

Administrative Justice & Tribunals Council

ANNUAL REPORT 2008/2009

This Report is made to the Lord Chancellor,
the Scottish Ministers and the Welsh Ministers

It is laid before Parliament, the Scottish Parliament and the
National Assembly for Wales by the Lord Chancellor and the
Scottish and Welsh Ministers pursuant to paragraph 21 of Schedule 7
to the Tribunals, Courts and Enforcement Act 2007

The AJTC's Scottish and Welsh Committees publish their own annual reports
which are laid before the Scottish Parliament and the National Assembly
for Wales by the Scottish and Welsh Ministers respectively.

July 2009

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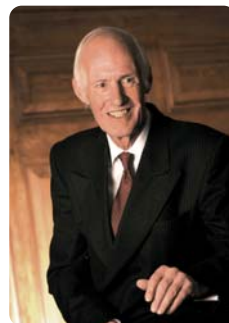
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Chairman's Preface



This Annual Report marks the conclusion of the Administrative Justice and Tribunals Council's first full year. Our initial statutory programme of work, in July 2008, set out our immediate objectives and gave some pointers to our early priorities.

The 2004 White Paper pointed out that the administrative justice system has grown up piecemeal over the years. The result is that it is not well understood either by the citizen or by the organisations that it comprises. Thus one of the early priorities has been to explore and develop our understanding of the system so that we can share it with others.

We have also been working on the principles that should inform our advice to Government and others over the longer term. As I write we are consulting on late drafts of documents to share with all those interested in administrative justice. We will be publishing these in the coming months.

We have also been closely involved as "critical friend" in the process of tribunal system reform. This has already seen the establishment of the First-tier and Upper Tribunals in November 2008 and the creation of a reformed tax appeal system in April 2009, and is now moving on to a further phase.

Our primary focus continues to be on the needs of the individual citizen. We have monitored the impact of the changes on the users of tribunals, and over the year have learnt of some of the advantages (and occasionally disadvantages) that they have brought. This user focus was our guiding light in contributing, through our representation on the Tribunal Procedure Committee, to the new Chamber Rules.

We also attach great importance to our new function of making recommendations for administrative justice research. We published our first report on this topic in November 2008.

Our Scottish Committee, which produces its own Annual Report and has been very active this year, is playing a central part in the debate in Scotland about administrative justice and tribunal reform there.

Our new Welsh Committee came into being in June 2008 and has made an excellent start in addressing key issues in administrative justice in Wales. These too are highlighted in its own first Annual Report.

But our work as an AJTC is still in its infancy. Issues we will be monitoring in the coming year include:

- The need for time limits for departments to respond to appeals that have been lodged with them
- The need for further improvements in the administration of mental health appeals
- The interaction between various forms of administrative redress and the extent to which these meet users' needs.

The ultimate prize is a system where, so far as is humanly possible, decisions affecting individuals are right first time – and where, if things do go wrong, they are put right quickly, cheaply and efficiently, with lessons being learnt to the benefit of individuals and society as a whole.

This is my last Annual Report after nearly 10 years as Chair of the old Council on Tribunals and now the new AJTC. In welcoming my successor Richard Thomas, former Information Commissioner, I want also to express my thanks to the past and present members and staff of the Council who have helped to make the role so satisfying, interesting – and above all worthwhile.

A handwritten signature in blue ink that reads "Tony Newton". The signature is written in a cursive style with a horizontal line underneath the name.

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

Our Purpose, Vision and Values

PURPOSE

Our purpose is to help make administrative justice and tribunals increasingly accessible, fair and effective by:

- playing a pivotal role in the development of coherent principles and good practice;
- promoting understanding, learning and continuous improvement;
- ensuring that the needs of users are central.

VISION

Our vision for administrative justice and tribunals is a system where:


- those taking administrative decisions do so on soundly-based evidence and with regard to the needs of those affected;
- people are helped to understand how they can best challenge decisions or seek redress at least cost and inconvenience to themselves;
- grievances are resolved in a way which is fair, timely, open and proportionate;
- there is a continuous search for improvement at every stage in the process.

VALUES

The values we seek to promote in administrative justice and tribunals are:

- openness and transparency
- fairness and proportionality
- impartiality and independence
- equality of access to justice.

We will also work collaboratively with others, basing our views on evidence and principle so as to encourage measurable improvement.



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1. Introduction & Overview

1. This report covers the period from 1 April 2008 to 31 March 2009, which represents our first full year as the Administrative Justice and Tribunals Council (AJTC).
2. This has been a landmark year for tribunal reform, with a number of significant milestones having been reached in implementing the provisions of the Tribunals, Courts and Enforcement Act 2007, including the successful establishment of the First-tier and Upper Tribunals in November 2008.
3. We have supported the reform programme, principally through our membership of the Tribunal Procedure Committee, on which we have been represented by our Chairman, but also through our regular contact with the Senior President's office and Ministry of Justice officials working to take forward the reforms.
4. Our primary focus in overseeing the changes has been to monitor their impact on the users of tribunals. And whilst it is still early days, during the year we have come to learn about some of the advantages and unintended disadvantages of the new arrangements, which we have raised from time to time with senior Tribunals Service officials, and which are highlighted later in this report.
5. A significant event from our own perspective was the establishment of our Welsh Committee, which came into operation on 1 June 2008. Under the chairmanship of Professor Sir Adrian Webb, the new Committee has made a good start in addressing the key issues affecting administrative justice in Wales. The Committee has recently published its first Annual Report, which can be found on our website at www.ajtc.gov.uk.
6. Our Scottish Committee has been equally busy, working closely with the Administrative Justice Steering Group chaired by Lord Philip, which is taking forward a review of administrative justice in Scotland. In particular, the Scottish Committee has been developing its response to the recommendations contained in the seminal reports emerging from the review, with a view to informing the debate on the future direction of administrative justice in Scotland. The Committee has recently published its latest Annual Report, which is on our website at www.ajtc.gov.uk.
7. On 18 November 2008 we held our first full Conference as the AJTC, which provided an opportunity for us to demonstrate how we have adapted our ways of working, from a relatively reactive role to a more proactive and visible role, helping to shape the administrative justice landscape.
8. We have been focusing on taking forward our initial programme of work as the AJTC, which we published last July. Among the key objectives we set ourselves were:
 - the development of a paper exploring the new statutory definition of the administrative justice system; and

- the publication of a paper on generally applicable principles of administrative justice, to be followed in subsequent years by a fuller paper and by application of these principles to particular aspects of the administrative justice system.
9. We expect to publish the paper on the landscape of administrative justice shortly, followed thereafter by the paper on principles of administrative justice. These projects are discussed in more detail in Chapter 2.
 10. We have recently updated our work objectives for the coming year, details of which will be submitted to the Lord Chancellor and Scottish and Welsh Ministers. The new work we intend taking forward in the coming year includes:
 - Promoting better initial decision making in order to improve the experience of the users of the administrative justice system across the board. To do this we will continue to build our links with government departments and agencies in order to identify and encourage good practice;
 - Moving forward on work with the Ministry of Justice on the drafting and publication of a new Code of Practice dealing with consultation with the AJTC on all forms of legislation affecting tribunals and administrative justice. This work, which was announced in the White Paper *Transforming Public Services: Complaints, Redress and Tribunals*, will materially assist us in providing useful and timely advice to government.

Statistical Information

11. This year our report does not include statistical information about the tribunals and inquiries under our oversight, as was the practice in the Annual Reports of the Council on Tribunals. We intend to publish statistics for 2008/09 on our website in the autumn.

2. 'Keeping under review and influencing the development of administrative justice and tribunals'

1. Our statutory remit is to keep under review the administrative justice system as a whole. This ranges from initial decision making and internal review, through different forms of adjudication and redress (both internal and external), relationships between decision making agencies and courts, tribunals, inquiries, ombudsmen and other independent complaint handlers, advice, support and representation for users, proportionate dispute resolution provision, public legal education and continuous organisational learning. As a relatively new organisation we are keen to develop our understanding of the administrative justice landscape and to promote a better understanding of it among those who are part of the system or have an interest in it. Over the past year we have been working on a description of the scope of the administrative justice landscape and developing a framework of principles of administrative justice.

The Administrative Justice Landscape

2. Administrative justice is a matter of importance to every citizen. Government regulates many aspects of everyday life, taking decisions in relation to individual citizens. It is essential that people know what they are entitled to expect from decision makers and what their rights are when things go wrong. It is equally important that there are systems in place to ensure that decision makers can learn from past mistakes. This is one of the key ways in which improvements in decision making can be achieved.
3. Our delineation of the developing administrative justice landscape will enable us to focus on the component parts of administrative justice, the relationships between them and the overlaps and gaps in relation to redress provision. In the longer term we anticipate that our work in defining the landscape will prove useful in promoting greater awareness and understanding of administrative justice as an area worthy of specific and sustained attention, and in encouraging collaboration between original decision makers, redress providers, adjudicators and policy makers.
4. We have also been developing a list of key UK organisations working in administrative justice or related fields, which we intend in due course to post on our website.

Developing AJTC Principles of Administrative Justice

5. One of the key objectives we set last year was to develop a set of principles which apply across the administrative justice landscape, as described above. This work is currently well under way and we hope that the framework of principles we are developing will help to:
 - create a focus for building on shared values and approaches;

- promote the visibility and authority of the concept of administrative justice set in a wider landscape; and
 - encourage greater attention to the needs of users of the administrative justice system.
6. We have examined the background and context in which principles relating to administrative justice have emerged and grown, from the report of the Franks Committee in 1957 to the principles of good administration in the Ministry of Justice's March 2009 Green Paper *'Rights and Responsibilities: developing our constitutional framework'*. We have considered carefully examples of principles that have been developed by some other bodies, including the Council of Europe and the Parliamentary and Health Service Ombudsman, in order to see what we can learn from them. From this informed base we have begun to draft a statement of key principles of administrative justice as a basis for initial discussion and dialogue with stakeholders.

ORIGINAL DECISION MAKERS

7. Promoting improvements in the quality of original decision making is a high priority. It is in the best interests of users of the administrative justice system that decisions should be right first time. This should reduce the number of decisions that have to go to some form of dispute resolution, with resulting cost savings.

Pension, Disability and Carers Service

8. We have continued to take an interest in decision making agencies like the Pension, Disability and Carers Service (PDCS) in order to examine ways in which initial decision making can be improved. The President of Social Security and Child Support Appeal Tribunals continued to report a high incidence of successful appeals in respect of certain benefits, such as disability living allowance (DLA) and attendance allowance (AA), suggesting that there are still many cases that could be reviewed favourably by the Agency itself.
9. Last year we reported on the steps the Agency was already taking to gain a better understanding of the reasons why decisions are overturned by tribunals so that they might learn lessons for decision makers. Part of this was through a pilot of a work-based learning programme *'Professionalism in Decision Making and Appeals' (PIDMA)*, developed in partnership with the University of Chester. PIDMA is now rolling out across DLA/AA decision makers in PDCS. It is improving the critical thinking, considerative and customer focused skills of decision makers and the leading and management skills of their managers. So far almost 250 staff have undertaken the programme, successful completion of which leads to formal accreditation.
10. We encourage the DWP to consider rolling out similar programmes across all its Agencies.

The UK Border Agency

11. In addition to engagement with tribunals and other stakeholders in the field of immigration and asylum, which we describe below, we have started to explore with the UK Border Agency (UKBA) how to enhance the quality of its initial decision making. We believe that this is important given that a 2009 National Audit Office report estimated that approximately 70% of asylum applicants appeal against the Case Owner's decision, and of these between 20-25% of appeals to the Asylum and Immigration Tribunal (AIT) have been upheld annually since the end of 2005. We had a preliminary meeting with Lin Homer, the Chief Executive of UKBA, in order to establish a channel of communication, learn more about our respective roles and responsibilities, and discuss our shared priority of "getting it right first time".
12. We were particularly interested to learn about an innovative pilot project, the *'Solihull New Asylum Model Early Legal Advice Pilot'*, which UKBA has been supporting. This aims to ensure early advice and representation to asylum applicants with a view to improving the quality of initial decision making. A recently completed evaluation of the project found that the quality of decisions was high. However, it did not provide sufficiently conclusive evidence about the benefits of the model in respect of cost-saving and the timely determination of cases. UKBA is, therefore, looking to conduct a second, wider-reaching pilot before considering whether or not it should be rolled out to other regions where asylum seekers are dispersed under the New Asylum Model. We were also interested to hear about UKBA's work with the United Nations High Commissioner for Refugees on improving the quality of decision making.
13. UKBA is ready to engage with us in a shared agenda to encourage the provision of high quality immigration and asylum services. It is receptive to the idea of hosting a visit by us to learn more about the asylum process and its impact on the particularly vulnerable users of this jurisdiction.

Office of the Chief Inspector of the UKBA

14. We welcomed the creation in April 2009 of the Office of the Chief Inspector of UKBA, which subsumed the roles of a number of previously separate oversight bodies. We have recently met John Vine, the first Chief Inspector, and look forward to further liaison with his Office in the course of the coming year.

Criminal Injuries Compensation Authority

15. Two of our members made a follow-up visit to the Criminal Injuries Compensation Authority (CICA), which is responsible for administering the criminal injuries compensation scheme in England, Scotland and Wales. Last year the CICA centralised its administration and now operates out of its offices in Glasgow. Our members were interested to learn about the impact of the centralisation process. The following matters were noted:

- The establishment of 6 geographical teams to deal with every aspect of a case, which has led to improved relations with stakeholders in the regions;
 - Better feedback loops through the initial claim, review and appeals processes;
 - A significant reduction in the numbers of cases outstanding;
 - Reductions in the numbers of appeals, thought to be partly due to better explanation of decisions;
 - The introduction of a new advice helpline, including the option of making a claim by telephone;
 - The delayed introduction of a new IT system that best suits the needs of the business.
16. We look forward to seeing improvements in the quality of decision making and service delivery as a result of these changes.

Feedback

17. As highlighted last year in our Work Programme, we believe that feedback mechanisms are potentially powerful tools for improving standards. To this end, we are continuing to explore the best means of promoting feedback from tribunals to decision makers in order to improve initial decision making. We have discussed how this might be achieved with His Honour Judge Robert Martin, the new President of the Social Entitlement Chamber of the First-tier Tribunal, government departments and members of the Tribunals Service. We are also examining existing best practice in providing feedback in other areas of the administrative justice system, including feedback models used by Ombudsmen and the Independent Review Service, which reviews initial decisions relating to the discretionary Social Fund in social security.

OMBUDSMAN SCHEMES

BIOA Annual Conference

18. We participated in the 2008 Annual Conference of the British and Irish Ombudsman Association (BIOA) in Edinburgh. In his keynote speech our Chairman drew attention to the common links between the respective roles of the AJTC and Ombudsmen, including, first and foremost, the needs of users, and the importance of keeping this at the heart of everything we do. He emphasised our willingness to work with the Ombudsman world in order to address the perception of fragmentation in the system, which has been noted both by Ombudsmen themselves and by consumers, particularly as regards the *ad hoc* growth of private sector Ombudsman schemes.

Meeting with BIOA

19. Some of our members held a meeting with representatives from BIOA, Jerry White, Vice Chair of BIOA and Local Government Ombudsman, and Ian Pattison, BIOA Secretary. Among the issues discussed were the proposals in the Department for Children, Schools and Families' *'A new way of handling parents' complaints about school issues consultation'* (our response to which is discussed in Chapter 4) and the latest draft version of the Cabinet Office's paper *'Citizens and Consumers Redress: Ombudsman Schemes – Guidance for Departments'*.
20. The meeting also provided the opportunity for an update on Ombudsman issues more generally, including the impending establishment of a new Legal Services Ombudsman scheme and various other new schemes under consideration. We agreed the importance of future collaboration on issues of common concern, such as improving feedback mechanisms between Ombudsmen and initial decision makers.

Financial Ombudsman Service

21. Some of our members visited the Financial Ombudsman Service (FOS), which was established under the Financial Services and Markets Act 2000. The Ombudsman has the power to instruct a financial firm to 'put things right' for a customer, including recommending the payment of financial compensation. The Ombudsman's decision is binding on firms. We learned that ninety percent of complaints to the FOS are successfully resolved without the need for a binding decision. We were particularly interested in the work of the customer contact team. The team is the first port of call for written and telephone inquiries and provides a screening and streaming service to enable complaints to be dealt with in the most appropriate way.
22. We are planning similar visits to other Ombudsman schemes, in both the public and the private sector.

COURTS

Regionalisation of the Administrative Court

23. With our expanded remit our interest in the courts system as part of the overall administrative justice landscape, and its links to other parts of the system, has grown. We have observed with interest the process of regionalisation of the Administrative Court, as proposed in the report of the Judicial Working Group led by Lord Justice May *'Justice Outside of London'*.
24. The Administrative Court has seen a great increase in workload, due mainly to provisions introduced by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 for review of decisions of the Asylum and Immigration Tribunal. Limitations on judicial availability, owing to judges' circuit responsibilities and the commitments of the Queen's Bench Division, have resulted in a substantial backlog and unacceptable delays in cases being heard. However, as from April 2009 it is possible to issue most Administrative Court proceedings at the District Registry of the High Court at Birmingham, Cardiff, Leeds

or Manchester as well as at the Royal Courts of Justice in London. This is intended to enhance access to justice and alleviate the problem of delay. We received a helpful presentation from the Project Manager in May 2009 and shall follow developments with interest.

PROPORTIONATE DISPUTE RESOLUTION

25. Our overarching objective under our new remit is to focus first and foremost on the needs of users, including promoting a system whereby grievances are resolved in a way which is fair, timely, open and proportionate. We have worked with key stakeholders to understand and promote proportionate dispute resolution (PDR) techniques and services across the administrative justice landscape, building on the findings of our earlier survey of tribunals' use of PDR techniques. We have continued to promote the potential for using PDR, in appropriate settings, as a means of resolving disputes at the earliest opportunity and in a forum which is less intimidating for users. We have worked with the Ministry of Justice, the Civil Justice Council and others to identify collaborative opportunities for promoting the wider use of PDR.
26. We mentioned in last year's report pilot PDR projects that were under way in Employment Tribunals and Social Security and Child Support Appeal Tribunals. The Tribunals Service has since announced the national rollout of judicial mediation in Employment Tribunals following the evaluation of the pilot study. Although we have been unable to study the detail of the evaluation report because its publication has been delayed, we have been led to understand that its findings will be positive.

Civil Mediation Council

27. We participated in the 2nd National Conference of the Civil Mediation Council (CMC) in May 2008. Although it is still a young organisation with relatively few resources, the CMC is emerging as a focal body for mediation providers. Led by its Chairman, Sir Henry Brooke, it includes various types of mediator. The conference included contributions from court related, commercial, family and community mediators. As a follow-up to this event, in July 2008 we met with Sir Henry Brooke and Jonathan Dingle, Secretary of the CMC, to identify the potential scope for future collaboration between us in relation to PDR. We were pleased to welcome Sir Henry Brooke at our annual conference in November 2009, at which he gave an illuminating presentation about the strengths of mediation as a dispute resolution tool.

SUPPORT FOR USERS

28. In seeking to increase knowledge about the availability of advice, support and representation for users of the administrative justice system and explore wider issues and develop good practice, we have been actively developing relationships with a number of relevant stakeholders outside the tribunal system. Our work with stakeholder and user groups is described more fully in Chapter 3.

Advice and legal services in asylum and immigration

29. Developing relationships with stakeholders who are concerned with the commission, provision and delivery of advice and legal services is an important objective for us. In the last quarter of the year, we have had a number of meetings with a range of organisations providing advice and legal services in the immigration and asylum jurisdiction. In addition to briefing us about their work, service providers talked about the impact of changes, both current and prospective, in the public legal aid regime on their services. They also shared with us their concerns about the quality and speed of initial decision making, especially in relation to asylum applicants, who are a particularly vulnerable user group that includes children and victims of torture. Their key concerns include issues relating to the assessment of credibility, lack of adherence to official guidance and inadequate training in its use, lack of compliance with judicial directions by Home Office Presenting Officers and inadequate feedback between the tribunals and original decision makers. We raised some of these concerns at our meeting with the UK Border Agency referred to earlier.

Legal representation in mental health cases

30. At a meeting of the Mental Health Appeals Stakeholder Group (discussed in Chapter 3) members of the Mental Health Lawyers Association (MHLA) and some legal practitioners raised concerns about the impact of the changes in the funding arrangements for legal aid in respect of mental health cases, which were said to be affecting the availability of legally-aided advice and representation in some geographical areas. This was reported to be having a particular impact in the South West region, where the number of legal practitioners working in the mental health field was said to be reducing as a consequence of the changes.

31. We subsequently featured an article on this issue from the MHLA in our *Adjust* newsletter in order to encourage wider debate, to which the LSC subsequently responded in the following edition. At a later meeting of the Stakeholder Group LSC officials informed us of the intention to undertake a review of the impact of recent reforms of legal aid provision for mental health cases, amongst other categories of law. We welcomed this commitment and will monitor the outcome closely.

Public Legal Education

32. In June we participated in the launch of the Public Legal Education Network (Plenet), which was formed to take forward the recommendations of the PLE Task Force. The Plenet project is establishing a body of knowledge about what constitutes successful Public Legal Education. Its website showcases examples of good practice, with case studies and analysis of a wide range of activities that involve public legal education. The project has also commissioned and published articles on key PLE themes to promote debate and discussion. In August 2008 we met to talk about our respective work in the light of our shared, focal concern with the needs of users.
33. As part of pro-bono week in November, Plenet and the Civil Justice Council jointly held a national seminar in Cardiff, entitled '*Developing capable citizens: civil justice and public legal education*', in which we participated. Representatives from a number of organisations shared their experiences. There were interesting discussions about the difference between public legal education and citizenship education programmes; the relative benefits of targeting school children or adults; and whether or not the concepts of empowerment and human rights promotion were more useful than that of public legal education.
34. In February 2009 we participated in Plenet's Legal Empowerment Conference in London. This event brought together a diverse group of participants to share insights and thinking around the key theme of '*How can PLE empower individuals and communities?*' Following the conference we met with Professor Lois Gander to learn more about the development of public legal education in Alberta, Canada.

Pro Bono Unit at the College of Law

35. A number of organisations providing pro bono legal services participated in the Plenet conference. We met subsequently with one of the largest of these organisations, the College of Law Pro Bono Services. The unit provides a wide range of different opportunities for its students, including a Legal Advice Centre, which provides a free legal advice service run by student advisers under the supervision of solicitors experienced in social welfare law. We were particularly interested to learn about the use of 'triage' in sign-posting users to other service providers.

Citizens Advice Annual Conference

36. Last September our Chairman gave the keynote speech at the Citizens Advice Annual Conference on the theme of '*Better Access to a Fairer Justice System*'. He pointed to the similar purposes, vision and values of our respective organisations, albeit differing in terms of how we each achieve our goals. Citizens Advice plays a crucial role in disseminating advice and promoting access to the administrative justice system. He said that our role, whilst not on the frontline, is nevertheless a complementary one, serving to promote improvements from the user's perspective, from the quality of initial decision making to the

more effective use of tribunal outcomes to achieve best practice. He emphasised the mutual interest of our organisations in working together to promote better services for users of the administrative justice system.

Legal Services Commission

37. In July 2008 we met with the Legal Services Commission (LSC) to discuss how we might develop a closer working relationship, and we have continued to meet on a quarterly basis since then, focusing in particular on mental health cases. We were interested to learn about the LSC's *'Whole Systems Initiative'*, which is designed to help the civil and criminal justice systems work more effectively for users, providers of legal services and relevant agencies, as well as ensuring adequate coverage of legal services.
38. We were also encouraged to learn that the LSC is actively collecting information about users' experiences, including those of the bodies providing advice and representation. LSC officials also explained their thinking on how the Community Legal Advice telephone helpline and website (formerly CLS Direct) and the development of Community Legal Advice Centres (CLACs) can provide advice and assistance to users seeking help in some areas of social welfare law. We discussed the impact of the new tribunal structure, particularly the creation of the Upper Tribunal, on the need for advice and support for tribunal users.

COMMUNICATIONS

39. Our electronic newsletter *Adjust* continues to develop as an authoritative publication on matters concerned with administrative justice, both at home and abroad. It also serves as a showcase for our work, such as our consultation responses, our involvement in user groups and our other publications.
40. Recent news features have included updates on the tribunal unification programme; developments on the Bill of Rights; and important cross-border issues such as the Philip Review in Scotland. Articles this year have included research about the impact of advice and representation on successful tribunal outcomes; administrative justice reform in Northern Ireland; and developments in other jurisdictions, such as the amalgamated civil and administrative tribunal in Queensland, Australia.
41. *Adjust* has continued to highlight user issues, such as innovative projects to improve initial decision making, including an article about the Pension, Disability and Carers Service's PIDMA initiative, discussed above. We have also highlighted particularly vulnerable users, including a feature on mental health and an article on immigration detention by the organisation Bail for Immigration Detainees (BID).
42. The AJTC website at www.ajtc.gov.uk has also continued to give an account of our work and to serve as a resource for those with an interest in administrative justice.

AJTC ANNUAL CONFERENCE

43. Our Annual Conference last November attracted around 200 delegates. The morning session focused on Tribunals, with a presentation on the tribunal reform programme *'Tribunal Justice – a new start'* by Lord Justice Carnwath, the Senior President of Tribunals. There were also contributions from Lord Philip, Hugh Rawlings and Siobhan Broderick on tribunal reform in Scotland, Wales and Northern Ireland respectively.
44. In the afternoon, we were pleased to welcome Bridget Prentice MP, Parliamentary Under Secretary of State in the Ministry of Justice, who spoke about the benefits of tribunal reform for users. As already mentioned, we also welcomed the Rt Hon. Sir Henry Brooke, who challenged us to take a more active role in encouraging the promotion of alternative dispute resolution as an effective means of resolving disputes.
45. We also disseminated our report *'Developing Administrative Justice Research'*, which is discussed more fully in Chapter 4.



3. 'Keeping under Review the work of the Tribunals Service, the Tribunals within it and other Tribunals'

IMPLEMENTATION OF THE TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

1. We played an active role in overseeing the implementation of the tribunal unification programme, which culminated in 'T1 Day' on 3 November 2008, marking completion of the first stage of tribunal unification. This established a two-tier tribunal structure comprising:
 - Three First-tier Tribunal Chambers – Social Entitlement (SE); Health, Education and Social Care (HESC); and the War Pensions & Armed Forces Compensation (WPAFC) Chambers; and
 - The Administrative Appeals Chamber of the Upper Tribunal (UT).
2. We also contributed to the preparations for the next phase of the unification process, involving the establishment of a new Tax Chamber of the First-tier Tribunal from 1 April 2009 ('T2 Day'), with an onward right of appeal to a new Finance and Tax Chamber of the Upper Tribunal. The Tax Chamber replaced the four existing tax jurisdictions of the General Commissioners of Income Tax, VAT and Duties Tribunals, Special Commissioners of Income Tax and the Section 704/706 Tribunal. This represented a major reform of the tax appeals system.
3. We have been considering a consultation on the General Regulatory Chamber Rules, on which we shall report next year.

Tribunal Procedure Committee

4. During the reporting year our Chairman sat as a member of the Tribunal Procedure Committee (TPC), which is responsible for making Chamber Rules. He was supported in this role by one of our members, Bronwyn McKenna, who attended the TPC's meetings to represent our views on the Rules as they have developed. She has since been appointed a member of the TPC in succession to our Chairman. Our participation on the TPC has enabled us to influence the First-tier Tribunal and Upper Tribunal Rules, with the aim of encouraging user choice, reducing delays and improving procedural fairness and the overall user-friendliness of the Rules.

T1 Day Rules

5. We had the opportunity to comment on pre-consultation drafts of the First-tier Tribunal and Upper Tribunal Rules and many of our concerns had been addressed by the time of the formal public consultation process. We are aware that a number of tribunal stakeholder groups expressed concern that the deadline for responding to the draft Rules consultation did not provide sufficient time for meaningful

comment. It was also suggested that the list of consultees was not as comprehensive as it might have been. We were pleased to note that these concerns were borne in mind for the subsequent consultation on the draft Rules for the General Regulatory Chamber.

6. Our subsequent response to the public consultation largely welcomed the form and content of the rules as reflecting modern good practice and the interests of users. We were pleased to note the influence of the Council on Tribunals' *Guide to Drafting Tribunal Rules* (2003). We welcomed the clear drafting style and the high degree of uniformity across the rules, including commonality in their structure and terminology and the adoption of common provisions, wherever possible. We also welcomed the incorporation of an overriding objective and provision in each set of Rules for Alternative Dispute Resolution (ADR) and case management. However, we highlighted some outstanding concerns, including:
 - the lodgement of social security and child support appeals with the original decision making department rather than the Tribunal;
 - the length of time which respondents have to indicate whether they will defend the appeal;
 - the absence of a specific time limit for responding to social security and child support appeals in the SEC rules, such response to occur only "as soon as practicable" (which is discussed further in paragraphs 9 and 10 below).

T2 Day Rules

7. We also responded to formal consultations on the Rules for the Tax Chamber of the First-tier Tribunal and the Finance and Tax Chamber of the Upper Tribunal. We emphasised the desirability of uniformity with the Rules for the other Chambers and raised the following issues, which were duly taken into account:
 - the desirability of including provision for ADR on the basis of its utility, in the broadest sense, for resolving tax appeals;
 - parties to an appeal should have the opportunity to make representations prior to the tribunal giving a direction to allocate a case to the 'complex track', in which a different costs regime applies; and
 - the Upper Tribunal should have the same powers as the First-tier Tribunal in respect of transferred appeals.

Guide to Drafting Tribunal Rules

8. Pursuant to our work programme, we undertook a review of the Council on Tribunals' *Guide to Drafting Tribunal Rules*, referred to earlier. We concluded that work on updating the Guide would best be undertaken after completing our prospective work on developing principles of administrative justice, which could usefully inform such a revision. Deferring this work would also enable us to take account of any lessons learned from our involvement in the TPC.

TPC sub-group on Time Limits

9. The TPC was unable to reach agreement on a universal time limit of 42 days for responding to appeals, which was considered by the Department for Work and Pensions and Her Majesty's Revenue and Customs to be impracticable for their decision makers. We have strongly supported having a time limit for responding to appeals since it seems inequitable to us that the Rules should impose a time limit for appealing but no specific time limit for DWP and HMRC to respond.
10. Mr Justice Elias (now Lord Justice Elias), the Chair of the TPC, decided to establish a sub-group to consider how best to overcome the perceived difficulties of having a universal time limit and to report back on progress towards this aim. Bronwyn McKenna, now our nominated representative on the TPC, sits on the sub-group. We are monitoring this work closely and will report on progress next year.

TRIBUNALS SERVICE MANAGEMENT BOARD

11. Our Chairman has continued to have observer status at the meetings of the Tribunals Service Management Board, which has enabled us to keep abreast of developments in the fast-moving Tribunals Change Programme. A small group of our members has supported the Chairman in this role and provided a useful means of considering emerging issues as they have arisen.

KPI Working Group

12. We were invited to attend meetings of the Tribunals Service KPI working group, which is responsible for the development of key performance indicators and performance measures for its business, both for the current year and for future years. The working group is making good progress in developing KPIs and we were pleased to see that it is working toward the measurement of end-to-end times for the determination of appeals within the Tribunals Service. We hope that this will in due course be extended to measure the time taken to determine appeals from the date of lodgement with decision making departments, where that still occurs, and in future years to measure waiting time from the date of the receipt of the decision under appeal by users, as this is the best measure of performance from their perspective. We also look forward to KPIs being used transparently as the means of addressing under-performance and highlighting good performance in different jurisdictional areas.

Meetings with Tribunals Service Chief Executives

13. We have continued to have regular contact with the senior management team in the Tribunals Service, both through our regular meetings with successive Chief Executives and our members' contacts with TS Area Directors at regional level. We mentioned in last year's report our early meeting with Jeanne Spinks, the then Acting Chief Executive, which has been followed up more recently with a further meeting with the new Chief Executive, Kevin Sadler, who was appointed to the post in January 2009.

14. The Tribunals Service's 2009-10 Business Plan formed the basis of our discussions with the new Chief Executive. We strongly supported the adoption of appropriate performance measures to promote greater accountability and drive service improvement. He advised us that due to workloads rising faster than anticipated the Tribunals Service had not achieved some of its performance targets for 2008/09, despite making efficiency improvements. We urged the adoption of a three-year business plan model to enable the Tribunals Service to be more ambitious in setting out its future plans. We welcomed the invitation to be represented on the Tribunals Service's new Customer Service Board, which will be responsible for driving forward work on establishing the TS customer service strategy.

Consultation Paper on Proposed Closure of Social Security & Child Support Hearing Centre, Wingfield House, Portsmouth

15. The Tribunals Service consulted on proposals to close the Social Security and Child Support Hearing Centre in Wingfield House, Portsmouth, and to relocate hearings to the Court House in Havant. Our response focused on broader issues of concern to users raised by the consultation. Whilst we recognised the reasons why Wingfield House was thought to be unsuitable as a venue for hearings, we had reservations about the proposal to relocate hearings to a court building. The consultation was silent on the reasons why the court building was thought to be suitable for tribunal hearings. In our response we pointed to the informality of the hearing venue as an important factor in maximising user attendance at hearings, particularly given the high levels of self-representation in social security and child support appeals.
16. The Chief Executive's reply helpfully acknowledged our concerns and agreed that measures needed to be taken to provide a less intimidating environment than a formal courtroom for tribunal hearings. His reply also outlined the circumstances in which future consultations on proposals to relocate hearing venues would be conducted.

Tribunal Presidents Group

17. Our Chairman has continued to attend meetings of the Tribunal Presidents Group, which was established as the main judicial forum for the Tribunal Reform programme and associated legislative reforms. Over the year, the group has played a valuable role in overseeing judicial aspects of the tribunal reform programme. The group met for the last time in March 2009, having served its original purpose. The Senior President has restructured his leadership groups to correspond more closely with the Chambers of the First-tier and Upper Tribunals. However, to ensure that those tribunals outside these structures remain in touch with developments they will be invited, periodically, to wider meetings of the Tribunals Judicial Executive Board.

TRIBUNAL VISITS

18. Our members' visits to observe tribunal hearings continue to feature as an important aspect of our work. However, as our Chairman foreshadowed at our Annual Conference in November 2008, our focus on visits to observe tribunal hearings has reduced as our emphasis shifts to reflect our wider remit. Our networking, partnership and collaborative activity with other organisations with an interest in administrative justice has correspondingly expanded. A focus of our tribunal visits in the year ahead will be to monitor the impact of tribunal unification, while not overlooking the needs of tribunals and their users outside the Tribunals Service. We are keen to ensure that users across jurisdictions should have the benefit of lessons gleaned from within and outside the Tribunals Service. We continue to provide regular feedback from our visits, both to the tribunals themselves and also to the Senior President of Tribunals, in respect of Tribunals Service tribunals.
19. We had occasion to raise early concerns with senior Tribunals Service officials about our perception of increasing formality of hearings in some jurisdictions as a consequence of hearings taking place in rooms set out as formal courtrooms. As mentioned in paragraph 15 above, hearings in some tribunal jurisdictions, such as social security, war pensions and special educational needs, particularly lend themselves to less formal surroundings. We intend in the coming year to monitor this matter closely, not just in respect of hearing venues but also the tribunal proceedings themselves.

TRIBUNAL STAKEHOLDER GROUPS

20. We continue to play an active part in the stakeholder groups for the mental health and war pensions and armed forces compensation jurisdictions. We also support the operation of other jurisdiction specific national and regional user groups, for tribunals both within and outside the Tribunals Service, and our members or staff attend their meetings.

Mental Health Appeals Stakeholder Group

21. Our Chairman has continued to chair the Mental Health Appeals Stakeholder group, which met on three occasions during the year. This group plays an important role in addressing stakeholder concerns about the operation and administration of the First-tier Tribunal (Mental Health), formerly the Mental Health Review Tribunal in England, which impacts on some of the most vulnerable users of tribunals. This year, whilst the group continued to monitor tribunal performance, it extended its terms of reference to include wider issues of relevance to users, such as legal aid funding, the implementation of changes to mental health law, mental health research and an audit of tribunal room facilities.

22. The group has also proved to be useful in clarifying cross-jurisdictional lessons about relocating a specialist tribunal into the Tribunals Service. We anticipate that future meetings will provide an opportunity to obtain a greater understanding about the impact of tribunal unification on users. In particular, in conjunction with our Welsh Committee we are hoping to consider the effect of cross-border issues affecting the Mental Health Review Tribunal for Wales, which remains the responsibility of the Welsh Assembly Government, while having an onward right of appeal to the Upper Tribunal.
23. We are keen to ensure that the group maintains its momentum in using important information gained from the experience and concerns of stakeholders to achieve much needed improvements in the administration and operation of mental health tribunals. We will provide whatever support we can in order to achieve this.

War Pensions and Armed Forces Compensation Chamber Advisory Steering Group

24. We were invited by the Ministry of Justice to chair the War Pensions and Armed Forces Compensation Chamber Advisory Steering Group, with the prior agreement of the group's key stakeholders. The overriding aim of the group is to *"pursue a co-operative, inclusive and consistent approach to war pensions and armed forces compensation appeals across the United Kingdom"*. We agreed to chair the group as part of our role in working collaboratively with others to encourage systemic improvements in the administrative justice system for users.
25. It is anticipated that the group will represent the interests of users across the separate jurisdictions in England & Wales, Scotland and Northern Ireland. At its first meeting the group discussed the new procedural rules for England & Wales, and the extent to which they were consistent with those operating in Scotland and Northern Ireland. The meeting commissioned further work on this issue. The appropriate location for the Reserve Forces Appeal Tribunal within the unified tribunal system was also discussed.

Asylum and Immigration Tribunal (AIT) Stakeholder Group

26. We continued to participate in the AIT Stakeholder Group and took the opportunity to raise issues arising from our observations of tribunal hearings. One such matter concerns the large distances that some users have to travel to attend hearings for an allotted 10.00am start, only to wait for long periods for their appeal to be heard. Sometimes appellants are accompanied by children, for whom care provision is not usually available. Timed afternoon listings were raised as a possible solution. The Tribunals Service indicated that most hearing centres had tried to accommodate timed listings where possible, but subsequent feedback from users about this had not been positive. They also indicated that whilst having more convenient afternoon listing times was an aspiration, there was no timetable for their introduction.

27. We also raised the issue of the availability of statistics about the number and proportion of unrepresented appellants, especially in fast track cases. These are cases where accelerated appeal procedures apply to claimants detained in specified removal centres. The Tribunals Service has agreed to investigate further.

Tribunals Service and Senior President's Annual Reports

28. In last year's report, we expressed our willingness to work with the Tribunals Service and the Senior President of Tribunals to ensure that their respective reporting arrangements adequately account for the performance of tribunals from the users' perspective. To this end, one of our members has worked with a senior member of the tribunal judiciary to review the information formerly produced by individual tribunals in order to provide preliminary advice to the Senior President. This work has served to identify a gap between the information previously published by individual tribunals and the information that is now published by the Tribunals Service. We have suggested that the Senior President's report might provide a useful vehicle to bridge that gap.

TRIBUNALS OUTSIDE THE TRIBUNALS SERVICE

29. While the principal focus of our work on tribunals during the reporting year has inevitably been on the Tribunals Service and the tribunals within it, there have been significant developments in other tribunals under our oversight. Some of these tribunals are to join the Tribunals Service in due course, while in the case of others there are no current plans that they should do so. In either case, it is essential that they should continue to receive attention. We record some of the more important developments below.

Traffic Commissioners

30. Traffic Commissioners are among the tribunals that will remain outside the Tribunals Service. The Local Transport Act 2008 introduced various changes, both to the organisation of Traffic Commissioners and to their jurisdiction. Most significantly, the office of Senior Traffic Commissioner, which has existed without statutory backing for many years, was put on a statutory basis. This had long been advocated by the Council on Tribunals and is a development that we warmly welcome. The first statutory Senior Traffic Commissioner is Mr Philip Brown, who previously occupied the post on a non-statutory basis.
31. Under the 2008 Act, Traffic Commissioners are no longer required to act under the general directions of the Secretary of State, but they are subject to the Senior Traffic Commissioner's general directions and guidance, and the Senior Traffic Commissioner is required to have regard to the Secretary of State's guidance. We shall be considering the practical implications of the new governance arrangements in the coming year. There have also been consultations on procedural rules for hearings by Traffic Commissioners in connection with some of their new jurisdictions, which our secretariat responded to on our behalf.

Valuation tribunals

32. Valuation tribunals are another system that will remain outside the Tribunals Service, certainly for the present. During the reporting year steps were taken to implement those provisions of the Local Government and Public Involvement in Health Act 2007 that deal with the reform of valuation tribunals in England. The Act provides for a single Valuation Tribunal for England in place of the present 56 tribunals and makes provision for the appointment of a President and Vice-Presidents. Professor Graham Zellick CBE has been appointed as the first President. Consultation on regulations to govern the new Tribunal was launched in March 2009 and the Tribunal is due to be formally established in October. All this represents a major advance that we greatly welcome.
33. We also welcomed the introduction in April 2008 of "Appeals Direct" for council tax banding appeals, whereby appeals are lodged with the valuation tribunal instead of the Valuation Office Agency. We would support any moves to extend this procedure to other types of appeal.

Residential Property Tribunal Service

34. We have continued to take an interest in the Residential Property Tribunal Service (RPTS), whose National User Group meetings we attend. In the course of the year we were also able to attend one of their Management Board meetings. The tribunals concerned, namely rent assessment committees, leasehold valuation tribunals and residential property tribunals, are expected to join the Tribunals Service at a future date.
35. The past few years have seen a significant expansion of RPTS's jurisdictions and there is no sign of this abating. In May 2008 the Department for Communities and Local Government (CLG) and the Welsh Assembly Government consulted on proposals to transfer to residential property tribunals most of the dispute resolution functions of the county courts under the Mobile Homes Acts 1975 and 1983. This was widely supported and a decision has now been taken to proceed, subject to a further limited consultation about termination cases. We support the transfer of jurisdiction in principle, provided that users are not put to additional inconvenience, cost or delay by the county courts' retention of jurisdiction to make termination orders. CLG also published a consultation document in May 2009 proposing that RPTS should play a prominent part in a new licensing regime for park homes sites.

Adjudication Panel for England

36. The Local Government and Public Involvement in Health Act 2007 introduced new provision about the conduct of local authority members in England, aimed at devolving most decision making on the conduct regime to local authority standards committees, with a revised, more strategic regulatory role for the Standards Board. Standards committees were empowered to refer the more serious cases to the Adjudication Panel for England, to be heard by case tribunals drawn

from the Panel. The tribunals are under our oversight. Their functions are due to be transferred to the General Regulatory Chamber of the First-tier Tribunal in January 2010, and in anticipation of this the Panel's administration recently transferred to the Tribunals Service.

37. In August 2008 the Department for Communities and Local Government consulted us on draft regulations concerned with, among other things, the withdrawal of references to the Panel in specified circumstances. We were generally content with the proposals and secured some improvements to the drafting. Now that the new provisions for local determination have been in force for over a year we are proposing to examine more closely how they are working in practice.

Parking and traffic appeals

38. Part 6 of the Traffic Management Act 2004, to which the Council on Tribunals referred in earlier reports, came into operation on 31 March 2008, the day before our reporting year began. It provides for a new enforcement regime for traffic penalties. In consequence of the changes, the National Parking Adjudication Service, which handled parking appeals outside London, has been renamed the Traffic Penalty Tribunal. Appeals in London continue to be dealt with by the Parking and Traffic Appeals Service. There are no current plans to integrate either of these organisations into the Tribunals Service. Adjudicators in both organisations are under our oversight. The consultation on regulations to bring Part 6 into effect had been somewhat protracted and difficult. We are keen to review how the new regime is bedding down after more than a year in operation.

School Admission and Exclusion Appeal Panels

39. We continue to take a close interest in school admission and exclusion appeal panels and concerns about their operation are well documented in past Annual Reports of the Council on Tribunals and in its 2003 Special Report. We have commented this year on a number of consultations pertaining to admission appeal panels, which are discussed in Chapter 4. We also devote a good deal of our visits activity to observe hearings of these panels and in the current year are focusing particularly on those foundation and voluntary-aided schools, against whom the Local Government Ombudsmen have published findings of maladministration in respect of their appeal panels. Early findings from our visits have been favourable, indicating that the difficulties the Ombudsmen found have largely been resolved. We will report more fully on our findings in our next Report.
40. In respect of school exclusion appeal panels we noted a welcome development emerging from the Welsh Assembly Government's National Review of Behaviour, which proposed to move forward with discussions on developing a national independent appeal panel to replace local authority panels, possibly by expanding the jurisdiction of the Special Educational Needs Tribunal for Wales. The 2003 Special Report on the operation of school admissions and exclusion panels recommended that, because of the recurring link between exclusions and special educational needs, exclusion appeals should be heard by

the Special Educational Needs and Disability Tribunal. It is gratifying to note this welcome development, which we will monitor further and which we hope officials in the Department for Children, Schools and Families (DCSF) will also take note of.

41. We met with Councillor Les Lawrence, Chair of the Local Government Association's Children and Young People's Board, and discussed, among other matters, the operation of school admission policies, in particular the growing use of ballot systems to allocate places in over-subscribed schools. This new development resulted from guidance in the DCSF's revised admission appeals code, which advised that random allocation of places in over-subscribed schools could be good practice, particularly in urban areas, although may be unsuitable in rural areas. Councillor Lawrence's view is that, when trying to balance competition for places in popular schools, a ballot system could be seen as the only fair way of giving every child an equal chance where places are over-subscribed. We subsequently visited an appeals hearing in an Education Authority using the ballot system, and were pleased to see the process working well in these new circumstances.
42. We also discussed issues relating to school admission and exclusion appeal panels and the proposals for the Local Government Ombudsman to deal with complaints about schools (reported on in Chapter 4). We welcomed the opportunity to exchange views with Councillor Lawrence and agreed that we should maintain regular contact with the Local Government Association.

Schools Adjudicators

43. We had an early meeting with Dr Ian Craig who was appointed as the new Schools Adjudicator in April 2009, having previously been Director of Children's Services for Kent. The meeting provided the opportunity to exchange views on, among other matters, our interest in the work of his office, the role of the schools adjudicator, and in particular, the extension of his jurisdiction to include monitoring the conduct of admission appeal panels. This proved to be a useful meeting, despite being cut short when our office had to be evacuated because of a fire in the vicinity of Chancery Lane. We agreed to conclude our meeting at a later date.

Office of the Health Professions Adjudicator

44. We mentioned in last year's Report provisions in the Health and Social Care Act 2008 establishing a new independent body, the Office of the Health Professions Adjudicator, which will have responsibility for adjudicating in fitness to practice cases in respect of medical professionals. It was agreed by the Department of Health that the new body should in due course be brought within our remit, arrangements for which have still to be made. During the year the Department invited us to sit on its project board making the arrangements for the new body, to which we agreed on an observer-only basis. The Board sits monthly on the same day as our own meetings

and so our ability to attend has been limited, although one of our members has been able to attend one of its meetings. We have, however, asked to see copies of the meeting papers in order to follow developments closely.

TRIBUNALS TRAINING

45. We continue to be represented on the Tribunals Committee of the Judicial Studies Board (JSB) which has been reassessing its role in relation to the training of tribunal members, both within and outside the Tribunals Service, in the context of the tribunals reforms. During the last year, the JSB has completed its 2 year programme to evaluate the training, appraisal and mentoring schemes of tribunals within the Tribunals Service, and we and the Senior President have encouraged the continuation of the evaluation programme to tribunals outside the Tribunals Service. We also welcomed the development of the JSB's re-styled *Tribunals' Judicial Training and Education Prospectus* and promoted an early version at our conference in November and through our electronic newsletter *Adjust*. We were also pleased to be invited to join the joint JSB / Tribunals Service Appraisal Development Working Group set up to update the JSB's appraisal framework and develop competencies for appraisers and advanced appraisal training. There will be a consultation on the outcome of this work later in 2009.

4. 'Responding authoritatively to emerging issues and proposals that affect or involve administrative justice, tribunals and inquiries more generally'

WELFARE REFORM BILL

1. The Welfare Reform Bill was introduced in the House of Commons on 14 January 2009. Our interest in the Bill concerned provisions relating to the enforcement of child maintenance orders, and in particular the introduction of new sanctions for failure to comply with a child maintenance order. The effect of the provision is to transfer from the courts to the new Child Maintenance and Enforcement Commission (CMEC) responsibility for making an order to disqualify a person from holding a driving licence or passport. The Bill provided for a right of appeal to the magistrates' court, or sheriff court in Scotland, against the making of such an order by the CMEC. However, an appeal to the magistrates' or sheriff court would incur costs for the appellant, both in order to bring the appeal and potentially in respect of the CMEC's costs where the court subsequently upholds the original decision, or even in some instances, where an appeal is allowed.
2. Our Chairman raised our concerns in writing to the Secretary of State for Work and Pensions. We pointed out that the dual effect of the provisions is to downgrade the level of decision making in these cases, whilst at the same time providing an appeal mechanism which is less accessible than that for other social security and child support cases. We expressed particular concern that decisions of this kind, which affect the fundamental liberties of individuals, should not be taken by relatively junior administrators and urged that responsibility for such matters should remain with the courts. We also pointed out that providing for a right of appeal in these cases to the courts rather than to a tribunal created an inconsistency in the treatment of appeals between different classes of decisions with the CMEC. Furthermore, we stated our principled objection to the introduction of an appeal right which carried a financial disincentive for anyone wishing to exercise their right.
3. We suggested that further consideration be given to this matter with a view to either maintaining the existing arrangements, whereby the CMEC would apply to the courts to obtain an order to disqualify an individual from holding a driving licence or passport, or providing for a right of appeal from an administrative decision of the CMEC to the First-tier Tribunal, with an onward appeal on a point of law to the Upper Tribunal, as for other child support cases. We look forward to a response.

4. We forwarded a copy of our Chairman's letter for information to the Joint Select Committee on Human Rights, which was considering whether these proposals were compatible with Article 6 of the European Convention on Human Rights (right to a fair hearing).

OTHER CONSULTATIONS

School Admissions Consultation 2008

5. The Department for Children, Schools and Families (DCSF) consulted on proposals aimed at making the admissions process and the administration of admission appeals as fair, transparent and straightforward for parents as possible and ensuring that all schools comply fully with the statutory Code of Practice.
6. Among the proposals of particular interest to us were:
 - a suitably independent reviewer to provide advice to parents on whether an infant class size appeal is likely to be successful;
 - admission appeals to be administered by an independent body, and whether appeal panels should be required to consider the lawfulness of admission arrangements when considering appeals;
 - local authorities to report to the schools adjudicator on admission arrangements in their area;
 - a wider role for the schools adjudicator to be more proactive in ensuring that admission arrangements comply fully with the law and the statutory Codes of Practice;
 - giving young people a right of appeal, either jointly or separately with their parents, in respect of admission to sixth form schools.
7. We disagreed with the proposal for an independent reviewer to provide advice to parents on the likelihood of success of infant class size appeals. Whilst we recognised the difficulty of trying to manage parents' expectations in these types of appeals, it was unclear to us what benefit would be gained by the introduction of an independent review stage. Moreover, until the admissions process is made more transparent and parents have access to better information about how decisions on admission are taken by admission authorities, we thought that parents would be well advised to continue to exercise their right of appeal, even where it was thought highly unlikely that such an appeal would be successful. We also suggested that if the 'independent reviewer' was appointed by the local authority it was unlikely that parents would perceive that person as truly independent.
8. We agreed with the concept of admission appeals being administered by an independent body and repeated our strongly held view that schools which are their own admission authority should not manage their own appeals or have responsibility for their own appeal panels, since this could compromise the panels' independence. In its 2003 Special Report¹ the Council on Tribunals recommended that that all admission appeals, including those for voluntary-aided and foundation schools, should be managed and run by LEAs regionally. We endorse that view.

¹ Cm 5788

9. We also agreed that appeal panels should be required to consider the lawfulness of admission arrangements when considering appeals but observed that none of the panel members is legally qualified, nor do they routinely have access to independent legal advice, either of which would be required in this regard. We supported the proposed new role for the schools adjudicator in monitoring admission arrangements, which we discussed in our last Report.
10. We welcomed the proposal to give a separate right of appeal to young people applying for admission to sixth form schools but pointed out that this raised a number of new issues, which would need to be addressed. These included providing information to young people about their rights in a format that is easy to understand, and the need for training for appeal panels in managing appeal hearings involving young people, which would require the Chair to adopt a more 'enabling' role. There would also be a need to provide advocacy support for young people.
11. In this regard our Welsh Committee responded earlier to a consultation by the Welsh Assembly Government on giving children the right of appeal to the Special Educational Needs Tribunal for Wales (SENTW). The Committee was broadly supportive of the proposal but pointed out that a large determinant of its success would be the quality and accessibility of any associated independent advocacy service. This accords with the project we reported on last year by Save the Children, which examined the role of independent advocacy in supporting young people at risk of exclusion from full-time education. The project concluded that the establishment of a government funded advocacy service could lead to significant savings in respect of the annual cost of school and social exclusion.

Consultation: A New Way of Handling Parents' Complaints about School Issues

12. The Department also consulted on proposals for handling complaints at school level and new arrangements for independent review of complaints that cannot be resolved at school level, including among other matters the provision of support specified in a child's SEN statement where there is no alternative route of appeal. These are matters which are currently considered by the Secretary of State.
13. The proposals included three options for the location of the new administrative arrangements for dealing with such complaints: (i) the Local Government Ombudsman (LGO); (ii) the Office of the Schools Adjudicator; and (iii) an independent local referral service within each local authority.
14. We expressed the view that the LGO was not only the best fit for undertaking any new complaints service but was the only appropriate option from those proposed, largely due to its existing expertise in handling complaints about local authority services. The widely held perception of the LGO's independence would, in our view, ensure that it commanded the widest credibility with both schools and parents. Locating the service with the schools adjudicator would, we suggested, create a confusion of roles within his office as adjudicators

and complaint handlers, which we considered to be undesirable. Locating the service within local authorities was thought to be the least desirable, for the reason that it would not be viewed as being sufficiently independent.

15. We were pleased to note that legislation to bring school complaints within the LGO's jurisdiction was introduced in the House of Commons in February 2009. We will follow this with interest.

Immigration Appeals: Fair Decisions, Faster Justice

16. We responded to the consultation '*Immigration Appeals, Fair Decisions; Faster Justice*' issued by the UK Border Agency (UKBA) in August 2008, which took place in the context of what was described as 'the biggest shake-up to our border protection and immigration system for over 45 years'.
17. In principle, we welcomed the proposal to incorporate asylum and immigration appeals into the two-tier structure provided by the Tribunals, Courts and Enforcement Act 2007. The Council on Tribunals had expressed misgivings on several occasions about the establishment, in 2005, of the single tier Asylum and Immigration Tribunal. We recognised that, in the asylum field in particular, speed and finality is of value to appellants, and also has beneficial incentive effects in relation to economic migrants seeking admission to the UK as asylum seekers. However, we expressed our concern about the degree of stress placed on speed and finality, as against the principles of fairness, impartiality and human rights.
18. We thought it incongruous that a UKBA consultation about appeals to which UKBA is a party said little about how initial decision making could be improved. Without such improvement any attempt to speed up and abridge the appeal process is misconceived and could lead to serious injustice. It goes without saying that improved decision making is even more important where there is no right of appeal.
19. As to the detail of the proposals, we expressed concern about treating asylum and immigration appeals differently from appeals in other jurisdictions of the First-tier Tribunal and Upper Tribunal. For example, we were not convinced of the justification for depriving the First-tier Tribunal of the power to give permission to appeal to the Upper Tribunal, at any rate in immigration cases. Having regard to the finality of the Upper Tribunal's refusal of permission, we considered that the Upper Tribunal should have the discretion to hold an oral hearing. We expressed the view that the Tribunal Procedure Committee is the appropriate body to make the procedural rules for this jurisdiction, as it is for the other Tribunal Chambers. The Government's response to the consultation met a substantial number of our points. It is intended that the new arrangements should come into operation early in 2010.

Law Commission Consultation ‘Administrative Redress: Public Bodies and the Citizen’

20. Law Commission officials attended one of our meetings in connection with the Law Commission’s consultation paper *‘Administrative Redress: Public Bodies and the Citizen’*. The consultation discussed the legal position on liability in public and private law and recommended reforming administrative redress for public bodies through ‘modified corrective justice’.
21. We particularly welcomed provisional recommendations to improve interaction between Ombudsmen and the courts, thereby making it easier for citizens to access the appropriate mechanism for redress. The recommendations included:
 - the introduction of a ‘stay’ provision, to ensure that disputes are dealt with in the appropriate forum;
 - enabling Ombudsmen to make referrals to the courts on points of law;
 - modifying the ‘statutory bar’ so that a potential remedy in the courts does not necessarily prevent Ombudsmen from conducting an investigation; and
 - enabling complaints to be made to the Parliamentary Ombudsman directly or through an MP.
22. Our response welcomed the consultation as a stimulus to further debate about striking the right balance in the relationship between the state and the individual. We indicated our willingness to participate in a wider-ranging debate on the issues, which have social, political and economic dimensions as well as legal ones.

Legal Services Commission: Civil Bid Rounds for 2010 Contracts

23. Our interest in the LSC’s consultation on civil bid rounds for 2010 arose from our oversight of the administrative justice system as a whole. In broad terms, we welcomed the consultation paper’s explicit recognition that legal aid provides a fundamental underpinning of the justice system, enabling access to justice for those who cannot afford to pay for legal advice and representation. This is particularly critical in the mental health and immigration and asylum jurisdictions, the users of which are amongst the most vulnerable in society.
24. We welcomed the LSC’s high level objectives of procuring more user-focused services and ensuring easier access to face-to-face advice. However, we expressed concern that some of the specific proposals regarding new matter start (NMS) sizes (that is, the number of new cases providers are mandated to start in a contract year), additional service quality criteria and redefined geographical procurement areas might not achieve their desired objectives. We suggested that some proposals might in fact have a negative impact on users of legal services in the mental health and immigration and asylum jurisdictions.

25. For example, in mental health, whilst we recognise how important it is for patients who are detained in special hospitals to have access to face-to-face advice and representation, we suggested that this should not be at the expense of those detained in other hospitals or subject to Community Treatment Orders. In immigration and asylum, we disagreed with the proposal to make the 40% success rate in appeals mandatory, with sanctions against non-compliant providers. We suggested that this could impair access to representation for some asylum applicants, particularly in fast-track cases, given the low overall success rates of appeals for this group of users.
26. In both jurisdictions we expressed concern that users' choice of provider may be unduly restricted if the proposals resulted in a net reduction in the number of providers who are willing to provide legal services in these areas.

Planning matters

27. We responded in some detail to the Call for Solutions by the Killian Pretty Review of the planning applications process. In this connection one of our members attended a regional stakeholder event in Guildford in July 2008. Our main concern was that the drive for speed and efficiency, which is undoubtedly in the interests of users generally, should not be at the expense of the legitimate interests of objectors and other third parties in particular. Among other things, we emphasised the need for transparency in pre-application discussions and the potential to engage better with non-statutory consultees at the pre-application stage. We strongly endorsed the use of mediation techniques. The Review reported in November 2008 and the Government response was published in March 2009, announcing the intention to consult further in the summer.
28. We also responded to a consultation on a revised Circular on costs in planning appeals and other planning proceedings. This took account of changes introduced by the Planning Act 2008. The basis for the award of costs ultimately derives from a special report of the Council on Tribunals in 1964 and has remained largely unchanged through successive Circulars. The new Circular did not alter the fundamental principles and our comments were limited to points of detail. The Circular came into effect in April 2009.

RESEARCH

Developing Administrative Justice Research

29. We believe that adequate empirical and other research on administrative justice issues is essential in order for us to be alert to emerging issues and the impact of proposed reforms on users. Under the provisions of the Tribunals, Courts and Enforcement Act 2007, our statutory functions include making proposals for research into the administrative justice system.
30. Our new remit provides the opportunity for us to play a central role in encouraging sector-wide research projects in the field of administrative justice. We believe that we have an important role to play, not only as an advocate of mainstream administrative justice research, but also as a facilitator of new, collaborative research initiatives, working in partnership with others. To this end, in November 2008, we published a report *'Developing Administrative Justice Research'* setting out the contribution we intend to make towards the development of research on matters relating to administrative justice under the following six headings:
- (i) Helping to articulate the scope of administrative justice so that it becomes better understood by multiple stakeholders, including government, the research community and funding bodies;
 - (ii) Working with funding bodies: identifying and engaging proactively with agencies interested in funding or co-funding research on shared priorities and systematically networking with key actors to develop mutual understanding and find synergies;
 - (iii) Working with researchers: identifying and engaging proactively with members of the research community more broadly defined than just academic research;
 - (iv) Developing strategic research partners internationally: in order to promote comparative research on issues of shared concern and facilitate the exchange of ideas, information and experience;
 - (v) Making authoritative research proposals which reflect the needs of users and the AJTC's own strategic priorities; and
 - (vi) Giving publicity to research: publicising high quality and reputable research that is under way and communicating and disseminating resulting findings.
31. In order to make progress on developing collaborative research, we have taken a number of initiatives since publishing our report. In January 2009 we had an introductory meeting with Alexy Buck, Head of the Legal Services Research Centre (LSRC), to discuss the content of our research publication and our future strategy, including possible collaboration with the LSRC.

32. We also devoted time to planning our first research roundtable discussion, which took place in June 2009. This brought together a small group of experienced individuals working in different administrative justice contexts, as well as academics, to discuss the idea of designing a collaborative research project on a priority research theme.
33. We have continued to publish and promote administrative justice research articles on our website and in *Adjust*. Our website has a section devoted to research, which we look forward to developing further in the years ahead.

Appendix A

Membership of the AJTC and its Scottish and Welsh Committees

This year saw the departure of Steve Mannion, who had served as a member of the Council on Tribunals and the AJTC (and their Scottish Committees) for 7 years. An ex-Area Commander of the British Transport Police in Scotland, Steve brought a robust approach to his work with us. He was well respected and will be missed by us all.

The Scottish Committee also lost the expertise of Audrey Watson and Lyndy Boyd who had served on the Committee for 7 and 4 years respectively. We wish them both well for the future.

AJTC MEMBERSHIP AT 31 MARCH 2009*



The Rt Hon. the Lord Newton of Braintree OBE, DL: Chairman of the Council since 1 October 1999. Lord Newton was Conservative Member of Parliament for Braintree, Essex, 1974–97. During that period he held many Ministerial offices including Secretary of State for Social Security (1989–92) and Lord President of the Council and Leader of the House of Commons (1992–97). He became a Life Peer in 1997.



Professor 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). Member of the Council and Chairman of the Scottish Committee since September 2005. Member of the Economic & Regulatory committee and Tribunals Service Liaison Group.



Professor Sir Adrian Webb: Chair of the Pontypridd and Rhondda NHS Trust until the end of March 2008. Non-executive member of the Welsh Assembly Government's Executive Board until appointment of the new Permanent Secretary. Vice-Chancellor of the University of Glamorgan until December 2005. Previously an academic at the London School of Economics and Professor of Social Policy at Loughborough University. Has held many committee and advisory roles both in Whitehall and in Wales, including HM Treasury's Public Service Productivity Panel, and has chaired several national enquiries. Was a member of the Review Team which reported to the Welsh Assembly Government in 2006 on Local Service Delivery (the "Beecham Review"), and Chair of the review of Post 14 Education in Wales (the Webb Review, published as "Promise and Performance" in December 2007). Member of the Council and Chairman of the Welsh Committee since June 2008.

* Dates shown include members' appointment to the Council on Tribunals, where appropriate.



Mrs Jodi Berg: Solicitor, mediator and Fellow of the Chartered Institute of Arbitrators. Independent Complaints Reviewer for public bodies including the Audit Commission, the Charity Commission and the Tenant Services Authority. A member of the Human Tissue Authority and Chair of the Postal Redress Service Council. A magistrate since 1988 and member of the British and Irish Ombudsman Association. Independent Case Examiner for the Department for Work and Pensions 2001–2007. Previously Chair of Ravensbourne NHS Trust and SE London Probation Service. Member of the Council since December 2008, and of the Economic & Regulatory committee and Principles Task Group.



Professor Alice Brown: Emeritus Professor, University of Edinburgh. Scottish Public Services Ombudsman 2002–2009. Formerly Professor of Politics and Vice Principal at the University of Edinburgh and Co-Director of the Institute of Governance. Previously held a wide range of public appointments including the Committee on Standards in Public Life and the Economic and Social Research Council. Currently a Sunningdale Fellow, Trustee of the David Hume Institute, and lay member of the Royal College of Physicians of Edinburgh. Member of the Council since December 2008 and of the Economic & Regulatory committee and Research Group.



Mrs Elizabeth Cameron: Formerly worked for the Citizens Advice Bureaux, latterly in Edinburgh Sheriff Court as manager of the in-Court Advice Services and co-ordinator of the Mediation Service. Member of the Scottish Mediation Network. Lay member of the Scottish Solicitors' Discipline Tribunal since 2001. Member of the Council and the Scottish Committee since September 2002, and of the Social Affairs committee and Employment Task Group.



Mrs Sue Davis CBE: Chair of Sandwell & West Birmingham Hospitals Trust. Deputy Chair of RegenWM, centre of excellence in regeneration for the West Midlands. Formerly an elected member of Telford & Wrekin Council and Shropshire County Council. Involved at senior level in regional, national and international local government for 25 years, most recently as Cabinet Member for Resources in Telford and as member of UK delegation to the Congress of the Council of Europe. Previously served as Chair of Telford's Primary Care Trust. Deputy Chair of the Advantage West Midlands Regional Development Agency 1998–2004. Member of the Council since December 2005, and of the Social Affairs committee and Tribunals Service Liaison Group.



Ms Penny Letts OBE: Policy Consultant and Trainer specialising in mental health, mental capacity and disability law. Member of the Mental Health Act Commission 1995–2004. Policy Advisor to the Law Society 1987–2001. Member of the Judicial Studies Board’s Tribunals Committee since May 2003. Member of the Council since September 2002. Chair of the Social Affairs committee and member of the Principles Task Group and the Mental Health Appeals Stakeholder Group.



Ms Bronwyn McKenna: Solicitor admitted in England, Wales and in Northern Ireland, specialising in employment and discrimination law. Currently a Director at UNISON. Former member of the Industrial Injuries Advisory Council. A member of the Central Arbitration Committee since 2002. In February 2009 appointed to the Employment Law Committee of the Law Society of England and Wales. Member of the Council since 2007 and of the Social Affairs committee and Employment and Principles Task Groups. Represents the AJTC on the Tribunal Procedure Committee.



Mr Bernard Quoroll: Solicitor and commercial and community mediator with an extensive career in local government. Held the post of Chief Executive in three local authorities: Aylesbury Vale District Council 1985–95; Royal Borough of Kingston-upon-Thames 1995–99; Isle of Wight County Council 1999–2001. Member of Postal Services Redress Council. Member of the Council since May 2003, and of the Economic & Regulatory committee, the Research Group and Ombudsman, Principles and Employment Task Groups.



Professor Geneva Richardson CBE, FBA: Professor of Law, King’s College London. Member of the Mental Health Act Commission 1987–92. Chair of the Prisoners’ Advice Service 1994–2003. Chair of the Expert Committee on Reform of Mental Health Legislation 1998–99. Member of the Medical Research Council 2001–2008. Trustee, Nuffield Foundation 2002 to date. Member of the Council since February 2001. Chair of the Economic & Regulatory committee and of the Research Group. Member of the Principles Task Group and the Mental Health Appeals Stakeholder Group.



Dr Jonathan Spencer CB: Civil servant 1974–2005; Director General and Departmental Board Member, first at the DTI (Director General Resources and Services, then Director General Business Group) and at LCD/DCA (Director General Clients and Policy) where among other tasks he was responsible for the work leading up to publication of the White Paper on Tribunal reform. Over the last 25 years has worked in a wide variety of government roles in three departments (Cabinet Office, DTI, LCD/DCA). Now a public policy consultant, Chair of the Church of England Pensions Board, Member of the Solicitors Regulation Authority, and Director of the East Kent University Hospitals Foundation NHS Trust. Member of the Council since December 2005 and of the Economic & Regulatory committee. Chair of the Tribunals Service Liaison Group and Principles Task Group and member of the Employment Task Group.



Dr Adrian V Stokes OBE: Chief Executive of CAT Ltd, a consultancy specialising in health informatics, international standards and computer networking. Worked in NHS 1981–2000, retiring as Joint Director of the Information Management Centre. Non-Executive Director of Barnet Primary Care Trust and a Special Trustee of the Royal National Orthopaedic Hospital NHS Trust. Governor, University of Hertfordshire. Founder Governor, Motability; Chairman of *Mobilise*. Member of Disability Appeal Tribunals 1992–2003. Member of the Council since November 2003 and of the Social Affairs committee.



Mrs Pat Thomas CBE: Local Government Ombudsman in the north Midlands and the north of England 1985–2005 and Vice-chairman of the Commission for Local Administration 1993–2005. Previously head of School of Law at Lancashire Polytechnic. Member of the Greater Manchester and Lancashire Rent Assessment Panel 1977–85, and Vice-President/President 1984–85. Part-time chair of Blackpool Supplementary Benefit Appeal Tribunal 1980–85. Member of the Council since December 2005, and of the Economic & Regulatory committee and Ombudsman Task Group.



Mr Brian Thompson: Senior Lecturer in Law at the University of Liverpool with teaching and research covering the whole field of administrative justice. Member of the Panel of Specialist Advisers to the House of Commons Public Administration Select Committee, and Consultant on Public Law to the Northern Ireland Ombudsman. Member of the Council since 2007 and of the Social Affairs Committee and the Research, Ombudsman and Principles Task Groups.



Ms Ann Abraham: UK Parliamentary Ombudsman and Health Service Ombudsman for England. *Ex officio* member of the Council and of the Scottish and Welsh Committees since her appointment in November 2002. *Ex officio* member of the Commission for Local Administration in England. Chair of the British and Irish Ombudsman Association 2004–06, and remains a member of their validation committee.

SCOTTISH COMMITTEE MEMBERSHIP AT 31 MARCH 2009*



Richard Henderson: Until 2007 was the Solicitor to the Scottish Executive. Currently President of the Law Society of Scotland. Member of the Committee since January 2009. Board member of Signet Accreditation.



Eileen C MacDonald: A solicitor who has worked both within the private sector; latterly as an associate partner specialising in civil litigation, and in the public sector as a procurator fiscal depute and senior solicitor at the Scottish Environment Protection Agency with responsibility for enforcement, including working with the Crown Office in the prosecution of environment offences. Director of the Vine Trust from 2003 until 2007.



Michael Menlowe: A philosopher who was Head of the School of Philosophy, Psychology and Language Science in the University of Edinburgh until his retirement. An Associate of the General Medical Council, where he chairs Fitness to Practise panels. A board member of the Scottish Refugee Council since 2006, a member of the Home Office's DNA Database Ethics Group and a lay member of the Royal College of Pathologists.



Michael Scanlan: A practising solicitor who is currently Vice President of the Scottish Law Agents Society. Previously has held a number of public appointments, including President of the Law Society of Scotland and a member of the Judicial Appointments Board for Scotland. Member of the Committee since January 2009.



Professor Alice Brown: Public Services Ombudsman. *Ex officio* member of the Scottish Committee from July 2004 to March 2009.

* Dates shown include members' appointment to the Council on Tribunals, where appropriate.

WELSH COMMITTEE MEMBERSHIP AT 31 MARCH 2009*



Bob Chapman: Part-time management consultant working mainly in the legal sector, and a member of the Board of Consumer Focus Wales. Following 25 years in advice work at Citizens Advice Bureaux and local authority Welfare Rights Units he joined the Legal Services Commission where he became the Acting Wales Director before taking early retirement in 2007. He is a school governor, and was until recently a member of the Trustee Board of Shelter Cymru (Welsh Housing Aid Ltd).



Gareth Lewis: Member of the Employment Appeal Tribunal; a member of Council of the University of Wales and part-time Director of the Office of the Independent Adjudicator for Higher Education. He was previously Secretary of University College, Cardiff and Deputy Principal and Clerk to the Board of the Royal Welsh College of Music and Drama.



Rhian Williams-Flew: Qualified mental health nurse and registered social worker. She is a member of the Mental Health Act Commission and a lay member of the Mental Health Review Tribunal (England). She was previously a freelance investigator of complaints made by social service users and carers and a Regulatory Inspector for the Commission for Social Care Inspection.



Peter Tyndall: Public Services Ombudsman for Wales. *Ex officio* member of the AJTC Welsh Committee. He was Chief Executive of the Arts Council of Wales from 2001 to 2008 and previous to that Head of Education and Cultural Affairs with the Welsh Local Government Association.

* Dates shown include members' appointment to the Council on Tribunals, where appropriate.

Appendix B

Our strategic objectives

1. The AJTC will focus first and foremost on the needs of users.
2. The AJTC will keep under review and influence the development of administrative justice and tribunals through:
 - giving authoritative and principled advice and guidance to government, the Tribunals Service and others within the administrative justice system on changes to legislation, practices and procedures to improve the working of administrative justice, tribunals and inquiries, including a framework of generally applicable principles;
 - exploring and promoting the scope for new approaches to dispute resolution;
 - seeking to build up influence over forthcoming legislation, in particular in advance of publication;
 - recognising and responding to the diverse needs and circumstances of users, by applying effective monitoring arrangements and being alert to emerging issues;
 - raising awareness of the different approaches within the UK legal systems.
3. The AJTC will keep under review the work of the Tribunals Service, the tribunals within it and other tribunals:
 - offering advice and assistance on wider policy issues that complement the Tribunals Service's own work programme or otherwise affect tribunals;
 - commenting from time to time on Tribunals Service priorities, standards and performance measures;
 - monitoring progress and performance of tribunals against common standards and performance measures.
4. The AJTC will respond authoritatively to emerging issues and proposals that affect or involve administrative justice, tribunals and inquiries more generally:
 - identifying and responding to perceived needs and current/prospective concerns in relation to all aspects of administrative justice;
 - identifying priorities for, and encouraging the conduct of, relevant research;
 - monitoring the relationships between first instance decision makers, ombudsmen, tribunals and the courts to ensure they are clear, complementary and flexible;
 - promoting the accessibility of administrative justice and tribunals to users through open, fair and impartial procedures and high quality, user friendly information and advice;
 - employing a range of communication methods to give an account of its work and disseminate its views.

Appendix C

Cost of the AJTC and its Scottish and Welsh Committees

This section contains details of the AJTC's income and expenditure for the financial year ending 31 March 2009, with the correspondence 2007/08 figures for comparison.

The AJTC is funded through the Ministry of Justice. Certain costs such as accommodation, IT and accounting/payroll services are funded centrally and do not feature in the account below. Other costs, such as staff pay rates, are determined centrally but paid from the AJTC budget.

	AJTC		Scottish Committee		Welsh Committee	
	07/08	08/09	07/08	08/09	07/08	08/09
Staff Salaries ¹	427,027	408,927	68,306	70,179	–	10,800
Members' Retainers ²	252,986	260,464	39,884	32,227	–	14,242
Members' Travel etc ³	53,440	31,764	6,139	3,638	–	4,076
Consultancy ⁴	–	–	–	5,738	–	–
Agency Staff ⁵	123,273	103,907	-	-	–	36,515
Printing and Publishing ⁶	39,624	25,647	2,642	3,313	–	–
Other Admin Costs ⁷	82,371	80,296	19,239	16,049	–	–
Capital expenditure	–	–	–	–	–	–
Totals	978,721	910,375	136,210	131,144	–	65,633

Notes

1. The staff of the AJTC's Secretariat are civil servants seconded from the Ministry of Justice and the Scottish Government. Salary costs include employer's National Insurance Contributions and superannuation. Welsh Committee staff salaries are apportioned on the basis of their time spent on Welsh Committee duties.
2. The retainer for the AJTC Chairman is £53,876 and £26,938 for the Scottish and Welsh Committees Chairmen. The retainers for Members of the AJTC (based on 44 days work per year), the Scottish Committee (based on 35 days work per year) and Welsh Committee (based on 22 days per year) are £12,627, £10,044 and £6,160 respectively. The figures for Members' retainers include the remuneration of the Scottish and Welsh Committee Chairmen and the two members of the AJTC who are also members of the Scottish Committee. Two members of the Scottish Committee left during the year and there was a gap in the appointment of their successors. These costs include employer's National Insurance Contributions.
3. Members' expenses for attending meetings of the AJTC, visits to tribunals and other events, including Scottish Committee expenses for attending meetings held in London.
4. Research and presentation on behalf of the Scottish Committee of the AJTC.
5. Agency personnel are engaged as required to cover vacancies and absences and to provide specialist skills such as editing our *Adjust* newsletter as well as costs for the Secretary to the Welsh Committee of the AJTC.
6. The higher figure for 2007/08 related to the costs of developing the new logo and brand for the AJTC.
7. Other general administrative expenditure including the AJTC Conference and other events, office supplies, postage, and catering for meetings etc. The Welsh Committee currently does not have its own dedicated secretariat and consequently its running costs are met by the AJTC.

Appendix D

Note on the constitution and functions of the Administrative Justice and Tribunals Council

1. The Administrative Justice and Tribunals Council (AJTC) was set up by the Tribunals, Courts and Enforcement Act 2007 to replace the Council on Tribunals.
2. The AJTC consists of not more than 15 nor less than 10 appointed members. Of these, either two or three are appointed by the Scottish Ministers with the concurrence of the Lord Chancellor and the Welsh Ministers; and either one or two are appointed by the Welsh Ministers with the concurrence of the Lord Chancellor and the Scottish Ministers. The remainder are appointed by the Lord Chancellor with the concurrence of the Scottish Ministers and the Welsh Ministers.
3. The Lord Chancellor, after consultation with the Scottish Ministers and the Welsh Ministers, nominates one of the appointed members to be Chairman of the AJTC. The Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) is a member of the AJTC by virtue of her office.
4. The Scottish Committee of the AJTC consists of the two or three members of the AJTC appointed by the Scottish Ministers (one being nominated by the Scottish Ministers as Chairman) and three or four other members, not being members of the AJTC, appointed by the Scottish Ministers. The Parliamentary Ombudsman and the Scottish Public Services Ombudsman are members of the Scottish Committee by virtue of their office.
5. The Welsh Committee of the AJTC consists of the one or two members of the AJTC appointed by the Welsh Ministers (one being nominated by the Welsh Ministers as Chairman) and two or three other members, not being members of the AJTC, appointed by the Welsh Ministers. The Parliamentary Ombudsman and the Public Services Ombudsman for Wales are members of the Welsh Committee by virtue of their office.
6. The principal functions of the AJTC as laid down in the Tribunals, Courts and Enforcement Act 2007 are:
 - a) to keep the administrative justice system under review;
 - b) to keep under review and report on the constitution and working of listed tribunals; and
 - c) to keep under review and report on the constitution and working of statutory inquiries.

7. The AJTC's functions with respect to the administrative justice system include considering ways to make it accessible, fair and efficient, advising the Lord Chancellor, the Scottish Ministers, the Welsh Ministers and the Senior President of Tribunals on its development and referring to them proposals for change, and making proposals for research.
8. The "administrative justice system" means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including the procedures for making such decisions, the law under which they are made, and the systems for resolving disputes and airing grievances in relation to them.
9. The AJTC's functions with respect to tribunals include considering and reporting on any matter relating to listed tribunals that the AJTC determines to be of special importance, considering and reporting on any particular matter relating to tribunals that is referred to the AJTC by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers, and scrutinising and commenting on legislation, existing or proposed, relating to tribunals.
10. "Listed tribunals" are the First-tier Tribunal and Upper Tribunal established by the 2007 Act and tribunals listed by orders made by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers. The AJTC must be consulted before procedural rules are made for any listed tribunal except the First-tier Tribunal and Upper Tribunal. The AJTC is represented on the Tribunal Procedure Committee that makes procedural rules for the First-tier Tribunal and Upper Tribunal.
11. The AJTC's functions with respect to statutory inquiries include considering and reporting on any matter relating to statutory inquiries that the AJTC determines to be of special importance, and considering and reporting on any particular matter relating to statutory inquiries that is referred to the AJTC by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers.
12. "Statutory inquiry" means an inquiry or hearing held by or on behalf of a Minister of the Crown, the Scottish Ministers or the Welsh Ministers in pursuance of a statutory duty, or a discretionary inquiry or hearing held by or on behalf of those Ministers which has been designated by an order under the Tribunals and Inquiries Act 1992. The AJTC must be consulted on procedural rules made by the Lord Chancellor or the Scottish Ministers in connection with statutory inquiries.
13. Members of the AJTC and the Scottish and Welsh Committees have the right to attend (as observer) proceedings of a listed tribunal or a statutory inquiry, including hearings held in private and proceedings not taking the form of a hearing.
14. The AJTC has no authority to deal with matters within the legislative competence of the Northern Ireland Assembly.

15. The AJTC must formulate, in general terms, a programme of the work that it plans to undertake in carrying out its functions. It must keep the programme under review and revise it when appropriate. It must send a copy of the programme, and any significant revision to it, to the Lord Chancellor, the Scottish Ministers and the Welsh Ministers.
16. The AJTC must make an annual report to the Lord Chancellor, the Scottish Ministers and the Welsh Ministers, which must be laid before Parliament, the Scottish Parliament and the National Assembly for Wales. The Scottish Committee must make an annual report to the Scottish Ministers, who must lay the report before the Scottish Parliament. The Welsh Committee must make an annual report to the Welsh Ministers, who must lay the report before the National Assembly for Wales.

Appendix E

Statutory Instruments 2008/2009

Listed below are the Statutory Instruments (excluding Orders under the Traffic Management Act 2004) considered by the Administrative Justice and Tribunals Council and made during the period 1 April 2008 to 31 March 2009.

The Adjudicator to Her Majesty's Land Registry (Practice and Procedure) (Amendment) Rules 2008	S.I. 2008/1731
The Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2008	S.I. 2008/1088
The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2008	S.I. 2008/1089
The Case Tribunals (England) Regulations 2008	S.I. 2008/2938
The Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008	S.I. 2008/3092
The Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2009	S.I. 2009/25
The Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2009	S.I. 2009/823
The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008	S.I. 2008/3240
The Mental Health Review Tribunal for Wales Rules 2008	S.I. 2008/2705
The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2008	S.S.I. 2008/396
The Network Access Appeal Rules 2008	S.I. 2008/1730
The Patents, Trade Marks and Designs (Address for Service) Rules 2009	S.I. 2009/546
The Police Appeals Tribunals Rules 2008	S.I. 2008/2863
The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Amendment) Regulations 2008	S.I. 2008/1802
The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Children's and Adults' Barred Lists) (Transitional Provisions) Regulations 2008	S.I. 2008/1497
The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009	S.I. 2009/443
The Quality Partnership Schemes (England) Regulations 2009	S.I. 2009/445
The School Admissions (Admission Arrangements) (England) Regulations 2008	S.I. 2008/3089

The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) (Amendment) Regulations 2008	S.I. 2008/1258
The Tax Credits (Approval of Child Care Providers) (Wales) (Amendment) Scheme 2008	S.I. 2008/2687
The Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009	S.I. 2009/455
The Trade Marks Rules 2008	S.I. 2008/1797
The Trade Marks (International Registration) Order 2008	S.I. 2008/2206
The Transport Tribunal (Amendment) Rules 2008	S.I. 2008/2142
The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008	S.I. 2008/2699
The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008	S.I. 2008/2685
The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009	S.I. 2009/273
The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008	S.I. 2008/2686
The Tribunal Procedure (Upper Tribunal) Rules 2008	S.I. 2008/2698
The Tribunal Procedure (Amendment) Rules 2009	S.I. 2009/274





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