

Scottish Committee of the Administrative Justice & Tribunals Council

ANNUAL REPORT 2010/2011



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Committee Members

Membership at 31 March 2011

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 Andrew Coyle, CMG:

Emeritus Professor of Prison Studies at the University of London and Visiting Professor at the University of Essex. Member of the Judicial Appointments Board for Scotland. Member of the Committee and the Council since September 2009.

Annabell Fowles:

A solicitor who works as case supervisor at University of Strathclyde Law Clinic. Member of the Committee since September 2009.

Michael Menlowe:

An associate of the General Medical Council where he chairs Fitness to Practise panels. Member of the Committee since 2007.

Michael Scanlan:

A practising solicitor who is a past President of the Law Society of Scotland and the Scottish Law Agents Society. Prior to his appointment as a Member of the Committee in January 2009, he was a Member of the Judicial Appointments Board for Scotland.

Professor Mike Adler:

Emeritus Professor of Socio-Legal Studies in the School of Social and Political Science at Edinburgh University. He has undertaken extensive research in the field of administrative justice and other areas of social policy and authored numerous publications. He served as a member of a social security appeals tribunal for many years. A member of the Scottish Committee from September 2010

Ann Abraham:

UK Parliamentary Ombudsman and Health Service Ombudsman for England. Ex officio member of the Committee since 2002.

Jim Martin:

Scottish Public Services Ombudsman. Ex officio member of the Committee since May 2009.

Further details about each of the members of the Scottish Committee can be viewed on the Council website at www.justice.gov.uk/ajtc/index.htm

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Foreword

The context of the period since our last report - The decision by the UK Government to promote legislation which, if implemented, will see the abolition of the AJTC and the Scottish Committee has been a distraction to the work of the Committee over the period since summer 2010. At present we do not know the precise timings for abolition but it is likely that this will be the final Annual Report of the Scottish Committee of the Administrative Justice and Tribunals Council. As such it is appropriate that this report should reflect both on what the Committee may have undertaken since our last report but also reflect on the future of the area for which the Committee has had responsibility.

The principal areas of work - Despite the uncertainties as to its future the Committee has continued throughout the period since the last annual report to concentrate on delivering its statutory functions. In many ways the past year has been one of the most significant in the life of the Committee and indeed so far as the administrative justice sector in Scotland is concerned. Our last report was published in November 2010 and narrated a Change Programme in which we referred to our preparation of a discussion document and a process aimed at providing advice to government in December 2010 in relation to the reform of tribunals in Scotland. That process was slightly delayed but in February 2011 the Committee published the promised advice to Ministers. The advice followed upon a consultation process which the Committee initiated in summer 2010 with the publication of a discussion paper - *Options for Reform in Scotland*. The Committee was pleased to be able to present its report - *Tribunals Reform in Scotland - A Vision for the Future* - following on a process which included a conference in June 2010, round table discussions between July and September and a significant number of consultation responses from across the administrative justice sector. The preparation of the discussion document and advice represented the largest project which the Committee had attempted and we are proud to have been able to contribute to the important issue of reform of Tribunals in Scotland. The Committee is pleased that the Scottish Government is taking forward the issue and is particularly satisfied that it may have played some small part in shaping the proposals upon which the Scottish Government is consulting.

Philip Implementation Working Group - The work which the Committee undertook in connection with the issue of Tribunal reform absorbed the majority of the Committee's time and energy for the period from March 2010 to February 2011. The Committee was fortunate to have been able to augment its resources for that project. As noted in last year's Annual Report the Committee was greatly assisted in its work since the start of 2010 by a Working Group comprising both members of the Committee and others, and I would like to acknowledge the contribution made by the Philip Implementation Working Group as we called it as well as the contribution by the Committee members and staff in producing a report of which the Committee can I think be proud. Without the assistance which was afforded by Professor Alice Brown, Colin Milne, Professor Tom Mullen, John Elliott and Diane Machin as members of the Working Group it is doubtful that the Committee could have delivered the report which it did and the Committee is very grateful to them for their help.

Other work undertaken and still in progress - Following upon the presentation of our advice in February of this year we embarked on a number of smaller projects linked to tribunal reform with a view to being able to provide further advice to Ministers by the end of 2011, that being the date at which we understood that abolition was likely. Over time it has become apparent that the timetable for abolition has been delayed and we have therefore been able to introduce further short term projects into our programme all with a view to completion by the end of March 2012 although the date for abolition remains to be confirmed.

The importance of looking at administrative justice as well as tribunal reform - The Committee's attention to the Tribunal Reform project meant that there were aspects of our work programme to which we were not able to devote as much resource as we would have wished. There is a huge area which deserves proper consideration in the field of administrative justice more generally. We were able to begin to look at that once our "Vision for the Future" paper was finalised. We have started work however on issues such as those which arise from areas of administrative decision making for which there exists no remedy for the citizen, and we hope to be able to provide some advice before the Council is abolished, if indeed that is what happens. In addition we undertook some short term projects after February 2011 in relation to Valuation Appeal Committees and also the area of Education Appeals. We have not thought it appropriate however to plan for projects which take us beyond end March 2012.

The future - The AJTC has previously been referred to as the hub of the wheel and it is undoubtedly the case that Leggatt envisaged a central role for the AJTC in the developing Administrative Justice area. The departure of the AJTC will have consequences for the development of the area in particular when viewed on a United Kingdom level. The abolition of the AJTC and of the Scottish Committee will, we think, make the maintenance of a UK perspective more challenging even though on one view the maintenance of such a perspective becomes of greater significance for citizens. However we welcome the indications from the Scottish Government that a new Scottish Civil Justice Council might fall heir to functions akin to our own.

As the Committee now contemplates abolition I again pay tribute to, and thank all, the members of the Committee, and to the staff, who have over the past year gone well beyond the extra mile in order to ensure that the Committee has been able to ensure that its work could be progressed, in the most challenging of circumstances. In addition I would wish to pay tribute to all those who have worked over the years whether as members or staff of the Committee or its predecessor the Council on Tribunals and thereby have enabled the Committee the better to discharge its functions.

Richard M Henderson CB WS
Chair

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Our Work

Initiatives Proposing Improvements

The Scottish Committee has a statutory obligation to keep the whole of the administrative justice system in Scotland under review, and to provide advice to Scottish Ministers on its improvement. To enable us to better understand the issues requiring improvement we commissioned three pieces of research described below during the 2010/2011 reporting year. The full reports of all our commissioned research are available to view on the AJTC website at

<http://www.justice.gov.uk/ajtc/news.htm>

The Scottish Civil Courts Review: Implications for Tribunals (Elaine Samuel – October 2010)

This research project sought to examine the recommendations of the Scottish Civil Courts Review (henceforth referred to as 'the Review') for their implications for tribunals in Scotland. In its Final Report of September 2009, the Review had recommended significant changes to both the structure of Scotland's civil courts and their procedures. They included the creation of a new level of judge in the sheriff court, the district judge, to deal with some of the business presently dealt with by sheriffs.

Elaine Samuel's research examined all those recommendations of the Review that were of pertinence to the future shape and direction of tribunals. It included the Review's recommendations with regard to a Sheriff Appeal Court, judicial specialisation, judicial appointments, and the respective jurisdictions of the sheriff and a new level of judge proposed for the sheriff court, the district judge.

The Business of the District Judge: Reviewing the Options (Elaine Samuel – February 2011)

In commissioning this research project the Committee sought to provide a comprehensive overview of perspectives and positions with regard to those disputes that the Review had recommended for transfer from the sheriff to the office of the district judge. It focused more closely on the jurisdiction of the district judge than her previous research had and looked at the recommendations for transferring certain types of sheriff court business to the district judge.

The intended aim this second piece of work was to act as a mapping exercise, presenting the Scottish Committee with information with which to form its own conclusions as to the appropriate fora and procedures required to deal with the disputes under consideration.

Administrative Decisions made by Government Departments and Public Bodies in Scotland (Peter Crompton and Mike Adler – September 2011)

Funded by a grant from the Nuffield Foundation this piece of research aimed to identify the administrative decisions made by public bodies that affect the rights of individuals against which there is currently no right of appeal, and to identify the most appropriate route of appeal in respect of each type of administrative decision.

As the Scottish Committee of the AJTC, we felt it was appropriate to restrict the study to decision-making by Scottish Government, Scottish public bodies and Scottish local authorities. Since complaints against nearly all of these bodies fall within the remit of the Scottish Public Services Ombudsman (SPSO), we conducted a systematic review of recent cases (2000 – 2011) investigated by the SPSO in order to identify, in each case, the statutory provisions that were at issue.

At the time of writing this report the initial research had been concluded, identifying four major decision areas where there is currently no right of appeal for the citizen. However our investigations had initially omitted decisions in the health area and, on reflection, it was decided to augment the data collected so far to provide a more reliable base for our conclusions once they are complete.

Working with others to achieve change

In 2006 Lord Philip was invited by Scottish Ministers to chair the Administrative Justice Steering Group (AJSG). The AJSG, which included representatives from a number of key stakeholder organisations, had a remit to commission research and act in an advisory capacity in the preparation of a final report to the Scottish Government regarding the administrative justice framework within Scotland, taking account, among other things, of the likely impact of the Tribunals, Courts and Enforcement Act 2007.

The AJSG report came in two volumes. Known as “The Philip Review” the first report identified five possible “options” for the future administration of tribunals in Scotland.

At the end of 2008 the Scottish Government requested advice from the SCAJTC on the options in the Philip Report. The Committee submitted that advice in May 2009, concluding that at best, with anything short of Option 5 – the establishment of a new Scottish Tribunals Service to support both GB tribunals within Scotland and all Scottish tribunals – there would be two tribunal systems existing within Scotland, the first overseeing UK and GB tribunals and the second, Scottish tribunals. Accordingly, the weight of the Committee’s advice favoured Option 5, although members noted that this would probably only be achieved in an incremental manner, after first establishing a new Scottish Tribunals Service to support all (then) Scottish tribunals (Option 4).

In October 2010 the Cabinet Secretary disclosed, during a statement to the Scottish Parliament, that the Scottish Government would be establishing a unified tribunals administration – The Scottish Tribunal Service.

While the Scottish Committee welcomed the announcement by the Cabinet Secretary, we were not sure the action proposed would be sufficient to create a system that would be coherent, independent and user friendly. As we have a statutory obligation to keep the whole of the administrative justice system in Scotland under review, members of the Committee felt it necessary to provide additional advice to Scottish Ministers on the proposals made. Before that advice could be written we needed to undertake some investigations and elicit some help.

We established a working group, the Philip Implementation Working Group, to assist with the project, enlisting the help of academics and those with a significant oversight of the administrative justice landscape in Scotland. We were also fortunate that Scottish Government colleagues recognised the importance of our task, and provided the services of one of their researcher for the entirety of the project.

- **SCAJTC Discussion Paper and Consultation Exercise**

The discussion paper, “Options for Tribunal Reform in Scotland”, was launched at our conference on the same theme in June 2010. This paper was our first step in the process of defining what a coherent Scottish tribunals system might look like. It contained several assertions and a series of questions on the principles which should apply to the functioning of tribunals, and outlined a number of potential system models that the working group considered were necessary for the creation of a coherent governance structure for tribunals operating in Scotland. The paper was issued to all of the tribunals functioning in Scotland and to a range of people involved with, or with an interest in the operation of tribunals. The discussion paper, which can be found at <http://www.justice.gov.uk/ajtc/scottish/publications-scottish.htm>, had a three month response period which ended in September 2010.

The working group supplemented the opinions given to the consultation by holding a series of round-table meetings and one-to-one conversations with those with experience, knowledge of and/or an interest in tribunals, in Scotland and beyond, to ensure that we had heard and considered the views of as many people as possible during the period.

- **“Tribunal Reform in Scotland – A Vision for the Future”**

The results from our consultation and meetings were condensed into a report, purposely compiled to provide advice to Scottish Ministers. Our report, “*Tribunal Reform in Scotland – A Vision for the Future*” which can be found at <http://www.justice.gov.uk/ajtc/scottish/publications-scottish.htm>, presented thirty-two recommendations which together offer a blueprint for the creation of an independent, coherent and user-friendly tribunal system in Scotland.

The Committee’s vision as set out in the report encompasses the key Leggatt principles of coherence, independence and user friendliness with recommendations centring on the creation of a new public office of Senior President of Scottish Tribunals and a Scottish Tribunals Service (STS) that is independent of the Scottish Government and overseen by a Board.

The Committee further suggested that the Senior President of Scottish Tribunals, who should be appointed by the Lord President, could provide judicial leadership for the members of tribunals in Scotland while the STS would be responsible for all other aspects of the functioning of Scottish tribunals. The STS Board’s responsibilities would include both the supervision of the administrative support of Scottish tribunals and also ensure that resources are secured to enable appropriate support of all tribunal members. The SCAJTC also believe that the future retention of the Scottish Tribunals Forum would be beneficial as it would offer a suitable way of ascertaining the views of members of all tribunals in Scotland.

Our paper also recognises that the merger of tribunals with courts in Scotland cannot be ruled out in the longer term but, to be properly justified, any merger must bring operational benefits for tribunals, safeguard the needs and interests of tribunal users and produce cost savings. A strong, coherent Scottish tribunal system would first need to be firmly established, and given time to bed in, before any such merger is contemplated.

Opportunities for our voice to be heard on behalf of users

The Scottish Committee has during 2010/11 sought to ensure that the administrative justice system in Scotland, and in particular the interests of users of that system, are better understood at all levels.

To achieve this we have accepted invitations to be represented on a number of advisory groups and review bodies. Among these are:

Scottish Tribunal Forum

Our Chair, Richard Henderson, is a member of the Scottish Tribunals Forum. The Forum, first established in 2005 by the Lord President, is an informal and advisory body which acts as a vehicle for identification and discussion of matters common to all tribunals operating in Scotland, including both reserved and devolved tribunals. The Scottish Committee has been represented on the Forum since its establishment and welcomes the opportunity provided by this unique body to share and discuss tribunal issues relative to Scotland and the UK. The Chairman and Secretary attended the meetings of the Scottish Tribunals Forum in April, August and November 2010 and in February, June and October 2011. Reports on progress were presented to and discussed by the Forum, which was also consulted by the Committee during the preparation of the Vision for the Future paper.

Since its inception the group was chaired by Lord Philip. In April 2011 the Lord President appointed Lady Ann Smith to become responsible for advising him on matters relating to tribunals in Scotland and to ensure proper judicial oversight in the development of policy in respect of tribunals in Scotland. This role also includes the Chairmanship of the Forum.

Civil Justice Advisory Group

The Civil Justice Advisory Group was originally formed in 2004, by the Scottish Consumer Council, one of Consumer Focus Scotland's predecessor bodies. Chaired by the Right Honourable Lord Coulsfield, supported by the then Scottish Executive the Group was funded by the Nuffield Foundation. The Group held six seminars between September 2004 and April 2005, structured to mirror a user's journey through the civil justice system, from seeking advice on their dispute, through the dispute resolution process, to the enforcement stage. The Group published its final report, *The Civil Justice System in Scotland – a case for review?* in November 2005 and it was the findings of this report which ultimately led to the Scottish Executive's establishment of a Scottish Civil Courts Review.

In early 2010 the Committee was invited to become part of the Group which had reconvened to consider the proposals of the Scottish Civil Courts Review, led by the Lord Justice Clerk, Lord Gill. Given its instrumental role leading up to the civil courts review, the Committee recognised that the Group was well placed to react to the review's proposals, and also to make its own recommendations about future courses of action. The Group's deliberations focused principally on those aspects of the review of most direct relevance for consumers, namely those recommendations relating to pre-court measures, including improving access to justice for party litigants, the proposed 'third tier' of civil jurisdiction, and new simplified procedure.

The Group published its report on 18 January and a copy can be found at <http://www.consumerfocus.org.uk/scotland/publications/civil-justice-advisory-group-full-report>.

Scottish Governments Justice Outcomes Group

The Justice Outcomes Group was formed in 2010 by Scottish Government. It is a top level body, enlisting the input of a number of public sector agencies, which will oversee work on a number of "justice based" outcome focused programmes.

Access to Legal Services Reference Group

The Legal Services (Scotland) Act 2010 introduced new responsibilities for the Scottish Legal Aid Board in relation to monitoring and advising Scottish Ministers as to the availability and accessibility of Legal services in Scotland, with reference to relevant factors relating to urban and rural areas. The Act places a duty on the Board to monitor availability and accessibility of Legal services, which is broadly defined in the Act.

The Scottish Legal Aid Board have invited the Scottish Committee to join its reference group, made up of representatives of bodies with an active interest in, and experience of, the provision or use of legal services.

Children's Hearings Act - Strategic Project Board

The Children's Hearings Strategic Project Board, chaired by the Minister for Children and Early Years, was established in December 2008 to help steer the programme of reform of the Children's Hearings system.

The Bill received Royal Assent on 6 January 2011, becoming the Children's Hearings (Scotland) Act 2011. The Scottish Committee will, as part of its statutory functions, consider any secondary legislation arising from the Act in relation to practices and procedures.

Local Review Body Forum

Considerable changes to the local planning system were introduced by the Planning (Scotland) Act 2006. Planning applications are now divided into a three-tier hierarchy, each with its own procedures proportionate to that tier: 'National Developments', 'Major Developments' and 'Local Developments'. Local Developments are those which need planning permission but fall below the size limits for Major Developments and where the previous right to appeal to the Scottish Ministers via a professional Reporter is now replaced with an appeal to the Local Review Body, a committee of the local authority.

Our predecessor body, the Scottish Committee of the Council on Tribunals, had raised concerns as to the independence and impartiality of the new system for local developments and a member of the committee has participated in the Local Review Body Forum set up by the Scottish Government, to discuss implementation issues and identify and disseminate guidance on best practice. The Committee has also undertaken visits to observe Local Review Bodies in operation and later in this document we will detail how we intend to make good use of the information gathered.

Our Organisation

Due to the importance of the work we carried out on tribunal reform in Scotland, our Scottish Committee met on a monthly cycle during the reporting period. Our work surrounding tribunal reform commanded most of the Committee's attentions during the 2010/11 period. However, we continued, albeit on a reduced basis, to visit and report on tribunal hearings, and disseminate, best practice and "lessons learned".

Our Portfolio Structure

From early 2010 members of the Scottish Committee have had individual responsibility for a specific portfolio of topics. Members felt that this approach would:

- provide continuity in our judgements ;
- allow individual members to develop expertise in given areas;
- allow a quicker responses to queries and requests for advice through the introduction of a specific point of contact

A report of the work undertaken in each of these areas is noted below:

Social Entitlement (and Social Care), Housing – *Michael Menlowe*

The Committee continues to attend Social Security tribunal hearings, and were present at the April and October 2010 Unified User Group for Scotland meetings. The Committee was also represented at a training event organised on behalf of the Private Rented Housing Panel in Glasgow.

Health (including Mental Health) – *Richard Henderson*

The Committee has responded to consultations from the Scottish Government in relation to Mental Health and also NHS Pharmaceutical issues. We have attended hearings of the National Appeal Panel and also met with the President of the Mental Health Tribunal for Scotland.

Children's Hearings, Additional Support Needs, Education Appeals, Charities – *Michael Scanlan*

Children's Hearings

The member responsible for this portfolio continued to attend meetings of the Scottish Government Strategic Board under the Chairmanship of Adam Ingram MSP Minister for Children and Early Years. The Board monitored and advised on the Children's Hearing Bill which was enacted on 6 January 2011. Work is ongoing on the necessary subordinate legislation required to implement the Act. The Scottish Committee will provide its views on any consultation in due course.

Education Appeal Committees

In early summer 2010 it was brought to the attention of the Scottish Committee that the websites for local authority Education Appeal Committees (EACs) were very diverse in the information provided and that some were very deficient. The SCAJTC undertook to consult on providing a template for such websites in order to ensure greater consistency across the country. A template has been produced by the Committee and has been made available to all Local Authorities to consider.

The Scottish Committee continues to have some concerns about the operation of the Education Appeals system in Scotland. We have frequently referred to these concerns in past annual reports, and in more detail in our response to the Scottish Government's 2007 consultation regarding their possible reform. Stimulated by our work relating to their website content, the SCAJTC decided that it would be appropriate to revisit the topic of EACs to determine whether any of our previous concerns have been resolved.

A longer-term project was conducted over the summer months of 2010, the results of which are covered later in this report.

Additional Support Needs Tribunal Scotland

We responded to the Scottish Government's draft Statutory Instrument seeking to amend the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006. We were generally happy with the proposed amendments but expressed some concerns about the allocation of the case statement period and the onus being placed on appellants to submit case statements.

Scottish Charity Appeals Panel

In January 2010 we responded to the consultation looking at options for future Charity Appeals Route in Scotland. While none of the options in the paper met with the Committee's approval, members had a preference for Option 1 – Appeal to the Court of Session, and responded this message to the Scottish Government.

The Scottish Charities Appeal Panel remains in operation although its administrative functions were transferred to the Scottish Tribunals Service in December 2010.

Finance, Compensation, Tax, Pensions, Land and Planning, etc – *Annabell Fowles*

A representative of the committee attended the inaugural meeting of the First Tier Tribunal (Tax) and Upper Tribunal Users Group held in Edinburgh in November 2010. The Users Group decided to constitute itself as a forum for Scotland for users, judiciary and administration of both First-tier and Upper Tribunals. The aim of the group is to provide a sounding board for ideas and suggestions directed at the better running of the tax appeals in the interests of users of those tribunals. It is intended that the Scottish Committee will continue to attend the group's meetings which are scheduled annually.

Land & Planning

In addition to our involvement in the Local Review Body Forum, covered on page 11 of this report, the Committee has also carried out further work in relation to both Valuation Appeal Committees (VACs) and the Crofters Commission. We have met with some of the Chairmen and Clerks of VACs to discuss their position in the context of our Options and Vision for Tribunal Reform in Scotland. The portfolio holder has also attended a training day for VAC members which was hosted by the Highland Valuation Appeal Committee. The Chairmen and portfolio holder have also met with officials within the Scottish Government to discuss implementation of the Crofting Reform (Scotland) Act 2010.

Employment, Criminal Injuries, Immigration & Police

– *Andrew Coyle*

Employment

The Scottish Committee has maintained contact with the Employment Tribunal Scotland through its membership of the ETS User Group, which provides a forum for contributing to developments in this field and to receiving information on the views of stakeholders.

There have been a number of initiatives from UK Government Departments which have implications for stakeholders in Scotland. These have included proposals on issues such as Universal Credit and Work Capability Assessment. The Scottish Committee has contributed to responses from Council on these and other consultations, such as that on resolving workplace disputes.

Immigration

The Committee has contributed to the Council's response to the Ministry of Justice's consultation regarding proposals for introducing fee charges for appeals in the Immigration and Asylum Chambers of the First –Tier Tribunal and the Upper Tribunal. The Council has expressed considerable reservations about the proposals, a view which the Scottish Committee fully supports.

The Police Appeal Tribunal Scotland

A member of the Committee met with stakeholders of a Technical Working Group of the Police Advisory Board for Scotland which was formed to consider possible amendments to the Police Appeals Tribunals Scotland Rules. The meeting not only gave our member an opportunity to meet with key stakeholders, but also allowed them to share their experiences of the system which were obtained while attending hearings and observing the tribunal in action.

Complaints & Ombudsman – *Mike Adler*

During the reporting year we began investigating the controversial proposal to transfer Police Complaints to the Scottish Public Sector Ombudsman (SPSO). This move was opposed by the Police Complaints Commission, which the Committee felt raised some important 'public interest' issues. Our work continues in this area

Our Other Work

During the 2010/2011 reporting year we also undertook the following tasks

Tribunal Training Register

In June 2010 the Scottish Committee compiled a Tribunal Training Register. The register provides an overview of the training provided by Tribunals to their membership in Scotland. This is the 6th edition of the Register which is put together from information provided by the tribunal systems themselves. The register can be viewed on the Council website at www.ajtc.gov.uk/scottish/publications

Consultation Exercises

We have taken every opportunity to respond to consultation exercises in areas and on topics which have implications for users of tribunal and appeal systems in Scotland. These include:

- Consultation on Amendments to the Modernised Planning System (January 2011)
- Disclosure of information to victims of mentally disordered offenders (August 2010)
- The Equality Act 2010: Consultation on Secondary Legislation that will enable the Additional Support Needs Tribunals for Scotland (ASNTS) to Hear Disability Claims Cases in School Education (July 2010)
- Consultation on a Statement of Complaints Handling Principles and Guidance on a Model Complaints Handling Procedure (June 2010)
- The Blue Badge Scheme in Scotland (July 2010).

Commenting on Proposed Legislation

The Tribunals Courts and Enforcement Act 2007 states that Scottish Ministers can only approve confirm or concur in procedural rules for any listed tribunal **after** they have consulted with the Scottish Committee. Although we have a statutory remit to perform this function we believe that not all Departments of Government may be aware of the requirement to consult. During the time period covered by this report we have commented on:

- The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011
- The Children's Hearings (Scotland) Act 2011 (National Convener Appeal against Dismissal) Regulations 2011.
- The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011
- Amendment to Rule 58 of the Mental Health Tribunal for Scotland (Practice and Procedure) (No.2) Rules 2005

Responding to Calls for Evidence and Advice

The Committee has also responded to calls for evidence, and requests for advice regarding:

- **Scottish Public Services Ombudsman - Statement of Complaint Handling Principles.**

The Public Services Reform (Scotland) Act 2010 gave the Ombudsman the lead role in developing standardised public service complaints handling systems. The Act required the Ombudsman to publish a statement of principles on which all public service complaints handling procedures should be based. The Act also provides the Ombudsman with the power to publish model complaints handling procedures.

In June 2010 the Ombudsman launched a consultation on a Statement of Complaints Handling Principles and Guidance on a Model Complaints Handling Procedure, to which the Scottish Committee responded.

- **The Status of the Crofters Commission as a Tribunal**

In April 2010 the Rural Affairs and Environment Committee of the Scottish Parliament were considering the Crofting Reform (Scotland) Bill which, at the time, was progressing through Stage 1. The views of the Scottish Committee were sought regarding a proposal to remove the Crofters Commission as a listed tribunal on Schedule 1 of the Tribunals and Inquiries Act 1992 as there was an ongoing debate regarding the Commissions status as a tribunal.

The Scottish Committee advised that, regardless of the Commission's status as a tribunal, the changes imposed by the proposed Bill would still require it to act as a regulator, involving issues of administrative justice. As such the Scottish Committee would still hold a supervisory role for the Commission by virtue of our statutory remit under the terms of the Tribunals, Courts and Enforcement Act 2007.

User Group Meetings and meetings with Stakeholders etc.

During the period the Committee has held numerous meetings with stakeholders, individuals and user groups to enable us to listen to their views and opinions regarding various aspects of the administrative justice landscape in Scotland. Given the diversity of the subjects covered by administrative justice Committee members are by no means experts in this field and are extremely grateful to those who have taken the time to share their knowledge and expertise with us. Without the co-operation of the tribunals the Committee would not be able to perform its statutory functions.

Additional Projects

The Scottish Committee's statutory remit also permits us to report to Scottish Ministers on any matters connected to the administrative justice system which we determine to be of special importance. During the 2010/2011 reporting year the committee members undertook investigations into:

- **The Review of the Allocation of Jurisdictions between Tribunals in Scotland.**

During the reporting period an exercise was initiated to map fully the landscape of the current tribunals systems in Scotland, including both devolved and non-devolved tribunals.

At the time of writing we had concluded our initial work on this project and the Committee is clear, even at this early stage, that the user and their needs should be central to whatever model Scottish Ministers decide to implement in Scotland. The Committee will, before its anticipated demise in 2012, produce a paper setting out a set of principles which, if accepted, aims to create a model which best fits the needs of tribunal users and takes account of the geography and demography of Scotland.

- **Administrative Decisions made by Government Departments and Public Bodies in Scotland**

We have mentioned earlier in this report the research undertaken to inform this area of work. The Committee would once again like to record our thanks to the Nuffield Foundation for providing funding to allow us to undertake the necessary background research to complete this project.

After we have concluded the collection of data from the relevant areas it is our intention to publish a limited consultation paper early in the New Year. The responses received to this paper, in conjunction with the results of our research, will form the basis of an advice paper to Scottish Ministers which will be provided by March 2012.

- **Education Appeal Committees**

We have commented earlier in the report about the research and action taken by the Committee to improve the information provided to users of education appeals through local authority websites. It is the Committee's view that each local authority should be providing broadly similar information to users in what after all is a national appeals system.

EACs are creatures of the Education (Scotland) Act 1980. As a result of regular visits, the Scottish Committee - and its predecessor, the Scottish Committee of the Council on Tribunals - have expressed concerns about EACs for more than 10 years. [We use 'Scottish Committee' henceforth to refer to both committees without distinction.] These concerns were initially aired in a Special Report in 2000 and were reiterated in the Scottish Committee's Annual Reports from 2005/6 to 2007/8. In an attempt to improve some of the problems we encountered, and to encourage the sharing of best practice, the Scottish Committee facilitated a workshop in April 2009 for clerks to the education appeal committees. The event was well attended and attendees were receptive to the proposal to share information and possibly establish a network of user groups. However we are disappointed to report that no real progress has been made in this area and as far as we can see each local authority works in isolation.

In 2006, the Scottish Government issued a consultation paper *Proposals for Reform of the Education Appeal Committees*. The research which informed this paper was undertaken by George Street Research and investigated parent's perceptions of the then operations of EACs. Their work, which was in line with the earlier Scottish Committee Special Report, can be viewed on the Scottish Government webpages at <http://www.scotland.gov.uk/Publications/2006/11/06152443/10>.

The Scottish Committee provided a detailed response to the consultation when it issued but, after 5 years, we have discovered that no further developments have been actioned by Scottish Government.

During the summer of 2011, the Committee undertook a programme of intensive visits to EACs in order to review developments of the system. Our conclusion is that most of the criticisms provided in our 2007 consultation response remain relevant today. Thus far, the response from Scottish Government

has been disappointing. In a letter to the Scottish Committee in 2008, they indicated that Ministers would prefer to await the outcome of Lord Philip's Administrative Justice Review before further considering any reform to the EACs. Most recently, in 2011, Scottish Government informed the Committee that it has no current plans for reform of the EACs.

It is therefore worth repeating that the Scottish Committee continues to have two fundamental concerns about EACs.

1. The EACs – and the relevant legislation - are not fit for purpose.

Placing appeals are about the allocation of local authority resources, or about a local authority's education policy or about the willingness of the parents and the local authority to seek solutions in the child's best interest. None of these is best addressed in the tribunal forum. The George Street Research report attributes the same conclusion to user-parents:

Panels seem to appellants to act as dispensers of justice. Parents would prefer panels to focus on making the best arrangements possible for the needs of each individual child.

Indeed, our research suggests that appeals panels are over-used as a means to resolve placement allocation issues, which are often resolved at a later date in any case. There may be much more effective and less stressful, time-consuming and confrontational ways of achieving this. Appeals should be a last resort and the end stage of the process.

2. Current practices do not satisfy the requirements of impartiality, fairness or transparency.

The regular presence of a councillor on the EAC (which is not required by statute) does not assist the appearance of independence or impartiality. A similar point is to be made about the legal assessor, who will be an employee of the authority. The frequent absence of reasons in decision letters does not create transparency nor persuade parents that the decision is fair. The diversity of practice among the EACs in different parts of the country suggests that best practice has not been defined and is not widespread.

These concerns were addressed in the Committee's response to the Scottish Government's 2006 consultation. In that response, the following points were made:

- The legislation must be amended: in particular with regard to the inclusion of councillors, the lack of mandatory training.
- Consideration should be given to mediation or other dispute resolution techniques
- EACs must be perceived to be independent of local authorities
- Some form of 'pre-hearing' should be considered
- A change in guidance to EACs is not sufficient
- A better system of recruiting members is required
- There must be mandatory and centrally arranged training for panel members

- Consideration should be given to whether exclusionary appeals require a different process and whether these appeals might be transferred to Additional Support Needs Tribunal for Scotland.

Our members' reports of visits to EACs have, in the past, documented instances of unfairness to appellants. During our programme of visits in summer 2011 our findings were generally satisfactory. However, we still feel that previous concerns were justified. One member reported that the members of the EAC were unwilling to examine the case advanced by the appellant and 'in fact indicated a clear preference for Council evidence on the needs of the child rather than specialised evidence secured directly by the appellant.' Until these issues repeatedly identified by the Scottish Committee over a number of years, and based on many visits to EACs, are addressed it is the Committee's opinion that EACs have the potential to create administrative injustice.

Whilst the EAC is currently classed as a tribunal it is clear that in its present form it would not easily fit into the Scottish Government's proposals for a reformed tribunal structure. This would certainly be an area of administrative justice that the Committee would be considering if it were to continue in existence.

- **Valuation Appeal Committees**

Over the years the Scottish Committee has expressed many and varied concerns about the operation of this appeals system. During the summer of 2011 our members conducted a number of visits throughout Scotland to gain a wider awareness of the different processes and procedures employed at local levels and ascertain whether the problems we were aware of could be system specific or locally created.

Part of this exercise included meeting with the national Chairman of the sector to discuss the steps the Scottish Committee believe would be necessary for the organisation, as a whole, to operate successfully as part of the Scottish Tribunal Service. Constructive dialogue continues and we are confident that a satisfactory conclusion can be achieved.

As with Education Appeal Committees, it is work that is ongoing and which the Committee would direct its energies towards if our time line permits.

- **Local Review Bodies**

As well as our involvement with the Local Review Bodies Forum the Committee has also undertaken a series of visits to a number of local authorities to observe Local Review Bodies in operation.

From our observations, it is the Scottish Committee's view that the current processes and operation of these local groups are unhealthy and, in many instances, non-compliant with human rights conventions. We have noted that while Scottish Government is being proactive in their efforts to bring the system, as a whole, into line, in our view it is not sufficient to make the system robust.

We aim to undertake further research in this area with the intention of producing a report to Scottish Ministers of our findings before the end of 2011.

The Future

The Public Bodies Bill

The Public Bodies Bill, currently progressing through the UK Parliament, enables UK Ministers to take forward the proposals announced on 14 October 2010 for the reform of a substantial number of public bodies, or “quangos”, for which the UK Government is responsible. Clauses 1-7 of the Bill confer wide-ranging powers on Ministers in relation to specified bodies and offices, which include powers to abolish and merge identified entities and to modify the constitutional, funding and operational arrangements of others.

The Administrative Justice & Tribunals Council (the parent body of the Scottish Committee) is one of the bodies included in Schedule 1 of the Bill which sets out those bodies and offices to be abolished.

On 12 July 2011 the Ministry of Justice opened a public consultation on the proposals contained in the Public Bodies Bill, including the closure of the AJTC, and how the oversight of administrative justice policy should be exercised in the future. The consultation closed on 11 October 2011 with a response to the consultation exercise due to be published by 31 December 2011.

Neither the exact timing of the passage of the Bill, nor the timetable for the passing of secondary legislation required to abolish the Council is yet known. It remains unclear at the time of writing how long the Scottish Committee will remain operational for.

Her Majesty's Courts and Tribunals Service

The Ministry of Justice announced in March 2010 its intention to merge the UK Tribunals Service with Her Majesty's Courts Service. The resultant new single administrative structure, known as Her Majesty's Courts and Tribunal Service (HMCTS) became operational from 1 April 2011.

The creation of the unified administration also provided the opportunity to consider judicial structures in England and Wales. On 16 September 2010, the Lord Chancellor announced his proposal to bring the tribunals' judiciary in England and Wales under the overall leadership of the Lord Chief Justice – creating a unified judiciary, encompassing both courts and tribunals. The Ministry of Justice is currently working on the proposal alongside the question of whether responsibility for reserved tribunals should be devolved to Scotland (and Northern Ireland). A public consultation on this latter topic has been expected since October 2010; it had not however been published before the completion of this annual report.

The Scottish Committee believes the creation of HMCTS and the UK Government's plans for a unified judiciary have constitutional significance, not just for Scotland but for the whole of the UK. The Committee further considers that the changes carry significant risks for users of the administrative justice system, particularly for tribunal users, in Scotland. Instead the Scottish Committee would endorse that they become part of a coherent tribunals system in Scotland

Scottish Tribunals Service

On 3 October 2010 the Cabinet Secretary for Justice announced the Scottish Government's plans to take forward the Administrative Justice Steering Group (AJSJG) proposals for a Tribunals Service in Scotland.

The Scottish Tribunals Service was subsequently launched on 1 December 2010 and currently provides administrative support to a small number of devolved tribunals operating in Scotland. It is envisaged that, following further reforms of the administrative justice landscape the Service will provide support to a coherent tribunals system in Scotland.

Scottish Civil Justice Council

On 29 September 2011 the Scottish Government issued a public consultation document seeking views on proposals for the creation of a Scottish Civil Justice Council. In general terms the Committee welcomes the proposals for this new body which will be instrumental in taking forward all of the recommendations outlined in Lord Gill's Scottish Civil Courts Review.

The consultation paper, which is open to response until 22 December 2011, also seeks views on Scottish Government proposals for the establishment of a Scottish Civil Justice Council to replace the existing civil rules councils of the Court of Session and sheriff court, with an additional policy role to make recommendations for the improvement of the civil justice system in Scotland. This consultation paper also seeks views on whether the proposed Civil Justice Council's remit should include administrative and tribunal justice.

The Scottish Committee awaits developments with interest.

Annexes

A Tribunals with Jurisdiction in Scotland

B Visits/business undertaken by the
Scottish Committee during the
Reporting Year

C The Costs of the Scottish Committee

D Statistics – Tribunals under the
Oversight of the Scottish Committee

Annex A:

Tribunals with Jurisdiction in Scotland

UK TRIBUNALS WITH JURISDICTION IN SCOTLAND (RESERVED MATTERS)

First-tier Tribunal General Regulatory Chamber

1. Consumer Credit Appeals Tribunal
2. Estate Agents Panel
3. Gambling Appeals Tribunal
4. Immigration Services Tribunal
5. Information Rights Tribunal
6. Transport Tribunal

First-tier Tribunal Immigration and Asylum Chamber

7. Immigration and Asylum Tribunal

First-tier Tribunal Social Entitlement Chamber

8. Criminal Injuries Compensation Appeals Panel
9. Social Security and Child Support Appeals Tribunal (Scotland only)
10. Asylum Support Tribunal

First-tier Tribunal Tax and Finance Chamber

11. Tax Tribunal

Upper Tribunal

12. Administrative Appeals Chamber
13. Immigration and Asylum Chamber
14. Tax and Chancery Chamber

Employment Tribunals

(separate pillar within the UK Tribunals structure)

15. Employment Appeal Tribunal
16. Employment Tribunal (Scotland) –(includes cases of Reserve Forces Reinstatement Committees and Umpires)

Other UK Tribunals not administered by UK Tribunals Service

17. Aircraft and Shipbuilding Industries Arbitration Tribunal
18. Antarctic Act Tribunal
19. Board of the Pension Protection Fund
20. Civil Aviation Authority
21. Chemical Weapons Licensing Appeal
22. Competition Appeals Tribunal

23. Comptroller General of Patents, Designs and Trademarks
24. Copyright Tribunal
25. Foreign Compensation Commission
26. Forestry Commission
27. Gender Recognition Panel
28. Insolvency Practitioners Tribunal
29. Mines and Quarries Tribunal
30. National Lottery Commission
31. Office of the Health Professions Adjudicator
32. Plant Varieties and Seeds Tribunal
33. Reserve Forces Appeal Tribunal
34. Sea Fish Licence Tribunal
35. Traffic Commissioner for Scotland

SCOTTISH TRIBUNALS (Devolved Matters)

Administered by the Scottish Tribunals Service

36. Additional Support Needs Tribunal for Scotland
37. Lands Tribunal for Scotland
38. Mental Health Tribunal for Scotland
39. Pensions Appeal Tribunals Scotland
40. Private Rented Housing Panel
41. Scottish Charities Appeal Panel

Other Tribunals not administered by Scottish Tribunals Service

42. Children's Hearings
43. Crofters Commission
44. Education Appeal Committees
45. Fire-fighters Pensions Appeal Tribunal (Scotland)
46. Horse Race Betting Levy Appeals Tribunal for Scotland
47. NHS Discipline Committees (Scotland)
48. NHS National Appeal Panel for Entry to Pharmaceutical Lists
49. NHS Tribunal Scotland
50. Police Appeals Tribunal
51. Police Pensions Appeal Tribunal
52. Scottish Parking Appeal Service
53. Valuation Appeal Committees

Annex B: Scottish Committee of the AJTC Business Record 2010-11

(1 April 2010 to 31 March 2011)

Tribunal Visits	No	Location
National Appeal Panel for Entry to the Pharmaceutical Lists	1	Fife
Planning – Local Review Board hearings	2	Edinburgh, Glasgow
Tribunals Service Social Security & Child Support Appeals	1	Glasgow
Forums		
Scottish Tribunals Forum meetings	5	Edinburgh
Training		
Additional Support Needs Tribunal Scotland	1	Glasgow
User Groups		
Tribunals Service Tax Chamber	1	Edinburgh
Tribunals Service Upper Tribunal	2	Edinburgh, Glasgow
Conference/Seminars		
AJTC conference	1	London
Consumer Focus Scotland	1	Edinburgh
Legal Services Agency	1	Glasgow
Nuffield University – Asylum appeals	1	London
Private Rented Housing Panel	1	Glasgow
Pro bono conference	1	Edinburgh
SCAJTC conference	1	Edinburgh
Working/Advisory Groups		
Civil Justice Advisory Group	6	Edinburgh
Justice Outcomes Group	2	Edinburgh
Philips Working Group	4	Edinburgh
SCAJTC Annual Report Group	1	Edinburgh
Stakeholder meetings		
Children’s Hearings Group	3	Edinburgh
Planning – LRB Group	1	Edinburgh
SCAJTC Round table meetings with stakeholders	5	Edinburgh

Meetings

SCAJTC Monthly Meetings	12	Edinburgh
Committee members met with a variety of stakeholders over the course of the reporting period	30	various

Other

AJTC Away day	1	London
Recruitment Board	1	Edinburgh

TOTAL	86	
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(1 April 2011 to 31 September 2011)

Tribunals	No	Location
Education Appeal Committee	7	Ayr, Dumbarton, 2 Edinburgh, Glasgow, Livingston, Stirling
Valuation Appeal Committee	1	Stirling
Training Events		
Education Appeal Committee	1	Edinburgh
Valuation Appeal Committee	1	Inverness
User Groups		
Gender Recognition User Group	1	Edinburgh
Meetings		
Access to Justice working group	1	Edinburgh
Justice Committee Clerk	1	Edinburgh
Lady Smith	1	Edinburgh
Scottish Government Officials	3	Edinburgh
Scottish Tribunals Forum	1	Edinburgh
Standards Commissioner	1	Edinburgh
Valuation Appeal Committee Chairs	2	Edinburgh, Inverness
Conference/Seminars		
Developing a Strategic Approach	1	Edinburgh
Justice Manifesto	1	Edinburgh
Public Law	1	Edinburgh
TOTAL	24	

Annex C: The Costs of the Scottish Committee

The Scottish Committee's funding is made available via the Administrative Justice and Tribunals Council and ultimately through the Ministry of Justice. Certain costs, in particular accommodation and IT, are funded centrally and do not feature in the account below. Other costs, principally staffing and travel and subsistence, are determined centrally but paid from the Administrative Justice and Tribunals Council and the Scottish Committee's budget respectively.

The breakdown of the expenditure for the financial years 2009/10 and 2010/11 is shown below

Scottish Committee

	2009-10	2010-11
Staff Salaries*	77,294	82,096
Members' Retainers**	42,155	38,201
Members' Travel etc	5,361	3,145
Consultancy	-	-
Agency Staff	-	-
Printing and Publishing	3,535	-
Other Admin Costs	9,485	4,650
Capital expenditure	-	-
Totals	140,263	128,092

* Secretariat staff are permanent civil servants seconded from the Scottish Government. These costs include NI contributions and superannuation.

** Excludes the salary of the chair and retainer for a member of the Scottish Committee who also serves on the Council. These costs are shown in the Council's own report.

Annex D:

Statistics relating to Tribunals under the Oversight of the Scottish Committee

There follows a number of tables containing statistical information, collated by the Scottish Committee, relating to case throughput from tribunals with jurisdiction in Scotland.

Although statistics were requested from all systems listed at Annex A some chose not to respond to our request, while others were unable to provide any details. As a result we have not been able to record data for all systems under our supervision. In addition, it has not always been possible to obtain Scotland specific statistics from all UK tribunals which operate in Scotland and in some cases we have only been able to quote the total United Kingdom figures. However, unless otherwise stated, all the statistics given relate to Scotland only.

The members of the Scottish Committee greatly appreciate the co-operation of all systems and individuals who have provided us with the data to make the following pages possible.

The Future

The Scottish Committee regards the collation of statistical information as an important tool in monitoring the effectiveness of Scottish tribunals if used correctly.

Unfortunately currently in Scotland there is no one organisation recording tribunal statistics apart from the Scottish Committee. The Scottish Government, publish a statistical bulletin; Civil Judicial Statistics, which presents statistics on the civil business of the Court of Session and the Sheriff Courts in Scotland. However, this bulletin does not record tribunal statistics. Individual systems may publish their own figures within Annual Reports or on websites, and the UK Tribunals Service does publish figures for those systems that they provide administrative support too (although not by specific geographic regions)

Given the MoJ's proposals to abolish the Administrative Justice & Tribunals Council, and hence it's Scottish and Welsh Committees, our members consider that the gathering and publishing of tribunal statistics in Scotland is an issue that requires urgent consideration.

The Information

The statistical information recorded has been supplied from a number of different sources, either on request from the tribunals themselves; their sponsoring organisation; published statistical data or, in the case of the Education Appeal Committees and some Valuation Appeal Committees, by individual local authorities.

The statistics are set out in three sections -

Section 1 - Tribunals already incorporated into Phase 1 of the Scottish Tribunals Service.

Section 2 - Tribunals which operate under devolved legislation

Section 3 - Tribunals operating under UK legislation (reserved tribunals) - mainly under the administrative umbrella of the UK Tribunals Service.

ALL FIGURES GIVEN RELATE TO THE 2010-11 FINANCIAL YEAR, EXCEPT WHERE OTHERWISE STATED

Terminology used

- **Pool:** number of Chairmen and members (full and part time) available to conduct tribunal's work
- **Received:** new cases received/submitted during the recording period
- **Withdrawn:** cases settled or withdrawn during the recording period before a final judgement was required
- **Decided:** final decisions/determinations made by the judiciary within the recording period
- **Outstanding:** cases outstanding/undecided (including rescheduled and adjourned hearings) at the close of the recording period.
- **Before:** average number of weeks expired from tribunal's receipt of appeal/application to the hearing (i.e. wait before hearing)
- **After:** average number of days expired from the hearing to the dispatch of the written decision (i.e. wait after hearing)

Section 1

Tribunals already incorporated into Phase 1 of the Scottish Tribunals Service

Tribunals included:

- Additional Support Needs Tribunal for Scotland
- Lands Tribunal for Scotland
- Mental Health Tribunal for Scotland
- Pension Appeal Tribunals Scotland
- Private Rented Housing Panel
- Scottish Charities Appeal Panel

Additional Support Needs Tribunal for Scotland

Judiciary	Pool	39
Cases	Received	64
	Withdrawn	34
	Decided	33
	Outstanding	11
	Onward appeals	6 to Court of Session
Waiting times	Before	16 weeks
	After	17 days

The onward appeal route is to the Court of Session and since November 2010 the Tribunal is able to review its own decisions.

Mental Health Tribunal for Scotland

Judiciary	Pool	338
Cases	Received	3,707
	Withdrawn	776
	Decided	2,834
	Outstanding	290
	Onward appeals	21
Waiting times	Before	2 weeks
	After	4 days

The onward appeal route in civil cases is to the Sheriff Principal and further appeal to the Court of Session. Restricted patient cases (where the patient is subject to a compulsion order or a restriction order), appeals go to the Court of Session.

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Lands Tribunal for Scotland

Judiciary	Pool	5
Cases	Received	261
	Withdrawn	266
	Decided	61
	Outstanding	746
	Onward appeals	3
Waiting times	Before	17 weeks
	After	33 days

The onward appeal route is to the Court of Session.

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Pensions Appeal Tribunal Scotland

Judiciary	Pool	22
Cases	Received	295
	Withdrawn	28
	Decided	313
	Outstanding	22
	Onward appeals	2
Waiting times	Before	14 weeks
	After	12 days

The onward appeal route is to the Upper Tribunal Administrative Appeals Chamber.

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Private Rented Housing Panel

Judiciary	Pool	36
Cases	Received	265
	Withdrawn	75
	Decided	138
	Outstanding	126
	Onward appeals	1 to SC
Waiting times	Before	* 9 weeks
	After	20 days

The onward appeal route in Rent appeals is to the Court of Session and in Repairs to the Sheriff Court (SC).

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

* Waiting Times figures are for rent jurisdiction cases only. Figures for Repairs Jurisdiction cases are not carried.

Scottish Charities Appeal Panel

Judiciary	Pool	20
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeals	0
Waiting times	Before	n/a
	After	n/a

The Scottish Government announced in November 2008 an intention to abolish the Scottish Charities Appeals Panel (SCAP) due to the low number of appeals being made to the Tribunal since its creation on 1 October 2006.

The Scottish Government subsequently published a consultation in January 2010 seeking views from stakeholders on the options for a future appeal route to replace SCAP. The findings and conclusion of the consultation were that a future appeal route should be identified as part of the ongoing work on tribunal reform in Scotland. In the interim SCAP remains in operation.

Onward appeal route is to the Court of Session.

Section 2

Tribunals which operate under devolved legislation

Tribunals included:

- Children's Hearings
- Crofters Commission
- Education Appeal Committees
- Fire-fighters Pensions Appeal Tribunal (Scotland)
- Horse Race Betting Levy Appeals Tribunal for Scotland
- NHS Discipline Committees (Scotland)
- NHS National Appeal Panel for Entry to Pharmaceutical Lists
- NHS Tribunal Scotland
- Police Appeals Tribunal
- Police Pensions Appeal Tribunal
- Scottish Parking Appeal Service
- Valuation Appeal Committees

Children's Hearings

Number of hearings held in 2010-11	41,825
Number of Children where reporter decision is to arrange a hearing	13,450
Number of Children with grounds disposed at hearing	13,723
Number of Appeals to Sheriff Court against hearing decision concluded in year	849
Average working days between reporters decision to arrange a hearing and first Hearing in 2010-11	15 days
Average working days between hearing outcome and written notification	2 days

Constitution and membership

Children's Panel members will be recruited by the National Convener as per Schedule 2 of the Children's Hearings Scotland Act 2011.

Children can be referred to the Children's Reporter from birth to 15 years. Young people aged 16 and 17 years can be referred if they are subject to supervision requirements or are remitted by a court. Anyone can refer a child to the Reporter; however, referrals usually come from 5 main sources – the police, social work, education, health and parents/ relevant persons.

The Scottish Children's Reporter Administration has been accredited as an Official Statistics producer and statistics produced by the SCRA can be viewed on its website at www.scra.gov.uk

Crofters Commission

Judiciary	Pool	7
Cases	Received	26
	Withdrawn	2
	Decided	22
	Outstanding	8
	Onward appeals	1 to SLC
Waiting times	Before	4 weeks
	After	48 days

There are several routes of appeal available, depending upon the type of case/application - the routes are judicial review, appeal to Scottish Land Court (SLC).

Education Appeal Committees

Constitution and membership of the Education Appeal Committee is governed by Schedule A1 of the 1980 Education Scotland Act which requires an Education Appeal Committee to be made up of three, five or seven members nominated by each local authority.

The onward appeal route is to the Sheriff.

Aberdeen

Cases	Received	58
	Withdrawn	36
	Decided	22
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	2 day

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Aberdeenshire

Cases	Received	67
	Withdrawn	17
	Decided	46
	Outstanding	4
	Onward appeal	not known
Waiting times	Before	5 weeks
	After	2 days

Angus

Cases	Received	9
	Withdrawn	7
	Decided	2
	Outstanding	0
	Onward appeal	0
Waiting times	Before	3 weeks
	After	2 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

City of Edinburgh

Cases	Received	130
	Withdrawn	63
	Decided	67
	Outstanding	0
	Onward appeal	1
Waiting times	Before	8 weeks (Placings Requests) 4 weeks (Exclusions)
	After	1 day

Clackmannanshire

Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting times	Before	n/a
	After	n/a

Comhairle nan Eilean Siar

Cases	Received	1
	Withdrawn	0
	Decided	1
	Outstanding	0
	Onward appeal	0
Waiting times	Before	As per the regulations
	After	As per the regulations

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Dumfries & Galloway

Cases	Received	9
	Withdrawn	6
	Decided	3
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	3 days

Dundee

Cases	Received	83
	Withdrawn	13
	Decided	70
	Outstanding	0
	Onward appeal	not known
Waiting times	Before	4 weeks
	After	2 days

East Ayrshire

Cases	Received	3
	Withdrawn	0
	Decided	3
	Outstanding	0
	Onward appeal	0
Waiting times	Before	3 weeks
	After	1 day

East Dunbartonshire

Cases	Received	34 Placing Requests 4 Exclusions
	Withdrawn	7 Placing Requests 1 Exclusions
	Decided	30
	Outstanding	0
	Onward appeal	2
Waiting times	Before	4 weeks
	After	2 days

East Lothian

Cases	Received	26
	Withdrawn	16
	Decided	10
	Outstanding	0
	Onward appeal	0
Waiting times	Before	6 weeks
	After	1 day

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

East Renfrewshire

Cases	Received	106
	Withdrawn	28
	Decided	78
	Outstanding	0
	Onward appeal	0
Waiting times	Before	3 weeks
	After	1 day

Falkirk

Cases	Received	2 Exclusions 4 Placing Requests
	Withdrawn	1 Placing Request
	Decided	2 Exclusions 3 Placing Requests
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	5 days

Fife

Cases	Received	22
	Withdrawn	10
	Decided	13
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	2 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Glasgow

Cases	Received	74
	Withdrawn	33
	Decided	41
	Outstanding	0
	Onward appeal	not known
Waiting times	Before	3 weeks
	After	2 days

Statistics quoted relate to calendar year 1 January 2010 -
31 December 2010

Highland

Cases	Received	8
	Withdrawn	3
	Decided	5
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	7 days

Inverclyde

Cases	Received	1
	Withdrawn	1
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting times	Before	n/a
	After	n/a

Statistics quoted relate to calendar year 1 January 2010 -
31 December 2010

Midlothian

Cases	Received	19
	Withdrawn	14
	Decided	5
	Outstanding	0
	Onward appeal	1
Waiting times	Before	4 weeks
	After	2 days

Moray

Cases	Received	9
	Withdrawn	8
	Decided	1
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	8 days

Orkney

Cases	Received	1
	Withdrawn	0
	Decided	1
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	1 day

Perth & Kinross

Cases	Received	25
	Withdrawn	1
	Decided	24
	Outstanding	0
	Onward appeal	not known
Waiting times	Before	3 weeks
	After	2 days

Renfrewshire

Cases	Received	4
	Withdrawn	0
	Decided	4
	Outstanding	0
	Onward appeal	0
Waiting times	Before	4 weeks
	After	5 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Scottish Borders

Cases	Received	8
	Withdrawn	7
	Decided	0
	Outstanding	1
	Onward appeal	0
Waiting times	Before	4 weeks
	After	n/a

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

South Lanarkshire

Cases	Received	95
	Withdrawn	41
	Decided	49
	Outstanding	0
	Onward appeal	0
Waiting times	Before	3 weeks
	After	7 days

Stirling

Cases	Received	6
	Withdrawn	0
	Decided	6
	Outstanding	0
	Onward appeal	0
Waiting times	Before	3 weeks
	After	2 days

West Lothian

Cases	Received	82
	Withdrawn	23
	Decided	59
	Outstanding	0
	Onward appeal	1
Waiting times	Before	4 weeks
	After	8 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Firefighters Pensions Appeal Tribunal (Scotland)

Judiciary	Pool	0
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting times	Before	0
	After	0

Horse Racing Betting Levy Appeals Tribunal for Scotland

Judiciary	Pool	3
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting times	Before	n/a
	After	n/a

The onward appeal route is by Judicial Review.

NHS Discipline Committees (Scotland)

Judiciary	Pool	29
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting times	Before	0
	After	0

NHS National Appeal Panel for entry to pharmaceutical lists

Judiciary	Pool	39
Cases	Received	44
	Withdrawn	17
	Decided	33
	Outstanding	5
	Onward appeal	1
Waiting times	Before	12 weeks
	After	5 days

The onward appeal route is judicial review.

NHS Tribunal Scotland

Judiciary	Pool	1 Chair and numerous p/t members
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	2
	Onward appeal	1
Waiting Times	Before	n/a
	After	n/a

The onward appeal route is to the Court of Session.

Police Pensions Appeal Tribunal

Judiciary	Pool	29
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0
Waiting Times	Before	0
	After	0

Police Appeals Tribunal Scotland

Constitution and membership as Section 30 of the Police (Scotland) Act 1967 as substituted by Section 55 of the Police and Magistrates Courts Act 1994, and in accordance with the Police Tribunals (Scotland) Rules 1996.

The onward appeal route is by Judicial Review.

Central Scotland Joint Police Board

Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	n/a

Dumfries & Galloway Council Police and Fire Committee

Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	n/a

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Grampian Joint Police Force

Cases	Received	2
	Withdrawn	0
	Decided	0
	Outstanding	2
	Onward appeal	n/a

Northern Joint Police Force

Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeal	0

Strathclyde Joint Police Board

Cases	Received	3
	Withdrawn	0
	Decided	2
	Outstanding	2
	Onward appeal	0

Tayside Joint Police Board

Cases	Received	1
	Withdrawn	0
	Decided	1
	Outstanding	0
	Onward appeal	0

The Scottish Parking Appeals Service

Judiciary	Pool	5 Adjudicators
Cases	Received	1,741
	Withdrawn	664
	Decided	782
	Outstanding	295
	Onward appeal	0
Waiting times	Before	8 weeks
	After	5 days

The onward appeal route is judicial review.

Valuation Appeal Committees

Onward appeal routes – non domestic appeals may proceed to the Lands Tribunal for Scotland or the Lands Valuation Appeal Court. Domestic appeals may proceed to the Court of Session.

Some VAC Secretaries have advised that they are unable to provide the figures required as it is the Assessor who holds the information to enable the statistics to be provided.

Ayrshire

Judiciary	Pool	16
Cases	Received	not available
	Withdrawn	not available
	Decided	58
	Outstanding	not available
	Onward appeal	2
Waiting times	Before	not applicable
	After	3 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Argyll & Bute

Judiciary	Pool	8
Cases	Received	not available
	Withdrawn	not available
	Decided	5
	Outstanding	0
	Onward appeal	0
Waiting times	Before	not available
	After	3 days

Borders

Judiciary	Pool	23
Cases	Received	not available
	Withdrawn	not available
	Decided	3
	Outstanding	not available
	Onward appeal	0
Waiting times	Before	6 weeks
	After	3 days

Central

Judiciary	Pool	18
Cases	Received	4788
	Withdrawn	872
	Decided	21
	Outstanding	4,230
	Onward appeal	2
Waiting times	Before	80 weeks
	After	3 days

Dunbartonshire

Judiciary	Pool	10
Cases	Received	3,325
	Withdrawn	394
	Decided	77
	Outstanding	3,179
	Onward appeal	1
Waiting times	Before	46 weeks
	After	1 day

Dumfries

Judiciary	Pool	17
Cases	Received	not available
	Withdrawn	not available
	Decided	20
	Outstanding	0
	Onward appeal	0
Waiting times	Before	11 weeks
	After	3 days

Glasgow

Judiciary	Pool	14
Cases	Received	
	Withdrawn	
	Decided	
	Outstanding	
	Decided	

During 2010 the number of meetings of the VAC in Glasgow was 9
No statistics were provided in relation to the number of cases heard
or decided. The decisions of the Committee are intimate, normally a
matter of days after the hearing.

Grampian

Judiciary	Pool	31
Cases	Received	11,188
	Withdrawn	621
	Decided	10
	Outstanding	10,686
	Onward appeal	0
Waiting times	Before	*
	After	10 days

*Rating cases = 40weeks, Council cases = 28 weeks and Council Tax non listed cases =10 week

Highland and Western Isles

Judiciary	Pool	32
Cases	Received	7,516
	Withdrawn	566
	Decided	187
	Outstanding	8
	Onward appeal	0
Waiting times	Before	24 weeks
	After	10 days

Lanarkshire

Judiciary	Pool	18
Cases	Received	9,334
	Withdrawn	1,057
	Decided	114
	Outstanding	8,123
	Onward appeal	0
Waiting times	Before	not available
	After	3 days

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Lothian

Judiciary	Pool	19
Cases	Received	11,600
	Withdrawn	1,100
	Decided	62
	Outstanding	
	Onward appeal	22
Waiting times	Before	n/a
	After	n/a

Statistics quoted relate to calendar year 1 January 2010 - 31 December 2010

Orkney

Judiciary	Pool	0
Cases	Received	166
	Withdrawn	50
	Decided	2
	Outstanding	231
	Onward appeal	2
Waiting times	Before	33 weeks
	After	0

Renfrewshire

Judiciary	Pool	13
Cases	Received	7,339
	Withdrawn	1,104
	Decided	22
	Outstanding	6,562
	Onward appeal	1
Waiting times	Before	35 weeks
	After	7 days

Shetland

Judiciary	Pool	0
Cases	Received	250
	Withdrawn	13
	Decided	4
	Outstanding	229
	Onward appeal	3
Waiting times	Before	28 weeks
	After	0

Tayside

Judiciary	Pool	0
Cases	Received	4,825
	Withdrawn	1,385
	Decided	10
	Outstanding	4,010
	Onward appeal	5 to Lands Tribunal
Waiting times	Before	32 - 48 weeks
	After	3 days

Directorate for Planning and Environmental Appeals

Planning Appeals Under the Town & Country Planning (Scotland) Act 1997

Cases	c/fwd	153
	Received	282
	Withdrawn	16
Scottish Ministers /local authorities	Decided	4
Reporters	Decided	305
	Outstanding	110

Enforcement Appeals

Cases	c/fwd	36
	Received	96
	Withdrawn	13
Scottish Ministers /local authorities	Decided	0
Reporters	Decided	78
	Outstanding	41

Local Plans

Cases	c/fwd	3
	Received	9
	Withdrawn	0
Scottish Ministers /local authorities	Decided	5
Reporters	Decided	not appropriate
	Outstanding	7
Inquiries Opened	Received	81
Inquiries Closed		81
Reports issued		53

The Directorate for Planning and Environmental appeals publishes statistics with its Annual Review Report and these can be viewed at www.scotland.gov.uk/publications

Local Review Bodies

Established by the Act in 2009 this system deal with appeals from applicants for a review of a decision taken by an appointed officer from the planning department of individual local authorities. Local Review Bodies as such do not come under the direct supervision of the Scottish Committee but, due to our wider remit in covering all aspects of administrative justice, the Committee has taken an active role in observing how this system is “bedding in” as part of the planning appeal system in Scotland.

Statistics regarding these local appeals are collated and published by Scottish Government and can be found on their website at <http://www.scotland.gov.uk/Topics/Statistics/Browse/Planning/planapps2011annual>. Information on Local Review Bodies is located on Table 25.

There are a number of Tribunals which we have been unable to record data for as they did not respond to our request for information. These include:

Argyll & Bute Council Education Appeal Committee
North Ayrshire Council Education Appeal Committee
North Lanarkshire Council Education Appeal Committee
Shetland Island Council Education Appeal Committee
South Ayrshire Council Education Appeal Committee
West Dunbartonshire Council Education Appeal Committee
Fife Community Council Police Appeals Tribunal
Lothian & Borders Police Appeals Tribunal
Fife Region Valuation Appeal Panel

Section 3

Tribunals operating in Scotland under UK legislation

Tribunals under the administrative umbrella of the UK Tribunals Service.

First-tier Tribunal General Regulatory Chamber

- Consumer Credit Appeals Tribunal
- Estate Agents Panel
- Gambling Appeals Tribunal
- Immigration Services Tribunal
- Information Rights Tribunal
- Transport Tribunal

First-tier Tribunal Immigration and Asylum Chamber

- Immigration and Asylum Tribunal

First-tier Tribunal Social Entitlement Chamber

- Criminal Injuries Compensation Appeals Panel
- Social Security and Child Support Appeals Tribunal (Scotland only)
- Asylum Support Tribunal

First-tier Tribunal Tax and Finance Chamber

- Tax Tribunal

Upper Tribunal

- Administrative Appeals Chamber
- Immigration and Asylum Chamber
- Tax and Chancery Chamber

Employment Tribunals (separate pillar within the UK Tribunals structure)

- Employment Appeal Tribunal
- Employment Tribunal (Scotland)

Other UK Tribunals (not under the administrative umbrella of UK Tribunals Service)

Aircraft and Shipbuilding Industries Arbitration Tribunal

Antarctic Act Tribunal

Board of the Pension Protection Fund

Civil Aviation Authority

Chemical Weapons Licensing Appeal

Competition Appeals Tribunal

Comptroller General of Patents, Designs and Trademarks

Copyright Tribunal

Foreign Compensation Commission

Forestry Commission

Gender Recognition Panel

Insolvency Practitioners Tribunal

Mines and Quarries Tribunal

National Lottery Commission

Office of the Health Professions Adjudicator

Plant Varieties and Seeds Tribunal

Reserve Forces Appeal Tribunal

Sea Fish Licence Tribunal

Traffic Commissioner for Scotland

UK Tribunals operating in Scotland

Unless stated otherwise the statistics given relate to cases held in Scotland. Official statistics relating to the Tribunals Service can also be viewed at www.tribunals.gov.uk

Tribunals operating under the administrative umbrella of UK Tribunals Service

Upper Tier Tribunal

Administrative Appeal Chamber

Judiciary	Pool	#
Cases	Received	594
	Withdrawn	30
	Decided	561
	Outstanding	61
	Onward appeals	8

2 full time Judges plus ad hoc fee paid Judges available from a pool of 4

The onward appeal route is judicial review to the Court of Session

Tax and Chancery Chamber

Judiciary	Pool	12
Cases	Received	7
	Withdrawn	0
	Decided	4
	Outstanding	6
	Onward appeals	0

The onward appeal route is through the Court of Appeal - permission must first be sought from the Upper Tribunal.

Immigration and Asylum Chamber - UK Figures

Judiciary	Pool	138
Cases	Received	8,965
	Withdrawn	657
	Decided	6,659
	Outstanding	4,781
	Onward appeals	1,467

Although hearings may take place in Scotland, The Upper Tribunal (Immigration and Asylum Chamber) is based and administered in London. As a consequence we have been advised that it is not possible to split the Management Information into the geographical region as requested

First Tier Tribunal Social Entitlement Chamber

Social Security and Child Support Appeals

Judiciary	Pool	279
Cases	Received	52,800
	Withdrawn	6,900
	Decided	39,500
	Outstanding	20,300

Pool is made up of 10 full time judges, 89 part-time judges, 118 part-time medical, 60 part-time disability, and 2 part-time financial

The onward appeal route is to the Upper Tribunal

Asylum Support Tribunal

Judiciary	Pool	27
Cases	Received	100
	Withdrawn	19
	Decided	77
	Outstanding	6
	Onward appeals	*11

Pool of Judges available for Scotland and England

* The 11 onward appeals are all to judicial review

Criminal Injuries Compensation Appeals - UK Figures

Judiciary	Pool	79
Cases	Received	2,700
	Withdrawn	Not available
	Decided	3,600
	Outstanding	1,900
	Onward appeals	Scotland 1 England & Wales 87

Judicial review to the Upper Tribunal in England & Wales or to the Court of Session in Scotland

First Tier Tribunal General Regulatory Chamber

Consumer Credit Appeals - UK Figures

Judiciary	Pool	18
Cases	Received	8
	Withdrawn	1
	Decided	8
	Outstanding	8
	Onward appeals	0

The onward appeal route is to the Upper Tribunal Administrative Appeal Chamber

Estate Agents Panel - UK Figures

Judiciary	Pool	18
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeals	0

Information Rights Tribunal - UK Figures

Judiciary	Pool	49
Cases	Received	220
	Withdrawn	n/a
	Decided	194
	Outstanding	130
	Onward appeals	52

Cases decided = 94 at hearing, 100 otherwise disposed.

Onward appeal route to the Upper Tribunal AAC, 52 applications for permission to appeal received

Transport Tribunal

Judiciary	Pool	12
Cases	Received	31
	Withdrawn	9
	Decided	22
	Outstanding	0
	Onward appeals	0

Onward appeals – for Driving Standards Agency appeals the right of appeal is to the Upper Tribunal – for Traffic Commissioner cases the right of appeal is judicial review.

The Transport Tribunal hears Scottish appeals at the Eagle Building, Glasgow. Generally hearings are a combination of Driving Standard Agency appeals which are First tier appeals and Traffic Commissioner appeals which are Upper Tribunal appeals. These two jurisdictions are combined to make it a full hearing day.

First Tier - Tax Chamber

Tax Tribunal

Judiciary	Pool	19
Cases	Received	230
	Withdrawn	61
	Decided	75
	Outstanding	~ 430
	Onward appeals	9

~The 430 cases include sisted appeals e.g. cases which are awaiting the decision of a lead case to be decided before proceeding further.

The onward appeal route is to the Upper Tribunal Tax and Chancery Chamber

First Tier - Immigration and Asylum Chamber

Asylum and Immigration Tribunal

Judiciary	Pool	*38
Cases	Received	Not available
	Withdrawn	560
	Decided	5,800
	Outstanding	960
	Onward appeals	Not available

* Pool made up of 5 fulltime and 33 Immigration Judges

Onward appeal route is to the Upper Tribunal

Employment Chamber

Employment Tribunal Scotland

Judiciary	Pool	48
Cases	Received	17,600
	Withdrawn	7,100
	Decided	8,700
	Outstanding	^ 72,500
	Onward appeals	n/a

Pool of 48 Employment Judges

^ 72500 live caseload outstanding, but this includes many cases with data quality issues.

Onward appeal route is to the Employment Appeal Tribunal.

The figures given for numbers of appeals/applications have been given on a case and not jurisdictional basis.

Employment Appeals Tribunal - UK Figures

Judiciary		4
Cases	Received	2,048
	Disposed	2,001
	Dealt with by prelim hearing	176
	Disposed of at full hearing	363
	Withdrawn	150

The statistics have been taken from the MOJ and HMC&TS, Employment Tribunals and EAT statistics 2010 -11 published on 1 September 2011.

Judges at EAT are High Court, circuit or Scottish Court of Session judges.

Other UK Tribunals not under administrative umbrella of the UK Tribunals Service

Competition Appeals Tribunal

Judiciary	Pool	not given
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeals	0

Comptroller General of Patents, Designs and Trademarks - UK Figures

Judiciary	Pool	21
Cases	Received	2,153
	Withdrawn	973
	Decided	36
	Outstanding	132
	Onward appeals	44
Waiting times	Before	Not available
	After	6-8 weeks

Under Section 76 of the Trade Marks Act 1994 the onward appeal route is to an Appointed Person, who is appointed by the Ministry of Justice, or to the Courts.

All hearings are undertaken by a group of ex-parte and inter-parte hearing officers. During 2010 there were 11 ex-parte hearing officers and 10 inter-parte hearing officers.

Copyright Tribunal - UK Figures

Judiciary	Pool	10
Cases	Received	5
	Withdrawn	1
	Decided	0
	Outstanding	4
	Onward appeals*	1 to the High Court
Waiting times	Before	28 weeks
	After	7 days

*The onward appeal route is to the Court of Session or the High Court

Foreign Compensation Commission - UK Figures

Judiciary	Pool	1
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeals	0
Waiting times	Before	n/a
	After	n/a

Gender Recognition Panel - UK Figures

Judiciary	Pool	10
Cases	Received	300
	Withdrawn	12
	Decided	320
	Outstanding	80
	Onward appeals	0
Waiting times	76% of cases disposed within 20 weeks of receipt	

The onward appeal route is to the High Court

Plant Varieties and Seeds Tribunal - UK Figures

Judiciary	Pool	1
Cases	Received	0
	Withdrawn	0
	Decided	0
	Outstanding	0
	Onward appeals	0
Waiting times	Before	n/a
	After	n/a

The tribunal continues to exist in name only. It is a very specialised tribunal. The regulations covering it provide for alternative dispute resolution measures which are effective so the tribunal has not sat since the 1980's. Scottish Government has advised FERA that the (Scottish) Chairman's period of appointment has expired and that the tribunal in Scotland may end up in the Scottish Tribunal Service.

Traffic Commissioner for Scotland

Judiciary	Pool	2
Cases	Received	Public inquiries 199 Driver conduct 486
	Withdrawn	n/a
	Decided	616
	Outstanding	56
	Onward appeals	12
Waiting times	Before	12 weeks for public inquiries 7 weeks for driver conduct
	After	28 days

The onward appeal route for public enquiries is the Upper Tribunal and Sheriff Court for driver conduct.

There are a number of Tribunals which have jurisdiction to sit in Scotland, if required, that we have been unable to record data for. This is due to the following reasons

- **Tribunals never convened since inception**
(either in UK or Scotland)
 - Aircraft and Shipbuilders Industries Arbitration Tribunal
 - Antarctic Act Tribunal
 - Chemical Weapons Licensing Appeal
 - Mines and Quarries Tribunal
 - Sea Fish Licence Tribunal
- **Tribunal did not respond to our request for information**
 - Civil Aviation Authority
 - Forestry Commission
 - Insolvency Practitioners Tribunal
 - Reserve Forces Appeal Tribunal
(administered by the UK Tribunals Service)

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Any enquiries regarding this publication should be sent to us at
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This document is available from our website at
www.ajtc.gov.uk/scottish/scottish.htm