

SPEECH FOR THE AJTC CONFERENCE

- i) Welcome the opportunity to speak, to explain where we are in Wales.

- ii) The 2007 Act, which establishes the AJTC, makes specific provision for a Welsh Committee. This is an important step forward for us – the Council on Tribunals had no such Committee – and it is of course a consequence of devolution. The existence of the Committee, together with the new office of Public Services Ombudsman for Wales created by an Act in 2005, gives us the chance to look afresh at the picture of administrative justice in Wales.

- iii) And it is a complicated picture for three distinct, but connected, reasons.

- First, we have the complication that responsibility for some tribunals in Wales lies with WAG, whereas many others remain the responsibility of the Westminster Government. It is not easy to secure coherence from this fragmentation of responsibility. The tribunals within WAG's sphere are a heterogeneous collection, and in the case of at least one, the Agricultural Lands

Tribunal in Wales, it is not at all clear exactly why it should be regarded as 'ours', not 'theirs'. So the perhaps not entirely coherent nature of the devolved/non devolved boundary, and that fragmentation of responsibility, is one factor to be considered in assessing the Welsh position.

- Secondly, there is the still rapidly – developing Welsh constitutional context. Under the Government of Wales Act 2006, legislative powers were not conferred en bloc to the National Assembly for Wales as they were to the Scottish Parliament in 1998; rather they will accrue to the Assembly over time, whether by way of provision in Parliamentary Bills, or via the new device known as Legislative Competence Orders. But the consequence is that at any given time, in respect of **some** of the tribunals within WAG's sphere of responsibility, the Assembly will have legislative competence, but in others it will not. This may well work itself out over time, but in the short and medium term it is a further factor leading to a fragmented picture.

- And then thirdly, there is the Welsh Assembly Government itself. For internal political reasons, our

development as an organisation over the last ten years has placed emphasis on strengthening support for individual Ministerial portfolios, possibly at the expense of securing some government-wide vision. Our new Permanent Secretary is addressing that issue vigorously, but until now it has again meant, and still means, that in this particular context WAG has not developed at official level a coherent vision of administrative justice in Wales; we have tended to look at tribunals individually, rather than from a wider perspective informed by a proper conception of a system of administrative justice in Wales. Our recent failures in this regard have already been picked up the Welsh Committee.

- iv) So for all these reasons it is a complicated picture, and that is precisely why the coming into existence of the new Welsh Committee of the AJTC is so important. I hope that the Committee will be able to develop an holistic view of tribunals, and indeed of administrative justice in Wales more generally, in a way that our current constitutional preoccupations perhaps make difficult for WAG itself to generate.

And if that holistic vision can go hand in hand with the

development of a more **corporate** capacity within WAG in relation to administrative justice in Wales, consistent with the Leggatt vision for greater independence of tribunals from policy-makers, so much the better. There is a lot to be done, but at least we are beginning to be aware of the challenges.

Thank you.