



Administrative Justice & Tribunals Council

ANNUAL REPORT 2010/2011



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

Presented to Parliament pursuant to Schedule 7,
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Presented to the Scottish Parliament by the Scottish Ministers in accordance
with Schedule 7, paragraph 21 of the Tribunals, Courts and Enforcement Act 2007

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with Schedule 7, paragraph 21 of 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.

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Chairman's Foreword

I am pleased to present the AJTC's Annual Report for 2010-2011. It is now ten years since the publication of Sir Andrew Leggatt's report *'Tribunals for Users: One System One Service'*, which advocated the transformation of the former Council on Tribunals into an organisation responsible for upholding the broader system of administrative justice and keeping it under review. I consider that the work detailed in this report demonstrates our coming of age as a wider Administrative Justice and Tribunals Council.

Over the past year, whilst facing the uncertainty of our prospective abolition, we have undertaken a hugely demanding work programme, touching on issues pertinent across the whole system. In addition to publishing our *'Principles for Administrative Justice'*, we have produced a number of key reports including *'Right First Time'* and *'Time for Action'*. We have also been pleased to collaborate with the Care Quality Commission to produce our joint report on *'Patient's Experiences of the First-tier Tribunal (Mental Health)'*.

As this report is being prepared for publication we are finalising a report on Proportionate Dispute Resolution and our latest report *'Securing Fairness and Redress: Administrative Justice at Risk'*, has recently been published. This provides an overview of the current state of the administrative justice system and sets out an agenda for long-term strategic change. We have fulfilled our commitment to carrying on business as usual, even during a year of uncertainty for members and staff.

In addition to undertaking these specific projects, we have continued to keep a watching eye on the coalition government's busy legislative programme, which has included a number of significant proposals impacting on administrative justice and tribunals. In particular, we have been deeply concerned by proposed changes to legal aid, the introduction of fees for appeals to certain tribunals, wholesale welfare reform proposals and changes affecting school exclusion appeals. Collectively, we fear these changes will have a detrimental impact on users, and we have sought to encourage the government to give greater consideration to ensuring access to justice for those who need it.

We have also closely monitored the merger of the Tribunals Service and Her Majesty's Courts Service, drawing attention to the potential risks that this could create for users of the administrative justice system. At a time of austerity and increasing volumes of appeals across many tribunal jurisdictions, we are keen to continue to act as a critical friend to the new HMCTS and to ensure that the interests of the users of the system remain at the heart of everything it does.

This has been a challenging and important year for the AJTC and for administrative justice. Against this backdrop, the government has continued to pursue its decision to abolish the AJTC, which we believe is misguided, but ultimately a decision for Ministers and Parliament. Whilst we welcome steps to renew engagement with administrative justice within the Ministry of Justice, we do not consider that civil servants located in one government department can fulfil our functions adequately. Our ability to look at the sector as a whole, rather than in departmental silos, and to understand the UK-wide implications of administrative justice policy are real strengths. But above all, we are convinced that there will remain a pressing need for the government to have access to *independent* advice about the administrative justice system, which cannot be provided by civil servants. In our absence, it seems unlikely that the voice of the user will be heard loudly enough, if at all, which will ultimately impact on the government's ability to make balanced decisions on improving the accessibility, fairness and efficiency of the administrative justice system.

We face a further period of uncertainty as we await the government's final decision on our future, and it is possible that this will be our final Annual Report. In the meantime, we will continue to fulfil our statutory remit. We will be holding our annual conference to consider some of the issues highlighted in our *'Administrative Justice at Risk'* report, and hope that its conclusions will be considered carefully by the government in the coming years.

Richard Thomas CBE

Our Role and Purpose

Our Statutory Role

The key functions of the AJTC as set out in the Tribunals, Courts and Enforcement

Act 2007 are:

- keeping the overall administrative justice system and most tribunals and statutory inquiries under review;
- advising ministers on the development of the administrative justice system;
- putting forward proposals for changes;
- making proposals for research.

The Act also makes provision for the Scottish and Welsh Committees of the AJTC to carry out functions conferred under any statutory provision. The AJTC has established a protocol to guide the interrelationship between the AJTC and its Scottish and Welsh Committees.

Our Purpose

Individual decisions by government and other public bodies impact on the daily lives of every citizen. Over half a million disputes reach a tribunal or ombudsman every year.

The AJTC was created to be the independent and authoritative voice to monitor and improve the way public bodies make decisions affecting individuals and the workings of redress mechanisms, including tribunals. We are uniquely placed to consider the administrative justice system as a whole - from the initial decision affecting the citizen to the final outcome of any complaint or appeal.

Our purpose therefore is to help make administrative justice increasingly accessible, fair and efficient 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.

Our work is driven by the needs of users, with a particular focus on maximising access and customer satisfaction and minimising cost, delay and complexity.

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1. Introduction and key events and issues of the year

Announcement of the AJTC's abolition

1. In the foreword to last year's Annual Report our Chairman adverted to the prospective abolition of the AJTC, which at the time we had only just learned about. This decision was taken by MoJ Ministers following the department's review of its Arm's Length Bodies. Our Chairman subsequently wrote to Jonathan Djanogly MP, Parliamentary Under-Secretary of State at the MoJ, expressing our disappointment both at the decision itself but also at not having been consulted during the review stage. However, we undertook to work constructively with MoJ officials in taking their plans forward.

The Public Bodies Bill

2. The Public Bodies Bill was introduced in the House of Lords on 28 October 2010. Among other things, the Bill confers powers to Ministers in relation to certain public bodies and offices, and as such is an enabling Bill requiring secondary legislation. The Bill provides the power to abolish specified bodies, including the AJTC. The Bill also contains powers, set out in its various Schedules, for bodies and offices to be merged; for constitutional arrangements to be modified; for funding arrangements to be modified; for functions to be modified or transferred; for functions to be delegated; and for specified bodies to be subject to the power to be added to other Schedules to the Bill, resulting in their merger or abolition.
3. Before the Bill had its Second Reading, the Select Committee on the Constitution published a report on the Public Bodies Bill. The Committee is appointed to examine the constitutional implications of all public Bills and to keep under review the operation of the constitution. The Committee criticised the Bill for its use of so-called 'Henry VIII powers', and in particular the power to add any of the bodies and offices specified in Schedule 7 to any of the other Schedules, which could result in public bodies being abolished by ministerial decision without any consultation or external scrutiny. The Committee also concluded that the Government had not made out the case why the vast range of bodies affected by the Bill should be abolished, merged or modified by ministerial Order rather than by ordinary legislative amendment and debate in Parliament.
4. The Bill came under a good deal of critical debate in the House of Lords, both at Second Reading and Committee Stage, largely because of its unsatisfactory constitutional implications. There was also a good deal of support expressed across the floor of the House for the retention of the AJTC, although a non-government amendment to remove the AJTC from the Schedule 1 list of bodies to be abolished was narrowly defeated.

5. In response to issues raised in debate the Government undertook to consult in respect of each of the bodies it proposed to abolish and to take account of representations made. The Government also brought forward an amendment to prescribe the procedure to be followed in making an Order for abolition of a body so as to ensure proper parliamentary scrutiny. At the Bill's Committee Stage a non-government amendment to add the AJTC to the Schedule of bodies to be merged was moved successfully, with the aim of merging the AJTC and the Civil Justice Council. The Government has subsequently reversed the effect of this amendment.

Consultation: Public Bodies Bill: reforming the public bodies of the Ministry of Justice

6. The consultation on reforming the public bodies of the Ministry of Justice was published on 12 July 2011. It was sent personally to our Chairman under cover of a letter from the Lord Chancellor, which included his personal reassurance that the responses to the consultation would be carefully considered before any final decision on abolition was made.
7. The consultation set out the arguments for the AJTC's abolition, including the associated Impact Assessments and details of the evidence base upon which the initial decision had been taken. The key arguments were:
 - Independent advice on administrative justice policy is now provided by a dedicated team of civil servants in the department's Access to Justice Policy Group;
 - The majority of tribunals are now part of Her Majesty's Courts and Tribunals Service (HMCTS) and effective governance arrangements are in place between HMCTS and MoJ such that the AJTC's oversight role is no longer required;
 - It is no longer an efficient or effective use of resources for an independent advisory body to carry out functions in relation to administrative justice, tribunals and statutory inquiries.
 - The AJTC's abolition will reduce duplication of effort and resources.
8. The key points in our response included:
 - The policy function within the MoJ could never have the necessary independence or capacity to replace the AJTC's functions, particularly in providing advice to Ministers;
 - The government recognised the need to retain the Civil and Family Justice Councils and we have seen no convincing argument why such a need does not also continue to exist in the field of administrative justice where the need for an independent body is greater;
 - The AJTC is the only body that has a cross-border overview of the administrative justice system as a whole and that is well placed to provide advice and propose improvements based on generally applicable principles and expertise;
 - The consultation paper fails to make adequate arrangements to replace the role played by the AJTC's Scottish and Welsh Committees;

- Neither the MoJ nor HMCTS is well placed to listen to and take account of the needs of users since government departments and agencies are parties to disputes coming before most tribunals and have an interest in policy decisions, for example in relation to legal aid and fees;
 - The savings quoted in the consultation to be achieved through our abolition were, in our view, overstated.
9. As this report goes to publication the consultation period had only recently ended. We look forward to seeing the responses to the consultation and await the final decision of Ministers.

Outturn from our 2010-11 Action Plan

10. In 2010 we published a Strategic Plan outlining our approach to our work over the ensuing three years. This followed our first AJTC Work Programme, published in 2008, meeting the obligation under the Tribunals, Courts and Enforcement Act 2007 '*to formulate a programme of work and send a copy to the Lord Chancellor and Scottish and Welsh Ministers*'. The intention was to complement our Strategic Plan by publishing annual action plans setting out the tasks and projects we planned to carry out on a year by year basis.
11. We published such a plan in 2010-11 setting out the projects and other work we intended to carry out during the year. The main projects delivered in 2010-11 were:
- Principles for Administrative Justice (published in November 2010)
 - Right First Time (published in June 2011)
 - Patients' Experiences of the First-tier Tribunal (Mental Health) (produced jointly with the Care Quality Commission and published in March 2011)
 - Time For Action - A Report on the absence of a time limit for decision makers to respond to Social Security appeals (published in February 2011)
12. Each of these projects is described in more detail in Chapter 2. A report on Proportionate Dispute Resolution is currently being finalised with a view to its publication in the near future.

Action Plan 2011-12

13. Following the government's announcement of our prospective abolition via the Public Bodies Bill, initially it seemed that closure would occur in the second quarter of 2011. On that basis delivery of the remaining items in the 2010-11 plan would have been our main priority. However, once it became clear that we would in fact remain in operation for most of the 2011-12 planning year it was agreed to publish a further plan covering that period. The plan recognises that we are working with significantly reduced resources. There is also a risk that we may lose members and staff as people take up new opportunities or, in the case of members, appointment terms expire. We have therefore limited ourselves to one new project, initially entitled '*Unfinished Business*', which is described more fully in Chapter 2. The bulk of our remaining resources will continue to be directed towards our reactive work, working with stakeholders and making our voice heard on behalf of users.

Principles for Administrative Justice

14. We published our *Principles for Administrative Justice* in November 2010. This followed a wide-ranging consultation process, which persuaded us both to reduce the number of principles from 10 to 7 and to refine their content. The published Principles are as follows:

A good administrative justice system should:

1. make users and their needs central, treating them with fairness and respect at all times;
2. enable people to challenge decisions and seek redress using procedures that are independent, open and appropriate for the matter involved;
3. keep people fully informed and empower them to resolve their problems as quickly and comprehensively as possible;
4. lead to well-reasoned, lawful and timely outcomes;
5. be coherent and consistent;
6. work proportionately and efficiently;
7. adopt the highest standards of behaviour, seek to learn from experience and continuously improve.

15. Our Principles are designed to build upon and complement those produced as guidance for decision-makers by the Parliamentary and Health Service Ombudsman and by the British and Irish Ombudsman Association. At a time of austerity, they act as a timely reminder of the values and standards that should underpin fairness and access to justice for people in their day-to-day dealings with public service organisations.

16. The Principles encompass both the AJTC's expectations about how people will be treated in the administrative justice system and its expectations about how organisations will design, carry out and learn from their processes and procedures. In order to support organisations in achieving these expectations, the *Principles* document contains a detailed self-assessment toolkit. This can be used both to establish a baseline for current practice and as a measure of improvement over time.

Courts and Tribunals Integration Programme

17. An announcement was made as part of the 2010 Budget that the MoJ planned to bring Her Majesty's Courts Service and the Tribunals Service into a new, single organisation from April 2011. The idea behind the proposals was to remove duplication by bringing together the corporate functions of the two MoJ agencies. Our Chairman, Richard Thomas, was invited to be a member of the Board overseeing the Courts and Tribunals Integration Programme (CTIP). A consultation on the implementation of these proposals was launched in November 2010, our response to which is reported fully in Chapter 3.

New working and meeting arrangements

18. We reported last year on our new working and meeting arrangements while our members were focussing on a number of projects which we were undertaking during the year. The outputs from the projects are discussed in Chapter 2. In order to free up time for project work the Council agreed to meet formally only every other month, with meeting days in alternate months treated as project working days.
19. However, it soon became apparent that meeting every other month was not a viable option, particularly in the light of the new coalition government's busy legislative programme, which impacted in a number of different policy areas affecting administrative justice. We therefore quickly reverted to holding monthly meetings and fitted in project work around both ends of our meeting days and in some instances the afternoon before meeting days.
20. Our members have continued to undertake visits to tribunal hearings throughout the year to observe the proceedings, focussing primarily, but not exclusively, on those jurisdictions closely connected to our project work. We normally announce our intention to carry out a visit in advance so that the necessary arrangements can be put in place. However, in the past year we have also undertaken a number of unannounced visits to Employment Tribunals and Social Security and Child Support Tribunals. This has enabled us to gain a different view of the tribunals' administration and proceedings from the perspective of tribunal users.

AJTC Conference

21. Our 2010 Annual Conference was again held at One Great George Street on 17 November. And once again, we had a turnout of around 200 delegates from a wide range of bodies from across the administrative justice landscape. The event saw the launch of our *'Principles for Administrative Justice'*, one of several major projects delivered during the year.
22. The morning session opened with a keynote speech by our Chairman, Richard Thomas, on the topic *'Fairness at Risk? Justice at Risk?'*, in which he discussed prospective developments in administrative justice and wider government. Karamjit Singh, Social Fund Commissioner, and David Thomas from the Financial Ombudsman Service both spoke on *'Innovatory Approaches to Dispute Resolution'*. Professor Hazel Genn DBE, QC concluded the morning session with a presentation on *'Ensuring a coherent, start to finish' approach to administrative justice'*, which was followed by a panel discussion.
23. In the afternoon Peter Vicary-Smith, Chief Executive of *'Which?'*, spoke on *'Ensuring an Informed User Perspective'*. Lord Justice Carnwath, the Senior President of Tribunals, provided his perspective on the tribunal reform programme and the prospective integration of the Tribunals Service and Her Majesty's Courts Service. One of our members, Jonathan Spencer, introduced our *'Principles for Administrative Justice'*, together with his thoughts on how they might be embedded across the wider administrative justice landscape. Finally, the Chairs of our Scottish and Welsh Committees,

Richard Henderson and Professor Sir Adrian Webb, presented updates from the perspectives of Scotland and Wales respectively.

24 At the time it appeared likely that this would be our last Annual Conference, marking the end of a sequence of such events that started in 2000 with a gathering of around 60 delegates at the JSB conference centre in Millbank Tower. In the event, we look forward to welcoming delegates to our 2011 Conference to be held at the Department for Business, Innovation and Skills' Conference Centre in Victoria Street on 17 November 2011.

Scotland

25. Our Scottish Committee has continued to take forward an ambitious programme of work, both in terms of continuing to advance the tribunal reform agenda in Scotland and also through project work looking at a number of areas which have raised members' concerns over the years. Amongst the work completed in this latter area the Committee has:

- as part of a wider review of Education Appeal Committees (EAC) in Scotland, undertaken a review of local authority websites to establish the level and quality of information available to EAC users. This resulted in the production of guidance aimed at improving the quality, consistency and accessibility of website information;
- overseen a research project, sponsored by the Nuffield Foundation, investigating the issue of administrative decisions which do not attract a right of appeal;
- reviewed the allocation of tribunal jurisdictions in Scotland, looking at the potential advantages and benefits of grouping together particular jurisdictions and considering the principles required to underpin a unified tribunal system.

26. The Committee also published its advice to Scottish Ministers on tribunal reform in Scotland¹, which was produced following wide-ranging consultation with the tribunal sector and other interested parties in Scotland. The report suggested a blueprint for the creation of an independent, coherent and user-friendly unified tribunal system in Scotland. In the light of the issues raised in the Committee's report, in particular the recommendation of the establishment of a separate, unified system in Scotland, our Chairman wrote to the Lord Chancellor to highlight the cross-border issues which would arise as a consequence of devolution. The Chairman emphasised the need to ensure a common body of jurisprudence in the separate jurisdictions, particularly when considering statutes which were intended to be applied consistently and uniformly across the United Kingdom. He also raised the issue of the transfer of the responsibilities of the Senior President of Tribunals, in respect of which the Lord Chancellor, in an earlier announcement, had said should preserve the benefits of the existing arrangements. The separate question of devolution in relation to courts and tribunal reform in England and Wales, including devolving the role of tribunal judiciary, are issues on which the MoJ is planning to consult. At the time of drafting this report, these consultations were still not forthcoming.

¹ Tribunal Reform in Scotland: A Vision for the Future

Wales

27. The main focus of the Welsh Committee has been taking steps to pursue and support the implementation of the recommendations made in its 2010 *Review of Tribunals Operating in Wales*. The Committee has been pleased with the progress that has been made, noting as particular achievements:

- The creation of an administrative justice focal point located within the Welsh Government, and the transfer of the administration of a number of tribunals into the department on 1 April 2011;
- A new set of procedural regulations for the Special Educational Needs Tribunal in Wales, which it is hoped will be used as a template for procedural rules in other jurisdictions;
- The development of the Welsh Tribunals Contact Group, which enables judicial and administrative representatives from both devolved and non-devolved tribunals operating in Wales to meet and discuss matters of common interest and concern.

28. There is still much work to be done, and the Committee is particularly concerned to ensure that the Welsh Language Tribunal – the first tribunal to be established in Wales since the creation of the Administrative Justice Unit – reflects the high importance Wales attaches to the independence of its judicial institutions.

29. The Committee has continued with its programme of visits to devolved and non-devolved tribunals, using these to gain insight into best practice and to identify areas where further improvement is necessary. The Committee was pleased to be able to take part in telephone hearings undertaken by the Traffic Penalty Tribunals, and applauded the use of technology to deal with certain cases by telephone. The Committee remained concerned by school admission and exclusion hearings, and wrote to all local authorities to advise on the need for greater independence and impartiality in hearings.

2. Carrying out projects to identify improvements

Priority projects and progress reports

1. In our Action Plan for 2010-2011 we undertook to work on a number of projects throughout the year. Most of these were new initiatives, and others were a continuation of work started in the previous year.

Principles for Administrative Justice

2. Building on the tradition of the former Council on Tribunals, which produced a well-respected Framework of Standards for Tribunals, we considered it would be helpful to develop a set of principles to inform our work as we sought to keep the administrative justice system under review.
3. In last year's Annual Report we reported that we had consulted on a draft set of ten principles and were incorporating a number of suggested changes prior to publication. In November 2010, we were pleased to be able to issue the final document, which by then comprised 7 key principles. Along with the document itself, we included a self-assessment framework to encourage organisations to examine and improve their own standards of service.
4. Both documents have been distributed widely to organisations across the administrative justice sector. It is of considerable regret that because of our impending abolition we are unlikely to have further opportunity to apply our principles in seeking to hold the administrative justice system to account, but we hope that they will form the bedrock of our legacy, and that organisations will strive to meet the standards the document sets out.

Right First Time

5. The 2004 White Paper *Transforming Public Services: Complaints, Redress and Tribunals* stated:

“Right first time means a better result for the individual, less work for appeal mechanisms and lower costs for departments.”

6. Encouraged by this assertion, in our 2010 Action Plan we undertook to investigate the benefits for users, taxpayers and decision-makers of government departments and bodies in getting their decisions 'right first time'.
7. In the past year we carried out background research and conducted two case studies into how organisations can take steps to improve the quality of their original decision-making and complaints handling. We then drew on this evidence to devise 'fundamentals' for right first time organisations and set out 'practical steps' that decision-makers can follow to improve the quality of the decisions they take.

8. Our report '*Right First Time*' was published in May 2011, containing a series of recommendations directed at government departments, decision-making bodies and tribunals across the UK. We distributed our report to all government departments and a wide range of other decision-making bodies, with a view to writing again after six months asking whether any progress has been made.
9. We intend to pursue the implementation of our recommendations over the coming months and have organised a number of key meetings to support this work.

Proportionate dispute resolution

10. We undertook to conduct a study of proportionate dispute resolution and to make proposals about its development and use within the administrative justice system. The project has included a literature review supplemented by interviews with various key stakeholders and interested parties. The report is currently in the final stages of drafting and will be published shortly.

Technology

11. Our predecessor body, the Council on Tribunals, undertook a study in 2006 of the use of video-linking (video-conferencing) in the context of tribunal hearings. In view of the changes in technology since that time and the more widespread use of such tools as the internet, we undertook research into how the use of technology might best be applied to facilitate the administrative justice system. We held a number of meetings with officials and judiciary from the Tribunals Service and the MoJ and observed the practical use of new technology in tribunal hearings within the particular jurisdictions in which it is already in use. This enabled us to produce a helpful report for our own internal use, examining in particular the use of document management and discussion forums by tribunal members, as well as updating our earlier work.
12. Due to limited resources it was not possible to widen the scope of the study to look into such technology in its wider use across Government, and in particular, new Cabinet Office initiatives. Nevertheless, considering the results of our limited study, we believe that more widespread use of modern technology could greatly facilitate access to justice and has the potential to reduce operating costs.

AJTC/CQC joint project on Patients' Experiences of the First-tier Tribunal (Mental Health)

13. Our jointly-run project with the Care Quality Commission (CQC) aimed to investigate patients' actual experiences in applying to and appearing before the First-tier Tribunal (Mental Health) in order to provide information which might help to improve the administration of tribunal applications and the conduct of tribunal hearings.
14. The CQC's Mental Health Act Commissioners conducted over 150 structured interviews with mental health patients who were or had been detained under the Mental Health Act 1983 and had recently applied to and appeared before a tribunal. The findings from these interviews were collated and analysed to form the basis of a written report which was published in March 2011.

15. The report made a number of recommendations aimed at a wide range of stakeholders in the tribunal process, including hospital managers and staff, tribunal judiciary and members, tribunal administrators, mental health clinicians and other healthcare professionals, the Care Quality Commission, the Legal Services Commission and the Law Society.
16. The report has been well received, both by external commentators and tribunal judiciary and administrators. It has also demonstrated that it is both possible and worthwhile to obtain feedback directly from detained and community mental health patients about their experiences of the tribunal system. We are currently seeking formal responses to the report's recommendations from the various stakeholders.
17. We have also had initial discussions with the Dame Jo Williams, Chair of the CQC, and her Director of Operations to explore the possibility of follow-up work in this area. We also explored whether the CQC, as part its statutory remit to monitor the operation of the Mental Health Act 1983, might have a role to play in overseeing the mental health tribunal in the event of our abolition. We intend to pursue this matter further, both with the CQC and with officials in the Ministry of Justice.

Social Security Time Limits

18. We have been concerned about the lengthening delays experienced by social security appellants in getting their cases heard by a tribunal, which we have raised in previous annual reports. We therefore decided to examine the effect of Rule 24(1)(b) of the Social Entitlement Chamber Rules, which govern social security appeals. This rule does not prescribe a specific time limit for the decision-maker to respond to a citizen's appeal, providing only that responses must be made '*as soon as is reasonably practicable*'. Claimants, on the other hand, have one month to submit an appeal in the event that they disagree with a decision on their claim for benefit.
19. We compiled a number of case studies from the voluntary agencies who provide advice and support to social security claimants, highlighting the impact that undue delays have on people's daily lives. We also extracted data from a random sample of cases being heard by tribunals in Liverpool over a two day period in order to establish how long each case had taken to get to a hearing.
20. Our report '*Time for Action: A Report on the absence of a time limit for decision makers to respond to Social Security appeals*' was published in February 2011. The report makes a number of recommendations to improve the handling of social security appeals, including the introduction of a 42 day time limit for the DWP to deal with appeals.
20. We intend to press for a formal response from DWP Ministers but thought it best to await both the outcome of work that the Tribunal Procedure Committee is taking forward in this area and more and better particulars about the operation of the new statutory reconsideration process being introduced by the Welfare Reform Bill, which is discussed further in Chapter 4.

Projects for 2011-2012

21. In April 2011, we produced an Action Plan for 2011-2012, although at that time it was unclear whether we would be in existence for the full twelve month period to March 2012. We were slightly reticent to commit ourselves to new projects that might not realistically be achievable.
22. The plan identified one significant new project for our remaining time in operation, initially entitled '*Unfinished Business*', but which has recently been published as "*Securing Fairness and Redress: Administrative Justice at Risk?*". The report highlights the main challenges facing the administrative justice system and outlines the strategic agenda that needs to be acted on in order to secure long term improvement.

Research work

23. Under the Tribunals, Courts and Enforcement Act 2007, it is within the remit of the AJTC to make proposals for research into administrative justice. In our 2010-2011 Annual Report, we explained that in future we would seek to use our projects to gather information and ideas that could be further investigated.
24. As part of the '*Right First Time*' project, we have identified a number of discrete projects that could be undertaken by organisations such as the National Audit Office or interested academics. As noted above, the Mental Health project also suggested the need for further research in this area.
25. As noted elsewhere, the Council has been greatly concerned by proposals to introduce fees in tribunals, in particular for appeals in asylum and immigration cases, and the prospect of fees in Employment Tribunals. We consider that research will be necessary from the outset to monitor the impact of fees in these jurisdictions, and in particular on the question of whether fees act as a barrier to prospective appellants.

3. Working with others to effect change

Liaison throughout the year with the Tribunals Service

Chairman's attendance at meetings of the Tribunals Service Management Board

1. Throughout the year our Chairman continued to play an active part in attending meetings of the various Tribunals Service management forums, including its management board and executive team meetings. This enabled him to keep abreast of latest developments in a year in which the Tribunals Service was under a great deal of pressure, with rising caseloads in most jurisdictions, and when it was more important than ever that the user perspective was properly represented.
2. The Chairman was also invited to sit as an observer on the board of the Courts and Tribunals Integration Programme (CTIP), chaired by Peter Handcock who was subsequently appointed as the Chief Executive of the newly established HM Courts and Tribunals Service (HMCTS) in April 2011. From the outset of the integration project our Chairman challenged the CTIP Board to work on identifying the key tangible benefits for users in integrating courts and tribunals, which had largely been missing from early project planning documents, which focussed largely on the financial savings to be gained from a reduction in duplication.

Tribunal Procedure Committee and Time Limits sub-group

3. One of our members, Bronwyn McKenna, continues to sit as the AJTC's representative on the Tribunal Procedure Committee (TPC), which is responsible for the rules governing practice and procedure in the First-tier Tribunal and Upper Tribunal. She represents the AJTC's interests at meetings of the TPC, which in the past year has met on a number of occasions to consider proposals for amendments to existing rules and new rules pertaining to newly established Chambers, such as the General Regulatory Chamber. The TPC also considered the rules pertaining to the introduction of fees for immigration and asylum appeals.
4. During the year she has also attended a number of further meetings of the TPC sub-group, which was established to consider how best to overcome the difficulties of having a universal time limit within the Social Entitlement Chamber rules for responding to social security appeals. Our report '*Time for Action*'², published in February 2011, recommended the introduction at the earliest opportunity of a 42 day time limit for DWP Agencies and HMRC to respond to appeals. When the time limits sub-group was first established by the former TPC Chair, Lord Justice Elias, it was invited to report back on progress within three months. Almost 2 years later there has been little concrete progress and it would seem that there is no immediate sign of the likely introduction of a time limit in the near future.

² Time for Action: A Report on the absence of a time limit for decision makers to respond to Social Security appeals

Attendance at the Tribunals Service Customer Service Board

5. We reported last year on a number of positive steps that were being taken by the TS Customer Service Unit to improve customer service delivery. One of our members, Penny Letts, has continued to sit as the AJTC's representative on the TS Customer Service Board, which plays an important role in monitoring the TS customer satisfaction delivery plan. Following a Ministerial decision not to proceed with the TS Customer Satisfaction Survey in 2010-11, the Customer Service Board looked at alternative ways of gathering information from TS customers about their experiences. This has focussed on analysis of complaints received from customers, details of compensation and ex-gratia payments made, as well as analysis of comments received through use of the TS Comment Form available at all hearing centres. The Customer Service Team also carried out a 'mystery shopping' exercise to test and improve on compliance with telephone answering standards for all tribunal offices.
6. During the past year the Board has been preparing for the merger of the Tribunals Service and Her Majesty's Courts Service. In anticipation of the merger, the Board initiated some useful early work, jointly with HMCS staff, on developing a draft customer service strategy for the unified service, while also trying to ensure that TS did not lose its customer focus. While it was envisaged that the HMCTS would be appointing a customer service champion and an equality and diversity champion, these posts have not been announced at the time of writing.
7. Some other positive developments in the Board's work included:
 - The continuation of the customer service network of staff representatives to promote customer service initiatives across TS jurisdictions;
 - Development and delivery of a 2 day Customer Service workshop for TS staff;
 - Training of TS staff on customer service issues;
 - The development of a comment form for users of the Mental Health Tribunal;
 - The production of a new DVD showing customers what to expect at a social security appeal hearing;
 - The establishment of a new user group for the criminal injuries compensation appeals jurisdiction.
8. The TS Customer Service Board held its last meeting in May 2011 and we have not subsequently been invited to contribute to customer service development for HMCTS. We are keen to monitor the impact of the merger on the users of tribunals, particularly with regard to the location of appeal hearings and the suitability or otherwise of hearings taking place in court service buildings, particularly those associated with criminal justice proceedings. In particular, we are keen to establish whether the users of some tribunal jurisdictions might find it off-putting to attend a hearing if they know it is to take place in a venue such as a magistrates' courts.

Liaison with others

The Ministry of Justice

9. We have had a number of meetings throughout the year with MoJ sponsorship and policy teams. Pat Lloyd, Head of Sponsorship and Performance, attended one of our meetings to discuss issues arising from the government's plans to abolish the AJTC as part of a wider package of reforms of public bodies. Further discussions have taken place throughout the year as these plans have developed.
10. Nick Goodwin, the then Head of Civil, Family and Administrative Justice Policy in MoJ, also attended one of our monthly meetings to discuss the department's plans for developing its administrative justice policy role in anticipation of our abolition. We raised with him a number of concerns about the capacity within MoJ to take on some of the wider policy issues in which we have an interest, particularly in respect of those policy areas that sit within other government departments and tribunals systems outside the unified Tribunals Service.
11. Our Chairman and Chief Executive also had an introductory meeting with the newly appointed Access to Justice Policy Director, Catherine Lee, and her deputy, Anna Deignan. A series of further meetings with these senior officials is envisaged in order to bring them fully up to speed on our perspective of the key issues within administrative justice and to discuss the transfer of our functions to the MoJ in the event of our abolition. Members of the senior secretariat and some of our members have also engaged in a number of working level meetings and discussions throughout the year with MoJ officials working on administrative justice policy issues.

Mental Health Stakeholder Group

12. The mental health stakeholder group continues to meet on a quarterly basis at our offices. Chaired by Richard Thomas, our Chairman, the group continues to provide an effective forum for key stakeholders to exchange views on the operation of the tribunal and to raise issues of interest and concern with key tribunal staff and judiciary. At the group's meetings the head of the tribunal secretariat takes the opportunity to provide the latest update on performance against the tribunal's key performance indicators (KPI). Throughout the year it has been clear that performance, both in terms of numbers of cases disposed of by tribunals and in meeting KPI targets, continues to improve, even in the face of increasing numbers of applications and references. Our Chairman has commended the judiciary and administrators within the tribunal for their continuing efforts to achieve greater efficiencies, particularly at a time of great pressure for tribunals.
13. The group has also discussed the recommendations put forward in the joint AJTC/CQC report on '*Patients' experiences of the First-tier Tribunal (Mental Health)*' (reported in Chapter 2) and welcomed the positive response to the report of the tribunal administration and judiciary. Discussions are continuing with the Legal Services Commission, the Law Society, the Mental Health Lawyers Association and others on ways of addressing poor standards of legal representation at tribunals identified in the report.

14. It is very pleasing to report that since the group was established in 2007 its meetings have been consistently well attended. It is clear that stakeholders make a real effort not to miss meetings, some members travelling long distances to attend. In the event that the government proceeds with our abolition it is hoped that this group will nevertheless continue to play an effective role in enabling the tribunal to maintain a constructive dialogue with its stakeholders, albeit with a different Chair. We understand that the MoJ and the First-tier Tribunal (Mental Health) plan to review how stakeholder relations are taken forward to best balance the requirement for the tribunal to engage in a meaningful dialogue with key stakeholders' interests in the jurisdiction.

War Pensions and Armed Forces Compensation Appeals Advisory Steering Group

15. Richard Thomas also chairs the war pensions and armed forces compensation appeals advisory steering group, which was originally set up in 2009 with the overriding aim of pursuing a co-operative, inclusive and consistent approach to war pensions and armed forces compensation appeals across the United Kingdom. The group met only once in the past year, during which time its administration was taken over by officials in the Tribunals Service. Again, in the event of our abolition it is hoped that the group will be able to continue its work under a new Chair.

Senior President's Report

16. In February 2011 the Senior President of Tribunals, Lord Justice Carnwath, produced his first formal report under Section 43(1) of the TCE Act. He used the report to comment positively on:

- The integration of courts and tribunal administration;
- The proposals for a single head of courts and tribunal judiciary in England and Wales;
- Ongoing discussions about the relationship between these proposals and devolution, in particular with reference to Scotland.

17. He expressed concern about the proposed abolition of the AJTC and government proposals for reforming legal aid in England and Wales. Chamber Presidents were also given the opportunity to report back on their respective jurisdictions.

18. We welcomed the Senior President's report, particularly his warm words about our work in relation to tribunals under his jurisdiction and his concerns about the AJTC's prospective abolition. We also acknowledged that much progress has been made since the creation of the Tribunals Service. However, we remain concerned that the coming years will present the combined Courts and Tribunals Service with significant challenges. We had some doubts about the request made by the MoJ Minister under s43(1)(b) of the TCE Act that the Senior President use his report to bring out plans on how to address the issue of social security workloads, as well as workload pressures on the Tribunals Service more generally. We share the Senior President's reservations that the issue of increasing workloads is not strictly a matter for the judiciary.

Judicial Studies Board

19. Penny Letts represents the AJTC on the Tribunals Committee of the Judicial Studies Board (JSB). During the past year, much of the Committee's work has involved preparing for the creation of a new unified Judicial College, which was launched on 1 April 2011, to coincide with the establishment of HMCTS. The Judicial College, chaired by Lady Justice Hallett, was created by bringing together the previous separate arrangements for training judicial office holders in the courts (the Judicial Studies Board) and tribunals (through the TS Tribunals Judicial Training Group and the JSB's Tribunals Committee).
20. The Judicial College supports the Lord Chief Justice and Senior President of Tribunals in carrying out their statutory responsibilities for judicial training. It aims to ensure that high quality training is provided to enable judicial office-holders to carry out their duties effectively in a way which preserves judicial independence and supports public confidence in the justice system.
21. There are of course a number of tribunal systems which remain outside the unified Tribunals Service, some of which are earmarked for inclusion at some point in the future, but others, such as the education appeal panels, are likely to remain outside the TS indefinitely. We have urged the Judicial College to consider carefully how tribunals outside the TS might access its services and training. This will be particularly important, for example, for the lay Chairs of education appeal panels who need access to good quality judgecraft training in chairing skills. We also hope that the College will ensure that it continues to support those tribunal systems which do not have well established training infrastructures and resources to meet training needs to an acceptable standard.
22. Penny Letts has also continued her role as a member of the editorial board for the 'Tribunals' journal, which is published three times a year by the JSB Tribunals Committee. The journal continues to include interesting and thought-provoking articles of interest to stakeholders across the wider administrative justice landscape.

UK Border Agency and the Independent Chief Inspector

23. Our Chairman and other AJTC members have continued to attend the regular stakeholder meetings held by the Independent Chief Inspector of the UK Border Agency, John Vine. These meetings provide the opportunity for stakeholders to share news of their latest work and forthcoming projects and are a useful information and networking forum for all those responsible for monitoring the area of immigration and asylum.

British and Irish Ombudsman Association

24. Peter Tyndall, the Public Services Ombudsman for Wales and current Chair of the British and Irish Ombudsman Association (BIOA) joined the Council to talk about BIOA's work.
25. He described BIOA's work in promoting and safeguarding the ombudsman institution. He also highlighted the sharing of best practice and networking designed to help member schemes learn from each other and spread best practice in many aspects of their

work, including communications, human resources and research. He suggested that the impact of the financial crisis would almost certainly lead to an increase in complaints, and that ombudsmen would probably have to deal with the additional workload with no extra resources, and in some cases, in the face of reducing resources. BIOA hopes to mitigate some of the negative impacts of this through enabling efficiency gains to be maximised across the sector, although he remained concerned about the potential impact on complainants.

26. BIOA holds a conference for its members on a biennial basis, and this year our Chairman attended to give a presentation on the topic of *'Going Forward with Administrative Justice'*. He used the opportunity to outline the current challenges across the administrative justice system as a whole, and to suggest areas where the learning and expertise of the ombudsman world could be adopted to good effect by other parts of the system.

Professor Malcolm Harrington – An Independent Review of the Work Capacity Assessment

27. Professor Malcolm Harrington attended one of our monthly meetings to discuss his review of the Work Capacity Assessment (WCA), which assesses eligibility for Employment and Support Allowance (ESA), introduced by the Welfare Reform Act 2007. The Act provided for an independent review of the operation of the WCA for each of the first five years following its introduction. Professor Harrington, Emeritus Professor at Birmingham University and former Chairman of the Industrial Injuries Council, was invited to undertake the review by the Secretary of State for Work and Pensions.
28. Despite only being appointed in June 2010, Professor Harrington's first report had to be produced by the end of 2010. The key findings of his first report were:
- Claimants' interactions with Jobcentre Plus (JCP) and Atos Healthcare are often impersonal, mechanistic and lack clarity;
 - Decision makers in JCP do not in practice make decisions but typically rubber-stamp the Atos assessment;
 - Some conditions, including mental health or other fluctuating conditions, are more difficult to assess than others;
 - Communication and feedback between the different agencies and organisations involved is often fragmented.
29. The report also highlighted the impact of poor quality decision making on the numbers of appeals, which have shown a huge increase since ESA was first introduced in 2009. With the appeals success rate running at around 40%, his report suggested that more could be done to learn from the outcomes of appeal hearings by sharing feedback with JCP staff and Atos healthcare professionals. Both we and former Presidents of social security tribunals, including the current President of the Social Entitlement Chamber, Judge Robert Martin, have made this point over a number of years, including the need for DWP Presenting Officers to attend more hearings to feedback the findings from appeal hearings to frontline decision makers. Given the huge cost of dealing with ESA appeals alone, currently estimated at around £50m per annum, this would

appear to be a worthwhile investment to make. It is not difficult to envisage a similar situation arising following the introduction of the new Personal Independence Payment (PIP) which will replace Disability Living Allowance. Clearly, the findings from Professor Harrington's review will be helpful to the department when making the arrangements for the introduction of PIP so that they might avoid the same pitfalls.

30. The DWP responded positively to all of Professor Harrington's recommendations, undertaking to implement changes quickly. The changes will include:
- Building more empathy into the process, with JCP managing and supporting the claimant,
 - Improving the transparency of the Atos assessment;
 - Accounting for the particular difficulties in assessing mental, intellectual and cognitive impairment by appointing 'champions' in medical examination centres;
 - Empowering and investing in Decision Makers;
 - Better communication and feedback between JCP, Atos and the First-tier Tribunal.
31. These are all largely the same issues that successive Presidents of Social Security and Child Support Tribunals have been recommending to the department in their annual reports over a number of years. In our annual reports in recent years we have highlighted the success of the PIDMA (Professionalism in Decision Making and Appeals) training initiative trialled by the former Disability and Carers Service and recommended that it be rolled out more widely across the department's agencies, including JCP, to improve decision making in those benefits which involve the assessment of medical conditions.
32. Professor Harrington told us how the 2nd year of his review would include work to refine the mental, intellectual and cognitive descriptors for assessment. He is also examining what happens to those people who are found fit for work but who are subsequently unable to claim jobseekers allowance, a number of instances of which we have ourselves observed at our visits to hearings of ESA appeals.
33. We also took the opportunity to discuss with Professor Harrington the work we had undertaken in producing our '*Right First Time*' report, the findings of which we hope will be of assistance to him with future stages of his review.

National Planning Forum

34. One of our members, Bernard Quoroll, sat as a representative on a working party of the National Planning Forum. The working party produced a helpful guidance document "*Mediation in Planning: a short guide*", designed to encourage greater use of mediation techniques to resolve differences and produce better outcomes from planning. The guide addresses key issues such as the essential elements of mediation, key points about mediation in planning, preparation for mediation, what happens in a mediation, cases where mediation is appropriate and the qualities of a mediator.

Responses to consultations

Consultation on a Unified Courts and Tribunals Service

35. The MoJ consulted in January 2011 on the integration of Her Majesty's Courts Service and the Tribunals Service, which was planned to take effect from April 2011. In our response, we stated that we did not believe that the case for the creation of a unified administration has been well made and expressed regret that the merger decision itself had not been the subject of prior consultation with stakeholders. Both HMCS and the Tribunals Service are relatively young organisations, having been established in 2005 and 2006 respectively. It was not envisaged at the time of their creation that they would merge at some point in the future. If it were, many of the costs associated with the cycle of re-branding and re-structuring could have been foreseen and minimised. We believe that constant churn and lack of stability risk undermining the achievements of the Tribunals Service to date.
36. We also voiced our concern about the lack of strategic vision in the new service. Tribunals for the most part deal with citizen versus state rather than party and party disputes. They are part of the wider administrative justice system with close links to the decision making processes within government, local government and other agencies. The remit of the Tribunals Service recognised this and it had begun some valuable early work to explore alternative approaches to dispute resolution and to collaborate with government departments with a view to getting more decisions right first time. We are concerned that this work will not receive the attention it previously did in the Tribunals Service and that the potential savings to the public purse will not therefore be realised. Our Chairman expressed our surprise in a letter to the Lord Chancellor that the MoJ had no strategic objectives in relation to administrative justice, notwithstanding high case volumes and the surge in caseloads in recent years. Against this background we fear that administrative justice will be the poor relation in a unified system with the courts.
37. More significantly, the AJTC believes that the merger carries significant risks for users of the justice system, and particularly for tribunal users. We are concerned that a single organisation with such diverse responsibilities may prove unwieldy over time. There will always be an inherent tension between criminal justice and the other parts of the justice system in a unified administration. The merger could lead to a "one size fits all" approach to administration that takes insufficient account of the diversity of jurisdiction types and user needs. In particular, the consultation paper is silent on the importance of informal settings and processes for most tribunal users, the need for an enabling approach and support for unrepresented parties on a much larger scale than civil courts are used to. Legal aid cuts will increase the pressures. This is a regrettable departure from Leggatt's "*Tribunals for Users*" vision. To address this problem, we proposed that one of the non-executive Board Members should have an explicit function to safeguard the distinctive features of tribunals.

38. One of the most significant challenges facing the CTIP programme is the geographical mismatch of HMCTS, with responsibility for England and Wales, and the Tribunals Service with UK-wide responsibilities. A second public consultation is awaited on the creation of a single head of the judiciary and devolution of tribunals.

Proposals for Reform of Legal Aid in England and Wales

39. In November 2010 the Ministry of Justice published a consultation paper entitled *Proposals for Reform of Legal Aid in England and Wales*. The paper proposed removing from the scope of legal aid a number of areas within administrative justice jurisdictions, namely criminal injuries, welfare benefits, education (SEN, admission and exclusion appeals), immigration and employment.

40. We submitted a lengthy and detailed response to the consultation. We were greatly concerned that the proposals would reduce or remove access to justice for many individuals seeking to challenge decisions by public bodies. Individuals making claims against government decisions already constitute a vulnerable group and removing their access to legal advice and help could be seen as a misuse of state power. Even at a time of economic austerity, access to justice – especially for those wishing to challenge the state – must be protected.

41. We also considered that the government would not even reap the rewards necessary to make the cuts viable in economic terms. Recognising the need of the Ministry of Justice to reduce its costs, we advocated instead a strategic approach to making savings, suggesting that the government would do well to recognise the role that it plays in generating administrative justice appeals and to look at issues such as the quality and timeliness of decision-making by government departments and agencies.

42. In keeping with our advocacy of a strategic approach, we welcomed the government's commitment in the consultation paper's Foreword to alternative dispute resolution mechanisms. However, the remainder of the document was silent on what these alternative routes and methods might be, and how they would be funded. We noted that we were aware of two pilots in the administrative justice system where alternative dispute resolution methods had been adopted, but no clear cost savings were made. This seems contrary to the government's stated aim to reduce costs. On this basis, it struck us as premature to discuss replacing legal aid with ADR until such time as a coherent ADR policy has been developed.

43. We took the opportunity to demonstrate that legal aid is a successful and helpful product. First, legal aid for advice and help on administrative justice issues is demonstrably effective. According to the Legal Services Commission, when individuals receive legal aid for matters relating to welfare benefits, employment and education, they on average will have a 90% success rate on appeal. For immigration appeals, where the issues are notoriously complex, the success rate remains high at 60%. This suggests that legal aid is effective in not only ensuring that incorrect government decisions are overturned, but also that the role that legally aided advice given before a case reaches a tribunal hearing can play in helping to 'weed out' unmeritorious complaints that would otherwise have clogged up the system, costing time and money.

44. Second, the cost of legal aid for administrative justice issues is relatively insignificant, especially when placed in a wider context. For example, the anticipated annual saving from the removal of legal aid for welfare benefits, employment, education and non-detention immigration appeals is estimated at £45 million. This sum is dwarfed by the amount overpaid in error by the Legal Services Commission to solicitors in 2009-2010 (£76.5 million).
45. Third, there is evidence from the Citizens Advice Bureau to suggest that investment in legal aid generates savings for the state and the public purse³.
46. In view of this compelling evidence about the value of legal aid for administrative justice issues, we would have expected the government to have provided well considered and substantiated reasons to justify the removal of administrative justice topics from the scope of legal aid. We were disappointed by the weak and flawed analysis presented.
47. The government argued that it wanted to target legal aid at 'immediate problems only'. The paper gave as an example a situation where legal aid would be available for immediate homelessness, but not for resolving the benefit or debt issues that could lead to homelessness. Not only does this approach demonstrate a lack of regard for the human costs involved in this type of situation, but it is also economically immature. As noted above, it has been shown that timely investment in legal aid can help to avert problems such as homelessness. It is short sighted in the extreme to remove legal aid from services.
48. We also challenged the government's assertion that people who lose access to legal aid would be able to receive guidance from charitable and voluntary legal advice services. These organisations are often funded through a combination of legal aid and local government contributions. It is far from clear that these organisations will be able to survive without income from legal aid. It is similarly unclear whether local authorities will continue to provide resources to these organisations. In view of all this uncertainty, it is irresponsible for the government to suggest that removal of legal aid will not impede access to justice.
49. Another questionable premise was that legal aid could not be justified for advocacy in front of a tribunal. While we believe that tribunals should be environments where individuals can represent themselves, it is a non-sequitur to argue that this justifies the removal of legal aid for administrative justice issues. Legal aid is not currently offered for advocacy – no savings will be made. In addition, in view of the myriad of difficulties facing an individual wishing to make a claim – complex legislation, the daunting pressure of a tribunal room – it is often essential for an individual to receive advice on their appeal prior to a hearing. This advice is invaluable not just for the individual but for the system too, as unadvised and unrepresented claimants can slow down the tribunal process, which of course costs money. Once again, it seems that any savings made to the legal aid budget will only be lost in other parts of the system.

³ Towards a Business Case for Legal Aid, July 2010

50. In addition to these general criticisms, we also considered that there were powerful reasons for retaining legal aid in particular jurisdictions. The system for claiming welfare benefits is complex, and with huge changes proposed, it is likely to get even more difficult to navigate before it gets any easier. Far too many decisions about welfare benefits are incorrect, and success rates on appeal can be as high as 50%. In these circumstances, it seems highly unfair to deny claimants legal aid for advice when preparing an appeal. Also, we suggested that it would be more appropriate for government to aim to make savings by improving the quality of its legislation and decision-making.
51. We strongly opposed the removal of special educational needs appeals from the scope of legal aid. Families with children who have or are seeking a statement of special educational needs often suffer from extreme stress. They are likely to be vulnerable, and will often require legal help to navigate the considerably difficult process. The Lamb Inquiry (2010) reported that there was in fact a strong case for extending the availability of legally-aided advice and assistance for cases involving children with special educational needs. We were pleased to note the government's concession to allow SEN cases to continue to qualify for legal aid funding.

Fees for immigration and asylum appeals

52. In October 2010, the Ministry of Justice announced its intention to introduce a fee for making appeals to the Immigration and Asylum Chamber of the First-tier and Upper Tribunals. It published a consultation paper relating to the details of the proposal, but did not ask for comments in relation to the overall policy itself.
53. We were of the view that if it were considered necessary to increase the amount of funding contributed by users of the services provided by UKBA, then the most appropriate and simple way of doing so would be marginally to increase existing visa and related fees, with appropriate exemptions. We were greatly surprised that such an obvious and easy to administer approach did not appear as an option in the consultation paper.
54. We considered it odd that the consultation was being run in parallel with a wider consultation on cutting legal aid in civil and administrative justice. Given that the proposals in relation to fees were based on assumptions about the availability of legal aid, a more coherent approach would have entailed waiting until the conclusion of the legal aid consultation before discussing plans for fees. A further concern was that the Ministry of Justice chose not to consult on the policy to introduce fees. We understand that the Tribunals, Courts and Enforcement Act 2007 grants Ministers the power to introduce fees, but this alone does not constitute an accepted policy. Users of the administrative justice system face an inherent inequality of arms when seeking to appeal decisions of the state, and in the area of asylum and immigration this inequality will often be exacerbated by the particular vulnerability of individuals concerned. In view of this, along with the factors noted above, we suggested that any decision to develop a fees policy merited the strongest of discussion and would need to be justified by clear and convincing analysis. We were disappointed to be denied the opportunity to have any such debate.

55. The details of the proposals were no more welcome. We were of the firm view that proposals to deny refunds to applicants successful on appeal were unprecedented, wrong in principle and unfair. Similarly, we considered that treating families as a series of separate individuals for fee purposes was unfair and unreasonable. These proposals suggested to us that income generation was being placed above basic principles of fairness and justice.
56. We also considered that the proposal to make differential changes for paper and oral hearings was procedurally suspect. Limited statistical evidence suggests that oral hearings favour a more successful outcome for appellants than paper hearings, and discretion as to which type of hearing is most appropriate must ultimately rest with a judge. We were concerned that for the government to seek to limit judicial discretion could cause reputational damage in addition to exacerbating already unjust proposals. In addition, we noted that failings in the decision-making processes of UKBA are well documented, and we were of the view that it was regrettable that the proposals offered the UKBA no incentive to improve.
57. The government published its response to the consultation in May 2011. In the response, the government set out a number of changes to its initial set of proposals, including:
- Creation of a power for judges to refund to successful applicants the cost of an appeal fee;
 - Creation of a power for judges to insist on an oral hearing, at no additional cost to the applicant;
 - Removal, for the time being, of a charge for appeals to the Upper Tribunal.
58. We welcomed these concessions, but did not consider them to be sufficient.

Consultation on draft Fees Order

59. We were subsequently consulted on the Fees Order. We raised concern about procedural issues, including the very short timescale in which we had to give comments on the Order. We also noted inconsistency between the government's response to the consultation, which stated that there would be no charge for appeals to the Upper Tribunal, and the Explanatory Memorandum, which stated that a 'single payment' covered access to both Tribunals. We noted our surprise that no consideration appeared to have been given to our suggestion to increase visa fees. We also stated that fee refunds should be automatic for successful appeals, and reiterated our concerns about differential fees.
60. Jonathan Djanogly MP, Parliamentary Under-Secretary of State for Justice, welcomed our comments in relation to the Explanatory Memorandum and agreed to alter the wording to make clear that fees are applied for applications to the First-tier Tribunal only. He added that the option of increasing visa fees had been dismissed when the fees policy was in development, and that he considered that providing finance for appeals through fees would strike a balance, with both taxpayers and applicants funding the system.

61. We took the opportunity to reply to the Minister, and asked whether it would be possible for the AJTC to have sight of any options paper that had considered the possibility of recovering a greater proportion of the cost of running the appeals system from visa fees. Once again, we warned against differential charges for oral and paper hearings.
62. In response, the Minister explained that it had been decided not to take the option forward at an early stage of planning, as it had been unlikely to gain cross-government support. He also noted that while statistics show that a larger proportion of appellants who attend hearings are successful on appeal than those whose appeals are determined on paper, he did not accept that this necessarily implies in any individual case that it is more likely to be successful if presented orally. We do not agree with this analysis.

Lands Tribunal: Fees and Costs

63. In 2009–2010 we reported that we had been consulted on proposed changes to fees and costs for appeals to the Lands Tribunal, where fees have been charged since its inception. The government intended to increase fees, which had not been altered since 1996, so as to return to recovery of 50% of the Tribunal's costs.
64. In August 2010, the government published its response to the consultation, and gave us a further opportunity to comment in advance of drafting of the fees Order. Our response reiterated our fear that the immediate imposition of such large fee increases represented a risk to access to justice. The Tribunals Service had reported that as a result of the fee changes it expected to see a fall in demand for appeals of 20%, and without any further evidence it seemed likely that those with fewer resources would be the most badly affected. We welcomed an improved fee remission policy, but did not think that it was supported by sufficient evidence to demonstrate that risks to access to justice would be properly managed. Instead, we suggested that it would be more equitable to introduce the planned fee increases in phases and with appropriate advance warning, so that user behaviour and demand could be monitored.

Resolving Workplace Disputes

65. In January 2011, the government launched a consultation seeking views on measures to:
- achieve more early resolution of workplace disputes so that parties can resolve their own problems without having to go to an employment tribunal;
 - ensure that the process is as swift, user-friendly and effective as possible; and
 - help businesses and social enterprises feel more confident about hiring people.
66. We responded in April 2011, expressing concern about the lack of strategic vision underpinning the government plans. We were particularly disappointed that the proposals appeared not to build upon the extensive work undertaken by the 2007 Gibbons review into *Better Dispute Resolution*. We also noted with surprise that recent and major innovations such as mediation by employment judges were not mentioned at all.

67. We felt that many of the detailed proposals were no more than legislative tinkering, which might have a negative impact on claimants with legitimate grievances. We were particularly concerned that some key proposals – including the planned legislative responses to weak claims and the qualifying period for unfair dismissal – were based on limited evidence and would bring little benefit to employers or to the tribunal system while having a disproportionate and chilling effect on employees. We presented detailed statistical analysis in support of our arguments.
68. In contrast, we felt that the proposals made insufficient use of the range of judicial responses already available – including practice directions – to deal with any issues in the system. We noted that these would be far simpler to implement and far more proportionate in their effect.
69. We remain supportive of attempts to resolve disputes earlier, and preferably in the workplace. We also back an increased role for Acas. However, we noted that one of the government’s main aims was cost containment. Greater use of mediation, conciliation and related means of resolving disputes outside the tribunal system would benefit everybody but it would almost certainly require significant investment in the short-term in order to reap longer-term gains. We would welcome such a strategic commitment from government as an outcome of this consultation.
70. Finally, we noted that the government trailed the possibility of introducing fees for employment tribunals in this document. We had already expressed our views on this development directly to the Tribunals Service (now HMCTS) and reiterated them in our consultation response. In particular, we stressed that:
- A decision about introducing fees is integral to justice strategy, and impacts upon both access and fairness. It must not be considered in isolation, and should preferably not be considered at all;
 - The introduction of tribunal fees is likely to deter some claimants with good cases from pursuing their cases, thus damaging access to justice;
 - At the same time, fees may well harden disputes between parties, and make it more likely that they will eschew alternative approaches in favour of ‘a day in court’ as they will perceive that they have already paid for it;
 - There is potentially a relationship between fees and other costs of intervention, such as mediation, as in the civil justice system.
71. At the time of writing, the government’s response to the consultation is still awaited.

Law Commission Ombudsman Consultation

72. Officials from the Law Commission attended one of our monthly meetings to discuss their consultation paper on public services ombudsmen. We welcomed the opportunity for discussion as many of the proposals made by the Law Commission related to issues that have long caused us concern.

73. However, we considered that the topic of public sector ombudsmen merited a much wider review than that undertaken by the Law Commission. A wider review might investigate issues such as the role of ombudsmen within the wider administrative justice system; how new ombudsman offices are created; and the desirability of making ‘ombudsman’ a legally protected title.
74. In the absence of a wider review, we remain concerned that legislative changes such as those proposed by the Law Commission might have unforeseen consequences, such as reducing the flexibility of ombudsman services. In addition, we suggested that Parliament might be reluctant to legislate on ombudsmen more than once, and so a limited set of legislative proposals may in practice close the door to any wider reform for some time.
75. With these general reservations set out, we addressed a number of the specific proposals. We fully supported those suggestions that we considered would improve access to justice and help to spread good practice, such as:
- Removing the statutory bar on ombudsmen investigations;
 - Allowing ombudsmen to dispose of complaints other than by a full investigation;
 - Dispensing with the requirement for complaints to an ombudsman to be made in writing;
 - Abolishing the MP filter for making complaints to the Parliamentary Ombudsman, replacing it with a ‘dual-track’ approach;
 - Insisting that findings can only be rejected if a public body successfully pursues a judicial review of the ombudsman concerned;
 - Creating a specific statutory power for ombudsmen to issue guidance, principles and good practice.
76. There were a number of other proposals with which we agreed in principle, but which we were concerned could be difficult in practice. For example, while we were in favour of the proposal to strengthen the role of Parliament in the appointment of the Parliamentary Ombudsman, we agreed that the government should be completely divorced from the appointments process. We noted that the complex issues surrounding appointments meant that any changes should be carefully considered, so as not to risk politicising the process.
77. We also agreed that it would be helpful to create a power for courts to ‘stay’ and/or ‘transfer’ cases to an ombudsman. However, we observed that it would be important to publish appropriate procedural rules, and to ensure that there could be no doubt as to which body had jurisdiction over a particular issue. In addition, we did not agree with the proposal that an ombudsman should be obliged to open an investigation following the transfer of a case by the court, as this would constitute a fettering of the ombudsman’s discretion.
78. We did not fully support the Law Commission’s analysis of the proposal that ombudsmen should have a statutory discretion to dispense with the requirement that an investigation be conducted in private in certain situations. In keeping with our Principles for Administrative Justice, we consider that administrative justice processes should,

where possible, be transparent. However, we recognised that privacy can often be essential for the successful completion of an investigation and changes to the current provisions could impact on the delicate yet effective balance of ombudsmen powers.

79. The Law Commission published its final report on this issue in July 2010. We were pleased to note that that the report contained a recommendation that government establish a wide-ranging review of the public services ombudsmen and their relationship with other institutions for administrative redress.

Consultation on direct access to the Parliamentary Ombudsman

80. In July 2011, the Parliamentary and Health Service Ombudsman launched her own consultation seeking views on the proposal that complainants should have direct access to the Parliamentary Ombudsman without the need for referral by MPs.
81. We responded in favour of the removal of the MP filter and supported the introduction of a 'dual track' approach, allowing complainants the option of either making a complaint through an MP or accessing the Parliamentary Ombudsman directly.
82. Our members had the opportunity to discuss this issue at a seminar held by the Public Administration Select Committee. This event provided a welcome opportunity to share views on the importance of direct access to the Ombudsman and to consider wider ombudsman-related issues.

Solving disputes in the county courts

83. In March 2011 the Ministry of Justice published a consultation paper '*Solving disputes in the county courts: creating a simpler, quicker and more proportionate system*'. The paper set out proposals for reform of the civil justice system in the courts in England and Wales.
84. The paper did not specifically address Proportionate Dispute Resolution (PDR) in tribunals or other administrative justice contexts. Given the recent merger of Her Majesty's Courts Service and the Tribunals Service, it seems likely that the procedures in courts and tribunals will grow more rather than less similar. We therefore sought to place the proposals in a wider context, before answering specific questions within our remit and expertise.
85. We noted that the AJTC has long advocated the wider use of proportionate or alternative dispute resolution techniques and believe it is important to develop a coherent and rounded PDR policy. However, we had fears that this consultation demonstrated that a piecemeal rather than strategic approach was being adopted. We considered that the paper should have addressed the whole range of proportionate dispute resolution techniques, assessing how they best interact rather than focussing on automatic referral to mediation.
86. We highlighted that in the area of administrative justice, disputes normally arise between an individual and the state. The individual will often be in a continuing relationship with the state, and will rely on it for fair treatment. Any proportionate resolution policy should be able to accommodate this.

87. We suggested that once a coherent policy had been developed, it would then be necessary to put in place the right conditions for proportionate dispute resolution mechanisms to operate. We did not consider, for example, that the paper demonstrated that sufficient thought had been given to matters such as accreditation and regulation of mediators, how much mediation will cost and who will pay, and the enforceability of mediation if one or more of the parties will not cooperate.
88. We were concerned that insufficient attention had been paid to ensuring that the government's proposals would work in practice. As it currently stands, we do not consider that the Civil Mediation Council's accreditation scheme would be a sufficient guarantee of quality. This is particularly important if plans to introduce automatic referral to small claims mediation are pursued. If the state compels parties to a dispute to turn to a mediator, it will be incumbent upon the state to ensure that the mediation system offers the same fundamental guarantees and protections as the courts system.
89. The paper did not make evident whether or how it would be possible to compel parties to attend or (if necessary) pay for mediation, or how penalties would be enforced. At this early stage, our preference would be for the delivery of information sessions about the possible benefits of mediation.

Disability Living Allowance Reform

90. The Department for Work and Pensions consulted on proposals for reforming Disability Living Allowance (DLA), which flowed from the earlier White Paper '*Universal Credit: welfare that works*', setting out the government's plans for fundamental reform of the welfare system.
91. The consultation proposed replacing DLA with a new benefit, Personal Independence Payment (PIP), aimed at improving the support for disabled people and better enabling them to lead full, active and independent lives. DLA was said to have become confusing and complex, and its rising caseload and expenditure described as unsustainable.
92. We were not convinced of the arguments for the proposed change, largely because the new components of PIP – mobility and daily living – were not substantially different to the existing components of DLA. We felt that the proposed changes to the care and mobility components of DLA were largely semantic rather than substantive and could result in an award of benefit which was less well tailored to individual circumstances. We suggested that the proposed changes would also lead to an increase in appeals and greater confusion for claimants, rather than the intended simplification of the system that the reform purported to achieve. We took the view that DLA should be retained largely in its current format but that the legislation governing its operation could and should be simplified so that it might be better targeted to those people for whom it is intended.

Local support to replace Community Care Grants and Crisis Loans for living expenses: A call for evidence

93. The Department for Work and Pensions issued a paper calling for evidence in connection with its plans for reform of the Social Fund, including the abolition of the existing system of discretionary payments for community care grants and crisis loans. The paper outlined plans for a new locally-based system of support to be devolved to local authorities in England and to the administrations in Scotland and Wales. However, there would be no new statutory duty to require local authorities to deliver such a service.
94. In our response we articulated our strong concern at the absence of any guarantee that locally-based assistance would be universally available and that the funding transferred to local authorities would not be ring-fenced. We fear that any such locally-based provision would be likely to be uneven and limited by pressure on local funds, which would bear heaviest on some of the poorest communities. It would be essential, therefore, that any new arrangements should take a consistent approach to the assessment of need. We suggested that the proposal to allow local authorities to choose whether or not to run such a scheme had the potential to create a postcode lottery, with people in similar situations being treated differently simply on the basis of where they live.
95. We were also concerned by the lack of any redress mechanism for those who felt aggrieved by the decisions of local authorities. We suggested that any new locally-based scheme, which relied on the exercise of discretion in the decision-making context, should have an appropriate and accessible appeal mechanism which is independent of the decision maker.

Support and aspiration: A new approach to special educational needs and disability

96. The Department for Education published its SEN Green Paper setting out proposals for a new approach for children with special educational needs and disability. We welcomed the paper's overriding aims of supporting better life outcomes for young people, giving parents greater control over the support they receive and transferring power to professionals on the front-line.
97. Whilst much of the paper concerned issues largely outside our statutory remit, we had a particular interest in the proposals for compulsory mediation before parents can register an appeal with the First-tier Tribunal (SEND). Whilst we welcomed the greater use of mediation in resolving SEN disputes, we suggested that this should be undertaken as an integral part of the appeals process. To require compulsory mediation pre-appeal risks creating an unfair barrier to parents in exercising their statutory rights. Moreover, if mediation is part of the appeal process the onus then lies squarely with the tribunal to monitor compliance by both parties and ensure that this takes place within appropriate timescales. Mandatory mediation pre-appeal would also enable local authorities to unduly protract the process so as to delay access to the tribunal, which would be unacceptable.

98. We also suggested that the infrastructure needed to support compulsory mediation is for the most part currently non-existent. However, the Green Paper provided little detail about such matters as how mediation services will be provided, by whom, how they will be resourced and training for mediators.
99. We particularly welcomed the proposal to give children a right of appeal in their own right, which the Welsh government introduced in 2009 and is due to begin piloting. We suggested that, with the support of good advocacy services the right of appeal should apply to all school age children and not just those of secondary school age, as proposed in an earlier consultation paper. We endorsed the proposal to pilot this scheme in one or two local authorities.

Consultation on Changes to the School Admissions Framework

100. The Department for Education consulted on revisions of the statutory Codes governing school admissions and admission appeals, which arose from an earlier announcement by the Secretary of State of his intention to make the system simpler, fairer and more transparent, building on the principle of placing trust back in schools and head teachers. The resulting draft Codes on Admissions and Admission Appeals had been revised with the aim of removing duplication and prescriptive guidance that might hinder local flexibility or increase costs and bureaucracy.
101. In our response we said that both we and our predecessor body, the Council on Tribunals, had always held the view that the Admissions Codes needed to be comprehensive because of the absence of proper procedural rules to govern the operation of admission appeal panels. Over the years since the publication of the first statutory Codes in 1999, with each successive revision they have expanded in size as the guidance contained within them was further refined and amplified. The risk in slimming down the Codes in the manner proposed is that important matters may unwittingly be omitted. We also expressed the view that the stated aim of reducing burdens and bureaucracy and removing prescription would be likely to lead to a free-for-all, with admission authorities and appeal panels operating the admissions arrangements to suit their own needs rather than those of parents. We also found it difficult to comment meaningfully on the question of whether the revised Codes would achieve their intended aims without having sight of the procedural regulations which will sit alongside them.
102. The consultation included a number of proposals concerning admission appeal panels, including:
- The removal of the requirement for appeal panels to refer unlawful admissions to the Schools Adjudicator, with which we were content since we had always found it a rather curious notion that panels comprised entirely of lay members would have the legal knowledge or expertise to pronounce on issues of lawfulness.
 - Where a panel member is taken ill part way through the hearing of multiple appeals, the remaining hearings should be postponed until the member is fit again, with which we agreed. However, we disagreed strongly with the proposal that it should be for individual panels to decide whether or not to re-hear all appeals

in the event that a panel has to be reconstituted. In this case, we suggested that all appeals should be re-heard since to do otherwise would mean a panel member being party to decisions on appeals that he or she did not actually hear.

- The relaxing of the requirement for admission authorities to advertise for lay members every three years, with which we were broadly content, subject to the proviso that recruitment of members continued to be through fair, open and transparent methods which would usually involve advertising in the local press.
- The relaxing of the requirement for admission authorities to provide training for appeal panel members every two years, the unintended consequence of which we had brought to the Department's attention last year. Currently, the regulations require members to receive training every two years in the same prescribed areas. Whilst agreeing the need to amend this provision in the regulations we were concerned that the statutory training requirement should not be removed altogether and suggested an ongoing requirement for new members and clerks to receive training before sitting to hear cases, prescribing the areas to be covered by new appointee training.
- The proposed new time limit of 30 working days for parents to lodge an appeal was a welcome development, although we suggested that 30 working days might be slightly excessive and unnecessarily elongate the overall timetable for hearing appeals before the summer holidays. We suggested a slightly shorter time limit of one calendar month, which would accord with the practice in many other appeal systems.

Consultation by the Tribunal Procedure Committee on proposed amendments to the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008

103. We were consulted by the Tribunal Procedure Committee on proposed amendments to the HESC Chamber Rules concerning mental health cases in particular. The first amendment was to enable the hearing of a reference to the tribunal for a patient under a community treatment order (CTO) to take place in the patient's absence. The intention was to reduce the number of hearings which have to be adjourned because the patient fails to turn up at the hearing, having intimated that they had no wish to attend and given consent to a decision being made in their absence. The second amendment concerned the strike out provisions for mental health cases, which it was proposed should be brought into line with the provisions for other HESC jurisdictions to enable a case to be struck out without a hearing for lack of jurisdiction.

104. We expressed concern that these proposals could be seen as weakening or removing safeguards for mental health patients who were less able to exercise those safeguards for themselves. We were concerned by the impression given by the consultation paper that the proposals were primarily for the administrative convenience of the tribunal and to reduce costs, with insufficient regard to the implications for patients.

105. We did not support the proposed amendment to enable a hearing of a reference for a CTO patient to go ahead in the patient's absence. Whilst appreciating that there is little to be gained from forcing a reluctant CTO patient to engage with the tribunal process, we found it difficult to see how a tribunal could be satisfied that the statutory criteria for a CTO continue to be met solely on the basis of a paper review, without the opportunity to question the patient's doctors and other relevant professionals. We particularly opposed the proposal for paper hearings to apply to references where a CTO has been in force for three years, in which cases it seemed to us essential that a full hearing should be held so that the tribunal could be satisfied that a CTO should continue, even if the patient did not actively object to it.

106. So far as the proposed amendment to the strike out provisions was concerned, we felt that the consultation did not make a particularly convincing case for this change, and in particular failed to recognise the potential significance of strike out in mental health cases as compared to the other jurisdictions in the HESC Chamber. However, given the limited practical effect of the change – to enable a case to be struck out for lack of jurisdiction – we were largely content.

Fitness to Practise Adjudication for Health Professionals

107. In our 2008/09 Annual Report we announced that the new Office of the Health Professions Adjudicator (OHPA), which would be responsible for adjudicating on fitness to practise (FTP) cases in respect of medical professionals, was to be brought under our supervision. In the past year one of our members has continued to sit on the Project Board which was making the preparations for the OHPA to come into operation in 2011.

108. However, in July 2010, the new government announced its intention to consult on whether to proceed with work surrounding the OHPA. The ensuing consultation proposed three options for the future of adjudication in fitness to practise cases - (i) to proceed with OHPA implementation as planned; (ii) to repeal the OHPA and enhance medical adjudication within the GMC (the government's preferred option); and (iii) to repeal the OHPA and take no further action.

109. We suggested that the only feasible option was to proceed with the planned implementation of the OHPA since the option of retaining adjudication with the GMC would not adequately address concerns about the lack of independence in the GMC's adjudication processes. The complete separation of investigation and prosecution of FTP cases is essential to ensure public and professional confidence in decisions made by the adjudicator. The establishment of the OHPA was important not just to address the perceived lack of independence of the GMC's panels but also to achieve substantive and visible independence that would guarantee just outcomes for both doctors and patients. The government's preferred option, to retain adjudication within the GMC, would not comply fully with the recommendations of either the Shipman Inquiry, led by Dame Janet Smith, or the subsequent review by Sir Liam Donaldson⁴, the Department's former Chief Medical

⁴ Good doctors, safer patients: Proposals to strengthen the system to assure and improve the performance of doctors and to protect the safety of patients

Officer, both of whom found that it was inappropriate for the GMC to control both the investigation and adjudication stages of FTP procedures; or in other words, to fulfil the roles of complaint recipient, processor, investigator, prosecutor, judge and jury.

110. The consultation cited potential cost savings in not proceeding with the OHPA as one of the key policy drivers. However, the proposals failed to take account of the OHPA's accommodation plans and the potential cost savings to be accrued in the longer term through the OHPA taking on the adjudication of FTP cases for other health professionals, which had always been the intention. Moreover, any short term gains would be lost through the ensuing costs of replicating the GMC's proposed enhanced adjudication functions across each of the other health profession regulatory bodies such as the General Dental and Optical Councils. This option also removes the possibility of future consideration being given to transferring these functions to the unified Tribunals Service, which had always been an important aspect of the OHPA's long-term vision.
111. Despite widespread support for retaining the OHPA, in December 2010 the government announced its intention to abolish the OHPA. Legislation to give effect to the OHPA's abolition is currently before Parliament.

Reform of fitness to practise procedures at the GMC: the future of adjudication and the establishment of the Medical Practitioners Tribunal Service

112. The GMC subsequently consulted on proposals for reforming its FTP procedures, including establishing the Medical Practitioners Tribunal Service (MPTS). The proposals included:
- The establishment of the MPTS under an independent Chair;
 - MPTS to be established as a new and separate statutory committee of the GMC;
 - MPTS to report to Parliament annually on its operation and twice yearly to the Council of the GMC;
 - The establishment of a joint forum of the MPTS and GMC to oversee joint working arrangements;
 - Giving the GMC the right of appeal against decisions of the MPTS and the right of appeal for both the GMC and doctors against the award of costs;
 - The introduction of enhanced pre-hearing case management arrangements;
 - Introducing legally-qualified Chairs;
 - A single centralised hearing centre in Manchester.
113. In our response we re-stated our position that we did not believe that this option adequately addressed the concerns about the lack of independence raised in the earlier reports by Dame Janet Smith and Sir Liam Donaldson. Whilst welcoming the establishment of the MPTS, the fact that it would sit within and be funded by the GMC represented a major obstacle to ensuring that it would be perceived

as a wholly independent tribunal. However, we welcomed the appointment of a separate Chair to the MPTS and suggested that this should be a judicial appointment by the Judicial Appointments Commission. We suggested that the title '*Medical Practitioners Tribunals Service*' might not be sufficiently generic to allow for the tribunal's jurisdiction to be extended at some point in the future to enable it to hear cases from other healthcare professionals.

114. We agreed that the Chair of the MPTS should be a senior legal figure and that legally qualified Chairs should sit to hear all cases, which is the standard practice in most other tribunals. We welcomed the proposal that the MPTS should report annually to Parliament on its operation but suggested that this would only be effective if Parliament was able to exercise proper scrutiny. However, we rejected any suggestion that the GMC itself should have any role in overseeing the MPTS. One of the key requirements for the proper independence of tribunals is that they should be free to reach decisions according to law without influence from the body or person whose decision is being challenged or appealed, or from anyone else. It would be quite inappropriate, therefore, either formally or statutorily, to require the MPTS to report to the GMC on its operation. Moreover, we suggested that the role of the Council for Healthcare Regulatory Excellence (CHRE) in relation to the MPTS needed further clarification.
115. Whilst the proposal for a single hearing centre in Manchester seemed an attractive one, both in terms of cost and geography, it was not clear whether a single hearing centre could cope with ever rising caseloads or what impact this might have on waiting times for cases to get to a hearing. We suggested that it would be unsatisfactory if moving to a single hearing centre resulted in cases facing inordinate delays to get to hearing.

4. Exploiting opportunities for our voice to be heard on behalf of users

The Schools White Paper 2010 – The Importance of Teaching

1. The government published its Education White Paper in November 2010 setting out proposals for reforming education in England, emphasising the importance of teachers and teaching. We were particularly interested in the proposals relating to reform of school discipline, including changes to the exclusion appeals system. The aim of the proposals was to ensure that appeals take less time, that pupils who have committed a serious offence cannot be reinstated, and piloting a new approach to permanent exclusions where schools have the power, money and responsibility to secure alternative provision for excluded pupils.
2. Following the publication of the White Paper we had a meeting with an official from the department to discuss the likely nature of the changes to exclusion appeals. We expressed disappointment that despite our statutory oversight of exclusion appeal panels, the Department had not thought to consult informally on their policy thinking ahead of the White Paper's publication.
3. The key changes to exclusion appeal panels were to change the status of the panels from that of an appellate body to a review body and to remove the power of the panels to reinstate pupils. We took the view that removing the power to direct reinstatement would appear to neuter the jurisdiction of the panels and make it a futile exercise for parents to appeal in the first instance.

Education Bill

4. The Education Bill was subsequently introduced in the House of Commons on 26 January 2011 and, as anticipated, legislated to replace the existing Independent Appeal Panels with Independent Review Panels. The Bill also removed the power of the panels to reinstate a pupil where the original exclusion decision was found to be flawed in the light of the principles of judicial review. Instead, it provided that the review panels may quash the decision and direct that the matter be reconsidered.
5. Our Chairman wrote to the Secretary of State for Education raising our concerns about the Bill's provisions. He expressed our full support for the government's aim of strengthening discipline in schools in order to restore the authority of teachers in the classroom. However, our firm view was that replacing Independent Appeal Panels with Independent Review Panels represented an erosion of appeal rights, which was entirely inappropriate given the serious consequences for pupils of being excluded from school. Moreover, if panels could not reinstate a pupil who had been excluded unlawfully this failed to provide an effective remedy.

6. He also expressed the view that the changes were being made on the basis of the mistaken assumption that appeal panels had been routinely overturning exclusion decisions and reinstating pupils because of flaws in the exclusion process, which we believe misrepresents the true position. The department's own exclusion statistics show that out of 640 appeals in 2008/09 only 160 were successful (25%), and of those only 62 (less than 10% of all appeals) included a direction to reinstate the pupil. We are not convinced of the department's case for these changes and believe that the new limited powers of the Review Panels to refer cases back where the panel finds the decision flawed does not provide sufficient finality or certainty for parents, particularly where reconsideration results in no change to the original decision. Moreover, we believe that the proposition that a panel constituted entirely of lay members should apply the principles of judicial review in its decision making is both unrealistic and inappropriate.
7. Under the new arrangements all disability discrimination related permanent exclusion appeals will in theory be able to be heard by the First-tier Tribunal (SEND) (although we are aware that the department disagrees with this interpretation). Since 70% of all permanent exclusions affect children with some degree of SEN the majority of these appeals could be brought on grounds of disability discrimination, meaning they could be heard by the SEND tribunal. This would mean that of the 640 appeals lodged in 2008/09 448 would go to SEND and 192 to the new review panels. It seems illogical to us to require each local authority across England to operate a separate system of review panels to deal with such a small number of appeals, given the costs of recruiting, training and reimbursing panel members, when these cases could be dealt with by the First-tier Tribunal (SEND).
8. In its response the department restated its previous objection to the SEND tribunal hearing all exclusion appeals as it would be inappropriate for it to deal with cases which had no bearing on SEN issues. The department also expressed the view that most governing bodies would be likely to offer to reinstate pupils if directed to reconsider by a panel, and for the small number of cases where this did not happen parents would have recourse to judicial review. We do not believe that governing bodies will be so willing to comply with directions from the panels and do not consider judicial review to be a viable option for the majority of parents.
9. Our Chairman wrote again to the Minister, both in response to the reply from officials but also to express disappointment that the department had decided to remove from its website the training package for exclusion appeal panel members, which the department had sponsored some years earlier. The reason given for its removal was that the material was too prescriptive and out of date. We thought this was rather ironic in the light of the department's stated justification for altering the role of exclusion appeal panels, because too many panels were making poor decisions. We suggested that there might perhaps be a link between poor decision making by panels and the unsatisfactory arrangements for training panel members. We urged the department to take a more robust stance on training for panel members and hope that it might be prepared to commission new training material for the new independent review panels.

Welfare Reform Bill

10. In July 2010 the government published a consultation paper '21st Century Welfare' setting out a range of options for reforming welfare system. This was followed in November 2010 by a White paper 'Universal Credit: welfare that works', setting out proposals for reform aimed at improving work incentives, simplifying the benefits system and making it less costly to administer.
11. The Welfare Reform Bill was subsequently introduced in Parliament on 16 February. The Bill gives effect to the government's welfare reform proposals, including the introduction of a new benefit, Universal Credit, to replace existing in and out of work benefits, and Personal Independence Payment, to replace Disability Living Allowance.
12. We were particularly interested in two aspects of the Bill's provisions – a regulation making power to require reconsideration of decisions before appeal and the repeal of the social fund scheme of discretionary loans and grants and consequential abolition of the office of the Social Fund Commissioner.
13. Our Chairman wrote to the Secretary of State for Work and Pensions to raise concerns about both these matters. Whilst recognising the potential benefit of a statutory reconsideration process, we realised that that this could introduce further delays into the decision making and appeals process. We suggested, therefore, that it would be entirely unacceptable to introduce such a provision unless an overall time limit was simultaneously introduced for dealing with any subsequent appeals, in line with the recommendations in our Time for Action report. We suggested that there is no reason why statutory reconsideration and a fixed time limit for dealing with appeals could not co-exist since a time limit would both incentivise rapid reconsideration and reduce the risk of further overall delay.
14. With regard to the abolition of the office of the Social Fund Commissioner, the Chairman noted that no consideration appeared to have been given to building on the success of the Independent Review Service (IRS) to adapt it to a different, wider role. We believe that the IRS has built up an unparalleled reputation for providing excellent service as an independent second-tier review process at minimum cost. The performance and low cost of the IRS makes it an innovatory form of dispute resolution, which not only compares well with courts and tribunals but also represents the kind of alternative dispute resolution scheme which the Ministry of Justice is seeking actively to promote. The Chairman urged that urgent consideration be given to the potential to reconstitute the IRS before the loss of its trained staff, IT and other systems. He suggested potential roles for the IRS as an alternative to formal appeal across wider range of benefits; or playing a part in the new statutory reconsideration process; or being retained as a review facility for those local authorities introducing the new local services to replace the discretionary social fund.
15. The Secretary of State's response was disappointing, largely failing to see the wider potential benefits of retaining a reconstituted IRS and merely committing to absorbing IRS staff into other roles within the DWP.

Housing Ombudsman and the Localism Bill

16. The office of the Housing Ombudsman operates under section 51 of the Housing Act 1996. Broadly speaking, the Act empowers the Ombudsman to investigate cases and, if necessary, to make findings of maladministration against landlords.
17. The Localism Bill, introduced in the House of Commons in December 2010, proposed three main changes in relation to the Housing Ombudsman. First, complaints by social tenants about local housing authorities would be dealt with by the Housing Ombudsman rather than the Local Government Ombudsman. Second, complaints by social tenants to the Housing Ombudsman would have to be referred by an MP, councillor or designated tenant panel ('the democratic filter'). Third, decisions made by the Housing Ombudsman would be legally enforceable.
18. Mike Biles, the Housing Ombudsman, attended one of our meetings to explore these issues in January 2011. Following this discussion, we submitted evidence to the Public Bill Committee highlighting our concern with the proposals.
19. We considered that it would be counter to efficiency and justice, as well as contrary to best practice, to introduce a democratic filter between tenants and the Housing Ombudsman. There is already one significant, and proper, barrier to access to the Ombudsman: tenants must have exhausted their landlords' own complaints procedures. However, once a tenant has complied with this requirement, it seems unnecessarily complex to expect them to then go through a second process prior to having access to the Ombudsman.
20. As noted elsewhere, the Law Commission has recently suggested that a similar access filter for the Parliamentary and Health Service Ombudsman, the MP filter, be replaced with a 'dual track' system, whereby an individual can choose to access the Ombudsman either directly or through their MP. It is therefore worrying that these proposals go against standard best practice, and we suggested to the Committee that a similar 'dual track' approach be adopted for the Housing Ombudsman.
21. We recognised that there are many good reasons for making decisions of the Housing Ombudsman legally enforceable. However, we wished to highlight certain characteristics of ombudsmen services that have made them effective institutions in the absence of enforceability:
 - Decisions of the Ombudsman carry moral authority, due to expertise, independence and impartiality;
 - Ombudsmen develop strong relationships with their constituents, and are often able to effect change without recourse to law;
 - The co-operative approach of Ombudsmen reduces defensiveness and can avoid destructive behaviours.
22. We considered that in view of these characteristics, it would be unwise to introduce legal enforceability for Housing Ombudsman decisions without further consideration of the current co-operative approach.

Appendices

A Membership of the AJTC

B Cost of the AJTC and its Scottish and Welsh Committees

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

D Statutory Instruments 2010/2011

Appendix A

Membership of the AJTC

This year saw the departure of the following members:

Bernard Quoroll, member of the Council from May 2003 until April 2011.

Kate Dunlop, member of the Council from February 2010 until October 2010.

In the past year we also said goodbye to **Lisa Chilver** who served as a member of the Secretariat for almost 22 years. In that time Lisa was PA and secretary to 4 separate Chairmen and 5 Council Secretaries. Lisa left to take up a post as PA to the President of the Lands Tribunal.

AJTC Membership as at 31 March 2011

Richard Thomas CBE, LL.D.: Chairman of the AJTC since 1 September 2009. Information Commissioner from November 2002 until June 2009. Currently Deputy Chairman of the Consumers Association, Trustee of the Whitehall and Industry Group, adviser to the Centre for Information Policy Leadership and board member of the International Association of Privacy Professionals.

Richard Henderson CB, WS: Solicitor to the Scottish Executive and Head of the Government Legal Service for Scotland until 2007. President of the Law Society of Scotland from 2007-2009. Board Member of Signet Accreditation. Member of the AJTC and Chair of the Scottish Committee from August 2009, member of Scottish Committee from January 2009.

Professor Sir Adrian Webb: First Vice-Chancellor of the University of Glamorgan from 1992-2005. Chair, Pontypridd and Rhondda NHS Trust; Non Executive Director, Welsh Assembly Government until March 2008. Chair of the Wales Employment and Skills Board and Wales Commissioner on the UK Commission for Employment and Skills. Member of the AJTC from May 2008 and Chair of the Welsh Committee from June 2008.

Jodi Berg OBE: Currently Independent Complaints Reviewer for public bodies and partner in the Independent Complaint Resolution Service (ICRS). Member of the Human Tissue Authority; Chair of the Postal Redress Service (POSTRS); Non Executive Director of TDS. Qualified solicitor; mediator; magistrate and Fellow of the Chartered Institute of Arbitrators. Member of the AJTC since December 2008.

Professor Alice Brown CBE: Emeritus Professor, University of Edinburgh. Scottish Public Services Ombudsman from 2002-2009. Currently General Secretary of the Royal Society of Edinburgh, Sunningdale Fellow, Trustee of the David Hume Institute, Chair of the Lay Advisory Committee of the Royal College of Physicians of Edinburgh and Adviser to Hays Recruitment. Member of the AJTC since December 2008.

Professor Andrew Coyle CMG: Director of the International Centre for Prison Studies. Emeritus Professor, London University. Visiting Professor, Essex University. Member of the Judicial Appointments Board for Scotland. Member of the AJTC and the Scottish Committee from September 2009.

Sukhvinder Kaur-Stubbs: Chair of the Board of Trustees, Volunteering England and non-executive board member of Consumer Focus. Better Regulation Taskforce Member from 2001-2006. Chief Executive of the Barrow Cadbury Trust from 2001-2009. Member of the AJTC since February 2010.

Penny Letts OBE: Policy Consultant and Trainer. Former Law Society Policy Advisor. Member of the Mental Health Act Commission 1995-2004. Member of the Judicial Studies Board's Tribunals Committee since May 2003. Member of the Council since September 2002.

Bronwyn McKenna: Solicitor. Assistant General Secretary at UNISON. Member of the Central Arbitration Committee since 2002. Sits on the Employment Law Committee of the Law Society of England and Wales and chairs the Legislative and Policy Committee of the Employment Lawyers Association. Member of the Council since May 2007 and the Council's representative on the Tribunal Procedure Committee since 2009.

Bernard Quoroll: Solicitor and CEDR registered mediator. Local authority chief executive for 16 years in three local authorities. Council member of the Postal Redress Service (POSTRS). Member of the Council from May 2003 until April 2011.

Professor Mary Seneviratne: Professor of Law at Nottingham Law School, Nottingham Trent University. Board member of the Office for Legal Complaints. Member of the AJTC since February 2010.

Dr Jonathan Spencer CB: Senior civil servant at DTI and MoJ from 1974-2005. Chair, Church of England Pensions Board; Deputy Chair, East Kent Hospitals Foundation Trust; school governor; company director. Member of the Council since December 2005.

Dr Adrian V Stokes OBE: Special Trustee of the Royal National Orthopaedic Hospital NHS Trust. Governor, University of Hertfordshire. Founder Governor, Motability. Chairman, Disabled Motoring UK, Trustee, Mobility Choice. Member of Disability Appeal Tribunals from 1992-2003. Member of the Council since November 2003.

Brian Thompson: Senior Lecturer in Law at the University of Liverpool. Member of the Panel of Specialist Advisers to the House of Commons Public Administration Select Committee, and Adviser on Public Law to the Northern Ireland Ombudsman. Member of the Council since 2007.

Ann Abraham: UK Parliamentary Ombudsman and Health Service Ombudsman for England. Ex-officio member of the Council since appointment in November 2002. Ex-officio member of the Scottish and Welsh Committees.

Full details about each of the members of the AJTC can be viewed on the AJTC's website at www.justice.gov.uk/ajtc

Appendix B

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 2011, with the corresponding 2009/10 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	
	09-10	10-11	09-10	10-11	09-10	10-11
Staff Salaries ¹	434,781	406,393	77,294	82,096	26,224	32,664
Members' Retainers ²	297,437	283,245	42,155	38,201	19,385	19,491
Members' Travel etc ³	29,111	23,794	5,361	3,145	4,840	3,311
Consultancy ⁴	-	-	-	-	-	-
Agency Staff ⁵	65,204	37,874	-	-	24,255	-
Printing and Publishing ⁶	29,116	10,231	3,535	-	-	-
Other Admin Costs ⁷	125,167	64,609	9,485	4,650	-	-
Capital expenditure	-	-	-	-	-	-
Totals	980,816	826,146	140,263	128,092	74,704	55,466

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 £56,051 and £28,025 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 the Welsh Committee (based on 22 days per year) are £12,816, £10,194 and £6,408 respectively. The figures for members' retainers include the remuneration of the Scottish and Welsh Committee Chairmen and the members of the AJTC who are also members of the Scottish Committee.
- 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 There was no consultancy expenditure during the year.
- ⁵ Agency personnel only engaged in the earlier part of the year to provide specialist skills such as editing our journal Adjust.
- ⁶ Design and printing costs reduced from last year as most items are now dealt with in-house.
- 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 secretariat and consequently its running costs are met by the AJTC.

Appendix C

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 Chair of the AJTC. The Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) is a member of the AJTC by virtue of his or 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 Chair) 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 Chair) 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 existing or proposed legislation 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 D

Statutory Instruments 2010/2011

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 covered by this report.

The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011	S.S.I. 2011/104
The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2010	S.S.I. 2010/152
The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2011	S.S.I. 2011/105
The Compulsory Purchase (Inquiries Procedure) (Wales) Rules 2010	S.I. 2010/3015
The Flood and Coastal Erosion Risk Management Information Appeal (Wales) Regulations 2011	S.I. 2011/865
The National Health Service (Discipline Committees) (Scotland) Amendment Regulations 2010	S.S.I. 2010/226
The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011	S.S.I. 2011/32
The National Health Service (Tribunal) (Scotland) Amendment Regulations 2010	S.S.I. 2010/227
The National Health Service (Tribunal) (Scotland) Amendment (No. 2) Regulations 2010	S.S.I. 2010/226
The Patents (Amendment) Rules 2011	S.I. 2011/2052
The Residential Property Tribunal Procedures and Fees (England) Regulations 2011	S.I. 2011/1007
The Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England) and Wales) Fees Order 2011	S.I. 2011/2344
The Upper Tribunal (Lands Chamber) Fees (Amendment) Order 2010	S.I. 2010/2601

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