more relevant will be the subjects covered and difficulties aired. However there are dangers which we have observed of user groups being used as a one-way information giving 'exercise' for systems to impart information to user representatives - a waste of resources for all concerned - and of users' representatives not considering it appropriate to raise areas of concern in such a forum. It would be a shame if this were to become prevalent. We urge everyone to guard against this happening.

44 We hope to draw up some analysis into their efficacy and value during the coming year.

### **Planning etc (Scotland) Bill**

45 We have statutory responsibility in connection with procedures involving planning inquiries and we therefore followed closely the Scottish Executive's proposals for modernising the planning system in Scotland.

46 In last year's Annual Report we mentioned our thoughts on the proposals contained in the Scottish Executive's consultation document 'Rights of Appeal in Planning'. During this year we looked at the White Paper mapping out its proposals for modernising the planning system.

47 From the outset we acknowledged that the planning system required to be modernised and we considered that this review provided the Executive with a golden opportunity to improve efficiency. However from our reading of the White Paper it was apparent that there was a significant transfer of responsibility towards Ministers and Departmental officials taking decisions which previously had been the business of local councils. Although we regarded it acceptable that a screening process for unmeritorious appeals needed to be in place, we felt that it

had to be carried out by an organisation which was clearly independent.

48 The White Paper also proposed establishing some form of local review bodies. We supported this in principle but we warned that there were pitfalls unless the system was robust and under at least some control from the centre, not least to ensure consistency of treatment across Scotland.

49 The Planning etc (Scotland) Bill was published In December 2005. Unfortunately our main concerns were not allayed. The Bill provides the template for establishing review bodies made up of locally elected members. We agree that this proposal is in keeping with the policy of delivering local democracy but the proper foundations must be in place if the use of this medium is to have any chance of success. Our experience of observing other appeal systems based on individual authorities is that it produces a fragmented system. Each authority, even within a national legislative framework, adopts different approaches and we fear that will happen with planning reviews unless the Executive provides unequivocal guidance and training to those elected to serve on these bodies. We believe the secondary legislation which will provide for this locally based review will require to be particularly robust in ensuring that the appellant in the Borders is given the same fair, unbiased experience as his counterpart in the Highlands.

50 We have had no concerns under the present system about how the Inquiry Reporters carry out their responsibilities for planning appeals. We trust we will be able to maintain this view under any new system.

## **Annex A - the role of the Scottish Committee**

1 Each year members visit a wide variety of tribunals and public inquiries to see at first hand the operation of current procedures. Some tribunal systems hold infrequent hearings, others many hundreds a year, and we ensure that each system receives at least one visit every two years. If there has been a change in the governing legislation we might increase the number of visits to see how the changes are affecting procedures. From time to time we also make extra visits to a chosen tribunal system in order to produce a more in-depth analysis.

2 We aim to undertake some 50 visits a year. In this reporting period our members made 63 visits: details are at **Annex E**.

3 Members of this Committee are not involved in the proceedings, nor the decisions taken at hearings, nor the recommendations following inquiries. Our 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. We take a close interest in matters such as the suitability of the premises; the working of the tribunal and its staffing; the conduct of the hearing; the panel membership and its training; and the quality of any guidance literature. During any visit we try to discuss the operation of the tribunal with the members and clerk involved in the hearing.

4 Our 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: this report is for our own internal use only. There is no statutory report back to the tribunal. In the past we have only raised matters with the relevant tribunal system or Government department if we have identified serious problems. However our approach, which is increasingly focused on the user's experience, is now much more open and we do discuss what we have observed - both the positives and the negatives - with the panel members after the hearing is over before we write to the tribunal system or the relevant department. This change in policy has been made possible with the availability of our Framework of Standards document against which we measure the tribunal's performance.

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

6 We must stress that we are not a complaints body: the Tribunals and Inquiries Act gives us no authority 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 Council on Tribunals, is to advise the Government and its departments on matters concerning the rules of procedure under which tribunals operate and to provide advice on proposals to change the jurisdiction, constitution or procedures of the tribunals we supervise.

7 Those who are unhappy about the handling of an individual case should seek advice from the Citizens' Advice Bureau, legal advice centre or solicitor. Such advice can often be obtained at a reduced fee or at no charge.

### **Costs of the Scottish Committee**

8 The Scottish Committee's funding is made available from the Council on Tribunals and ultimately through the Department for Constitutional Affairs in accordance with Section 3(3) of the Tribunals and Inquiries Act 1992. Certain costs, in particular accommodation and IT, are funded centrally and do not feature in the account below. Other costs, principally staffing and travel and subsistence, are determined centrally but paid from the Council on Tribunals' and the Scottish Committee's budget respectively.

9 A breakdown of the expenditure for the financial years 2004-2005 and 2005-2006 is detailed below.

	<b>2004-2005</b>	<b>2005-2006</b>
Staff salaries *	61,078	63,790
Members' retainers **	37,512	38,564
Members' travel costs	8,624	5,954
Administrative costs including office supplies, postage etc	20,516	20,353
<b>Total</b>	<b>127,730</b>	<b>128,661</b>

\* Staff are permanent civil servants seconded from the Scottish Executive. These costs include NI contributions and superannuation.

\*\* Excludes the salary of the chair and retainers for members of the Scottish Committee who also serve on the Council. These costs are shown in the Council's own report.

## **Annex B - the constitution and 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 which are constituted under Scottish legislation and acts for the Council in overseeing tribunals held in Scotland that have a basis in Great Britain 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 chair. 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) and the Scottish Public Services Ombudsman are *ex officio* members of both the Council and the Scottish Committee. Retainers and certain travel expenses are paid to all appointed members of the Council and Scottish Committee.

7 The Scottish Committee meets five times a year 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.

## **Annex C - code for consultation with the Scottish Committee**

### **Introduction**

1 This Code has been prepared to remind Departments of the obligation on them to consult the Scottish Committee of the Council on Tribunals on proposals for certain subordinate legislation and to suggest the desirability of consulting it 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 Guide to Drafting Tribunal Rules published in November 2003 which updates significantly, and replaces, the original Report on Model Rules of Procedure for Tribunals (Cm 1434, March 1991). Copies are 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 normally meets in February, April, June, September and November. 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: 3 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 fixed meetings and the Secretary frequently undertakes consultation by post and e-mail. 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 legislation 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 a 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.

## Annex D- statistics relating to supervised tribunals

1 JANUARY TO 31 DECEMBER 2005 UNLESS OTHERWISE STATED

**A** = Tribunals under the direct supervision of the Scottish Committee

**B** = GB tribunals supervised in Scotland by the Committee on behalf of the Council

All figures provided by the relevant tribunal

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>A</b> <b>AGRICULTURE</b> <i>Agricultural Arbiters under S.61 of or sch.7 to the Agricultural Holdings (Scotland) Act 1991</i>	(a) 28 (b) 0 (c) 2 (d) 0 (e) 26	(a) not available (b) not available
<b>B</b> <b>APPEALS SERVICE</b> <i>Unified Appeal Tribunals under S.4 of the Social Security Act 1988</i>	01.04.05-31.03.06 (a) 6,600 (b) 31,317 (c) 2,808 (d) 36,558 (e) 4,776	(a) 9 (b) 20
<b>B</b> <b>AVIATION</b> <i>The Civil Aviation Authority constituted in accordance with S.2 of the Civil Aviation Act 1982</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year.
<b>B</b> <b>BETTING LEVY</b> <i>The Betting Levy Appeal Tribunal for Scotland under S.29 of the Betting Gaming and Lotteries Act 1993</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year.
<b>B</b> <b>COPYRIGHT</b> <i>The Copyright Tribunal under S.145 of the Copyright, Designs and Patents Act 1998</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>B</b> <b>CRIMINAL INJURIES</b> <i>Criminal Injuries Compensation Adjudicators appointed under S.5 of the Criminal Injuries Compensation Act 1995</i>	GB figures 01.04.05-31.03.06 (a) 4,058 (b) 2,715 (c) 230 (d) 3,318 (e) 3,225	(a) 24 (b) Given at hearing
<b>A</b> <b>CROFTING</b> <i>Crofters Commission under S.1 of the Crofters (Scotland) Act 1993</i>	01.04.05-31.03.06 (a) 0 (b) 20 (c) 0 (d) 20 (e) 0	(a) 11 (b) 42 dependent on next available board meeting for decision on case
<b>A</b> <b>EDUCATION</b> <i>Additional Support Needs Tribunals for Scotland under S.17-21 and sch. 1 of the Education (Additional Support for Learning) (Scotland) Act 2004</i>  <i>Education Appeal Committees under S.280 of the Education (Scotland) Act 1980</i>	01.04.05-31.03.06 (a) 0 (b) 2 (c) 0 (d) 2 (e) 0  01.08.04-31.07.05  Placing: (a) not available (b) 642 (c) 286 (d) 353 (e) 3  Exclusions: (a) not available (b) 47 (c) not available (d) 47 (e) not available	(a) 8 (b) 5          (a) not available (b) not available          (a) not available (b) not available
<b>A</b> <b>EMPLOYMENT</b> <i>The Employment Tribunal for Scotland under S.5(1) of the Industrial Tribunals Act 1996</i>	(a) 10,539 (b) 8,461 (c) 7,232 (d) 2,248 (e) 10,371	(a) 17 (b) 18

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>B</b> <b>FAIR TRADING/ COMPETITION</b> <i>The Director General of Fair Trading under sch.1 to the Fair Trading Act 1973</i>  <i>Competition Appeal Tribunal established under S.12 of the Enterprise Act 2002</i>	(a) 1 (b) 0 (c) 0 (d) 0 (e) 1  (a) 2 (b) 0 (c) 0 (d) 1 (e) 1	(a) not appropriate (b) not appropriate  (a) 114 (b) 233
<b>B</b> <b>FINANCE</b> <i>Financial Services and Markets Tribunal under S.132 of, and sch.13 to, the Financial Services and Markets Act 2000</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year.
<b>A</b> <b>FORESTRY</b> <i>Forestry Committees appointed in Scotland for the purpose of the Forestry Act 1967</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year.
<b>B</b> <b>IMMIGRATION</b> <i>Asylum Support Adjudicators under S.102 of, and sch.10 to, the Immigration and Asylum Act 1999</i>  <i>Asylum and Immigration Tribunal under S.100 of the Nationality, Immigration &amp; Asylum Act 2002</i>	UK figures 01.04.05-31.03.06  (a) 0 (b) 3,912 (c) 586 (d) 2,550 (e) 0  (a) 37,123 (b) 201,828 (c) 12,442 (d) 139,566 (e) 87,663	(a) 1 (b) 2  (a) 21 (b) 9
<b>B</b> <b>INFORMATION</b> <i>Information Tribunal constituted under S.6 of the Data Protection Act 1998</i>  <i>Information Commissioner appointed under S.6 of the Data Protection Act 1998</i>	(a) to (e) 0  (a) to (e) 0	This tribunal has not sat in Scotland during the course of the year

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(c) weeks from receipt of appeal to hearing</b> <b>(d) days from hearing to despatch of decision</b>
<b>B</b> <b>INSOLVENCY</b> <i>Insolvency Practitioners Tribunal under S.396 of the Insolvency Act 1986</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year.
<b>A</b> <b>LAND</b> <i>Lands Tribunal for Scotland under S.1(a) of the Lands Tribunal Act 1949</i>	(a) 109 (b) 90 (c) 40 (d) 46 (e) 113	(a) 22 (b) 38
<b>A</b> <b>LOCAL TAXATION</b> <i>Valuation Appeal Committees under S.29 of the Local Government (Scotland) Act 1994 and Local Government Finance Act 1992</i>	01.04.05 - 31.03.06 (a) 2,417 (b) 62,160 (c) 10,204 (d) 188 (e) 54,185	(a) 26 (b) 4
<b>A</b> <b>MENTAL HEALTH</b> <i>Mental Health Tribunal for Scotland under the terms of the Mental Health (Care and Treatment) (Scotland) Act 2003</i>	01.04.05 - 31.03.06 (a) 0 (b) 4,544 (c) 474 (d) 3,518 (e) 552	(a) 2 (b) 17
<b>A</b> <b>NATIONAL HEALTH SERVICE</b> <i>National Appeal Panel for Entry to Pharmaceutical Lists under sch.4 to the NHS (Pharmaceutical Services) (Scotland) Regulations 1995</i>	01.04.05 - 31.03.06 (a) 6 (b) 17 (c) 0 (d) 21 (e) 2	(a) 10 (b) 5
<b>A</b> <b>NATIONAL HEALTH SERVICE</b> <i>Discipline Committees in accordance with S19 of the NHS (Scotland) Act 1978</i>	(a) 10 (b) 5 (c) 0 (d) 3 (e) 12	(a) 33 (b) 22

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>A</b> <b>NATIONAL HEALTH SERVICE</b> <i>National Health Service Tribunal under S.29 of the NHS (Scotland) Act 1978</i>	(a) 2 (b) 1 (c) 1 (d) 0 (e) 2	(a) 33 (b) 62
<b>B</b> <b>NATIONAL SAVINGS</b> <i>National Savings Bank and National Savings Stock Register Adjudicator under S.84 of the Friendly Societies Act 1992</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year
<b>B</b> <b>PATENTS, DESIGNS, TRADEMARKS AND SERVICE MARKS</b> <i>The Comptroller General under S.7A(4) of the Deregulating and Contracting Out Act 1994</i>	(a) to (e) 0	This tribunal has not sat in Scotland during the course of the year
<b>A</b> <b>PENSIONS</b> <i>Pensions Appeal Tribunals for Scotland under S.8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Appeal Tribunal Act 1943</i>  <i>Police Pensions Appeal Tribunal under S.1 of the Police Pensions Act 1976</i>	(a) 35 (b) 247 (c) 46 (d) 193 (e) 43  01.04.05 - 31.03.06  (a) to(e) 0	(a) 12 (b) 7     This tribunal has not sat in Scotland during the course of the year.
<b>B</b> <b>POLICE</b> <i>The Police Appeal Tribunal established under S.55 of the Police and Magistrates Court Act 1994</i>	01.04.05 - 31.03.06  (a) 2 (b) 9 (c) 1 (d) 9 (e) 1	(a) 18 (b) 18
<b>A</b> <b>RENT</b> <i>Rent Assessment Committees under sch.4 to the Rent (Scotland) Act 1984</i>	(a) 37 (b) 82 (c) 15 (d) 78 (e) 26	(a) 10 (b) 34

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>B</b> <b>RESERVE FORCES</b> <i>Reserve Forces Appeal Tribunal</i> under part IX of the Reserve Forces Act 1996	01.04.05 - 31.03.06  (a) 1 (b) 0 (c) 0 (d) 1 (e) 0	(a) not available (b) 9
<b>B</b> <b>REVENUE</b> <i>General Commissioners of Income Tax</i> under S.2 of the Taxes and Management Act 1970  <i>Special Commissioners of Income Tax</i> under S.4 of the Taxes and Management Act 1970	(a) not available (b) 3,688 (c) 366 (d) 3,227 (e) 114  UK figures 01.04.05 - 31.03.06 (a) 191 (b) 485 (c) 126 (d) 109 (e) 441	(a) not available (b) not available  (a) not available (b) not available
<b>B</b> <b>ROAD TRAFFIC</b> <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	01.04.05 - 31.03.06  (a) 504 (b) 1,914 (c) 564 (d) 1,123 (e) 731  (a) not available (b) not available (c) not available (d) 189 (e) not available	(a) 4 (b) 5  (a) not available (b) not available
<b>B</b> <b>SOCIAL SECURITY</b> <i>Social Security Commissioners</i> under sch.4 to the Social Security Act 1998  <i>Child Support Commissioners</i> under S.22 of the Child Support Act 1991	01.04.05 - 31.03.06  (a) 141 (b) 989 (c) 43 (d) 982 (e) 105  (a) 1 (b) 31 (c) 2 (d) 16 (e) 14	(a) not available (b) not available  (a) not available (b) not available

<b>TRIBUNAL</b> <i>(unless otherwise indicated figures relate to hearings held in Scotland)</i>	<b>CASES</b> <b>(a) b/f from 2004</b> <b>(b) received in 2005</b> <b>(c) withdrawn</b> <b>(d) decided in 2005</b> <b>(e) c/f to 2006</b>	<b>WAITING TIMES</b> <b>(a) weeks from receipt of appeal to hearing</b> <b>(b) days from hearing to despatch of decision</b>
<b>A</b> <b>SOCIAL WORK</b> <i>Children's Hearings under the Children (Scotland) Act 1995</i>	01.04.04 - 31.03.05  (a) not available (b) 50,529 (c) not available (d) 5,793 cases proceeding to a first hearing (e) not available	(a) not available (b) not applicable – generally given on day of hearing
<b>B</b> <b>TRANSPORT</b> <i>Transport Tribunal under sch.4 to the Transport Act 1985</i>	UK figures 01.04.05 - 31.03.06  (a) 163 (b) 656 (c) 280 (d) 414 (e) 125	(a) not available (b) not available
<b>A</b> <b>VALUE ADDED TAX</b> <i>VAT and Duties Tribunals for Scotland under sch.12 to the Value Added Tax Act 1994</i>	01.04.05-31.03.06  (a) 221 (b) 127 (c) 72 (d) 58 (e) 218	(a) 25 (b) 20

#### **INQUIRIES – Statistics for 1 April 2005 to 31 March 2006**

<b>Type of case</b>	<b>b/f from 2004- 05</b>	<b>Received</b>	<b>Withdrawn</b>	<b>Decided by Scottish Ministers or planning authorities</b>	<b>Decided by Reporters</b>	<b>c/f to 2006-07</b>
Planning appeals	346	1,009	49	10	906	390
Enforcement appeals	53	107	22	0	82	56
Local Plans	42	6	0	1	0	47
Inquiries opened	137					
Inquiries closed	95					
Reports issued	80					

## Annex E - Scottish Committee visits 1 April 2005 - 31 March 2006

<b>Tribunal system visited</b>	<b>Number</b>	<b>Location</b>
The Appeals Service	2	Glasgow; Inverness
Asylum & Immigration Tribunal	1	Glasgow
Children's Hearings	2	Aberdeen; Glenrothes
Education Appeal Committee	9	Dalkeith; Dundee; Edinburgh; Fort William; Haddington; Inverness; Kilmarnock; Renfrew; Rothesay
Employment Tribunal	1	Aberdeen
Mental Health Tribunal Scotland	1	Edinburgh
NHS Discipline Committee	3	Glasgow (2); Motherwell
NHS National Appeal Panel	1	Ayr
NHS Tribunal	1	Edinburgh
Pensions Appeal Tribunal	1	Edinburgh
Police Appeal Tribunal	1	Edinburgh
Scottish Parking Appeals Service	2	Dundee; Glasgow
Traffic Commissioner	1	Aberdeen
Valuation Appeal Committee	2	Inverness; Stirling
<b>Training Events</b>		
Additional Support Needs Tribunal	2	Glasgow; Stirling
Appeals Service	1	Glasgow
Education Appeal Committee	1	Edinburgh
Judicial Studies Board	1	London
Mental Health Tribunal Scotland	1	Glasgow
NHS National Appeal Panel	1	Edinburgh
<b>User Groups</b>		
Appeals Service	2	Edinburgh; Glasgow
Asylum & Immigration Tribunal	1	Glasgow
Employment Tribunal	3	Edinburgh (2); Glasgow
Value Added Tax & Duties Tribunal	1	Edinburgh
<b>Inquiries</b>		
Public Local Inquiry	1	Edinburgh

### **Conferences/Seminars**

Citizens Advice Bureau	1	Edinburgh
Mental Health Tribunal Scotland	1	Glasgow
Scottish Consumer Council	1	Edinburgh
Tax Appeals Modernisation Project	1	Edinburgh
Traffic Commissioners	1	Edinburgh

### **Other**

#### Network Meetings:

ACAS	1	Glasgow
CICAP	1	London
Immigration	2	Glasgow
Mental Health Tribunal Scotland	1	Hamilton
NHS Discipline Committee Board Meeting	1	Glasgow
Official opening of the Additional Support Needs Tribunal	1	Glasgow
Meeting with Scottish Executive officials	3	Edinburgh
Scottish Tribunal Forum	5	Edinburgh

**TOTAL 63**

**Annex F - membership of the Council on Tribunals  
at March 2006**

The Rt Hon the Lord Newton of Braintree OBE, DL - Chair

Professor Alistair MacLeary - Chair of the Scottish Committee

Ann Abraham *ex officio*

Carolyn Berkeley JP

Professor Alice Brown *ex officio*

Elizabeth Cameron

Susan Davis

Judith Edwards

Susan Howdle

Penny Letts

Steve Mannion QPM

Bernard Quoroll

Professor Geneva Richardson

Dr Adrian Stokes OBE

Pat Thomas

Heather Wilcox