

Scottish Committee of the Administrative Justice & Tribunals Council

ANNUAL REPORT 2009/2010

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

November 2010

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Membership at 31 March 2010

Richard Henderson CB, Chairman: Until 2007 was the Solicitor to the Scottish Executive and President of the Law Society of Scotland until 31 May 2009. Was appointed Chairman of the Committee and member of the Council in August 2009. Prior to his appointment as Chairman he was a member of the Committee joining in January 2009.

Professor Andrew Coyle, CMG: Professor of Prison Studies at the School of Law, Kings College, London. 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.

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.ajtc.gov.uk

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Foreword

This is the first annual report which I have had the privilege of introducing as Chair of the Scottish Committee. The year 2009-10 has been a year of significant change for the Committee. There has been considerable change in the administrative justice landscape and much more is promised. A great deal of the change has arisen in the period since January 2010 and, in writing this report, the Committee have thought it right not to consider itself unduly restricted in the scope of the report by only including material which arose before 31 March 2010 being the formal date to which the report should relate.

Thus the following chapter will address the change agenda which has been running, so far as the Committee is concerned, over the past two to three years but on which the pace and depth of change have both increased markedly since the end of 2009. The scale and nature of the change will, we think, alter the face of the Tribunals system in Scotland more significantly than has been the case since the advent of the modern tribunals system some 40 years ago. The Committee has accordingly devoted much of its resource over the past eighteen months or so to attempting to set out the scale of the issues which arise and which must be addressed by those taking this matter forward.

The trouble with change agendas of course is that there is as often as not still the “day job” to be looked after. This report also gives details of visits undertaken by Committee members, our representation on the Administrative Justice and Tribunals Council and Scottish Tribunals Forum as well as responses to consultations, requests for advice and a special report which was produced by the Committee. It also includes the collation of statistical data (where available) from Tribunals operating in Scotland.

The Committee has also over the past year looked closely at its statutory remit and endeavoured to set out processes by which it can take forward those differing agendas. In particular the Committee has resolved to address the function conferred on it in relation to research and has set out a draft strategy for that purpose.

The Committee has not only had to consider the change agenda in the context of the future structure of tribunals but has also had to deal with those issues without the benefit of assistance from those members who have left the Committee over the course of the year. It is only right that I should at the outset pay tribute to the members who have demitted office during this reporting year.

Alistair MacLeary, our Chair from September 2005 until August 2009, had overseen the highly significant period during which the Administrative Justice Steering Group had produced its two reports on options for Tribunal Reform in Scotland. The work he did during his period in office provided the firm basis on which the Committee has since relied as it has sought over the past year to take forward the issues posed in those reports.

Elizabeth Cameron had served on the Committee for eight years before retiring in August 2009, and her contribution over that period was very substantial, her knowledge of the structures which tribunals operated in Scotland was legendary and it was fitting that her closing contribution to the work of the Committee should have been in relation to the preparation of the response by the Committee to the AJSG's first report.

Finally **Eileen Macdonald** while having been with the Committee for only a comparatively short period before moving on to pursue career opportunities with government, has contributed greatly across a wide range of areas. The Committee would wish to record its appreciation to all of those members. The Committee hopes that the vacancy in its membership arising from the resignation of Eileen Macdonald can be filled during the summer of 2010.

One of the consequences of the changes in personnel has been that the Committee considered in the autumn of 2009 both its methods of working and the issues on which it wished to work. More is said on these issues under the heading of the change agenda, and within the Council's Strategic Plan which represents part of the new way of working and was published earlier this year.

Throughout the year the Committee has taken seriously the idea that it should aspire to be as Leggatt suggested, the "hub of the wheel". Whether we have managed even to approach achieving that is for others to determine. In my view, however, there has never been a more important time for there to be a hub on the administrative justice wheel in Scotland. The functions conferred on the AJTC by the 2007 Act continue to be of vital importance, and particularly so at a time of rapid and potentially deep change in the shape of administrative justice and, more generally, of the civil justice system in Scotland.

I pay tribute to 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 address the change agenda as well as continuing with the "day job".

Richard M Henderson CB WS
Chair

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The Change Programme

The Committee has been involved in considerable change in its working methods over the past year. It has looked closely at its operation, which has been adapted to introduce a new portfolio approach, by which members assume responsibility for particular areas of the Committee's activities. This enables us to deal more effectively with requests for advice or consultations, which are now handled individually by the responsible member.

The major change in which we have been involved however has been the change agenda which Tribunal reform in Scotland has brought. This was the first year in which the Committee has had the opportunity to consider how it might best assist the overall change agenda which was highlighted in the two reports produced by the Administrative Justice Steering Group, under the chairmanship of Lord Philip, and published in 2008 and 2009. Of those reports, the second, entitled "*Administrative Justice in Scotland – The Way Forward*" (*the Philip Report*) published in September 2009, reviewed the administrative justice landscape in Scotland, and made recommendations for the establishment of a Scottish Tribunals Service. In December 2008 Scottish Ministers had requested the Committee's views on certain of the recommendations issues arising from the first report and the Committee was able to provide those in May 2009. The gist of the Committee's advice was that a Scottish Tribunals Service should be created and that such a Service should be designed to encompass both Scottish tribunals for which Scottish Ministers had devolved competence and also the Scottish operations of UK tribunals which exercised jurisdiction in Scotland. Scottish Ministers indicated in June 2009 that they intended to pursue the establishment of a Scottish Tribunals Service.

The Committee was aware that in advising in favour of a Scottish Tribunals Service much work would be required to fill in the detail as to just what a Scottish Tribunals Service might look like. In autumn 2009 the Committee therefore decided that it should develop options for implementation of the Philip Report with a view to providing further advice to Scottish Ministers in due course.

Discussions were held with Scottish Government officials in late autumn 2009 and the Committee was able to start work on the project in spring 2010. The Committee circulated a preliminary questionnaire to interested groups in March 2010 and began preparation of a discussion paper with a view to publication in June 2010. Publication was to be linked to a conference of interested groups following which the discussion paper would remain open for comment until the end of September, at which point the Committee would prepare advice for Ministers for submission in December 2010.

The Committee has been greatly assisted in its work since the start of 2010 by a Working Group comprising both members of the Committee and others; the Working Group has taken on the task of preparing the draft discussion paper and will also be involved in assisting the Committee as it moves towards preparation of advice to Ministers.

Shortly before the end of the period to which this report relates the UK Government announced plans for merger of the Tribunals Service and HM Courts Service. That announcement on 26 March has radically affected the landscape within which the Committee was considering implementation of the Philip Report. However the Committee is confident that it can produce advice to Ministers within the timetable previously agreed and taking into account the implications of that announcement.

Working with others to achieve change

Our new and expanded statutory remit requiring us to keep the overall administrative justice system in Scotland under review, presented a particular challenge in this reporting year when the Committee has lacked a full complement of members. Given our wide remit and limited resources, the Committee decided to adopt a more proactive and strategic approach and to be selective about our workload. However, as in previous years, the Committee has continued to visit tribunals and report thereon, conscious that this provides us with an independent perspective on the operation and effectiveness of tribunals and other bodies involved in administrative decision making. These visits also allow us to consider the extent to which the needs of service users are central to the process. A full list of visits undertaken by the Committee is available at **Annex B**.

MODERNISING PLANNING

In line with this new approach, the Committee have continued to be heavily involved in the Modernising Planning agenda, participating in the Local Review Body Forum with stakeholders drawn from a wide spectrum of private and public sector organisations. The Committee has also embarked upon a series of visits to observe the workings of the new local review bodies in practice, to provide an independent overview of the early days of the new system to inform both the Forum and the Scottish Ministers' consideration of any problems or areas requiring change or improvement.

PROVIDING ADVICE TO THE SCOTTISH GOVERNMENT

We have been asked to consider a number of consultations throughout the reporting year, which have an impact on a wide range of areas affecting administrative justice. Some of the consultations we have responded to are commented on in the section of the Report covering "Exploiting opportunities for our voice to be heard". Where the Committee has made a formal response to any consultation, this will normally be available on the AJTC web-site under the section on consultation responses.

RESEARCH

The expanded remit of the Committee now includes developing and promoting research proposals in the area of administrative justice. However, the Committee is not resourced to fund research proposals and has therefore concentrated its efforts this year in meeting with the research community to exchange views on the development of a research strategy and ultimately for the Committee to facilitate the development of a research programme. The Committee believes it has an important role to play, not only as an advocate of mainstream

administrative justice research, but also as a facilitator of new, collaborative research initiatives working in partnership with others. In December 2009 the Committee carried out a preliminary consultation with representatives of the research community and clarified that the Committee's role in encouraging research will be to:

- Ensure that there is a climate in which research can be and is in fact conducted
- Make funding and other bodies aware of the Committee's statutory position and thereby be confident that a bid endorsed by the Committee has already been assessed as meeting a need

ADMINISTRATIVE JUSTICE STEERING GROUP

First Report: Options for the Administration and Supervision of Tribunals in Scotland, September 2008

Second Report: Administrative Justice in Scotland – The Way Forward, September 2009

In May 2009 the Committee provided its response to the First Report of the AJSJG to Scottish Government, before moving on to consider the implications of the Second Report.

By far the largest and most intensive collaborative exercise undertaken by the Committee in this past year has been a project to take forward the issues involved in the implementation of the Administrative Justice Steering Group's second report relative to the development of a Scottish Tribunals Service.¹

In order to take this forward a small working group was established to consider the issues involved, under the chairmanship of the Scottish Committee, but relying heavily on participation of stakeholders and academics having an interest in Tribunal reform in Scotland.

The first phase of this project involved the distribution of a questionnaire to the Tribunals seeking basic information relating to their operation. This will be followed in the summer of 2010 by a Conference to coincide with the publication of a consultation paper looking at Options for Tribunal Reform in Scotland. A review of the consultation responses and the Committee's intended response to Scottish Government will be reported upon next year.

¹ Administrative Justice Steering Group Reports 1 and 2

PUBLIC LEGAL EDUCATION

Public Legal Education is concerned with empowering people to deal with difficulties in areas such as housing, benefits and employment for themselves. Many of these disputes are “administrative” in nature but a successful outcome is largely dependent upon service users knowing what their rights are and understanding the processes involved in achieving their desired outcome. Members of the Committee attended a seminar organised by the Scottish Government and Consumer Focus Scotland looking at PLE. The Committee noted that a 2006 survey for England & Wales concluded that the lack of PLE cost £13 billion over a 3 year period. The Committee considers that PLE is vital to ensure accessibility and fairness in the delivery of administrative justice.

WORKSHOP FOR EDUCATION APPEAL COMMITTEE CLERKS

The SCAJTC and its predecessor The Scottish Committee of the Council on Tribunals have documented concerns on aspects of the EAC’s operation over a number of years. Recognising the key role played by the EAC Clerks, this Committee sponsored a workshop event to provide an opportunity for clerks to share experience, hear from legal experts offering views on procedure and fairness and learn about the Education Appeals Support Initiative (EASI), a support network for Clerks carrying out similar functions in England. The event was well attended and considered to be very helpful by the attendees; feedback confirmed that EAC’s require more assistance by way of training for members and that advice provided to parents prior to attending a hearing could be improved. On a more positive note, the clerks welcomed the opportunity to share best practice and some were keen to set up a clerks group in Scotland on similar grounds to the EASI model, although we have no information to report that this idea has actually been implemented by any of the Clerks. We would encourage all the local authorities in Scotland to support the EAC Clerks in any networking initiatives as the opportunity to share experiences and learning can only improve the experience of service users.

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

CHILDREN'S HEARINGS

At the time of this Annual Report the Children's Hearing (Scotland) Bill is progressing through Parliament and Stage 1 of the Parliamentary process has been completed. The final form of the Bill has in great measure been drawn from the work of the Children's Hearings Strategic Board convened by Adam Ingram, MSP Minister for Children & Early Years. The Scottish Committee is represented on the Board by one of its members and during the period covered by this Report he has attended several Board Meetings. The Bill is designed to provide a framework. The detail will come later when the Scottish Committee will be actively involved in scrutinising consequential subordinate legislation dealing with Practice Rules and Procedures, the roles of the National Convener, Children's Hearings Scotland, local support teams, the Reporter and the Safe-guarder.

SCOTTISH CHARITIES APPEAL PANEL

In March 2010 we responded to the Government Consultation Paper on the options for a future Charity Appeals route in Scotland following the Government announcement to abolish the Scottish Charities Appeal Panel. We await the outcome of this consultation.

ADDITIONAL SUPPORT NEEDS TRIBUNAL

The Scottish Committee was requested by Scottish Government to comment on a draft Statutory Instrument seeking to amend the Additional Support Needs Tribunals for Scotland (Practice & Procedure) Rules 2006 . One of our members met with the President of the Tribunal and Scottish Government officials to discuss the proposals. The Committee was generally happy with the proposed changes except those which sought to change time limits for lodging and answering case statements. After consultation with other stakeholders, detailed comments were submitted to Scottish Government and at the time of this Report a response is awaited.

DRAFT CROFTING REFORM (SCOTLAND) BILL

The Committee submitted a detailed response to the Consultation Paper on the Draft Crofting Reform (Scotland) Bill . The response largely focused on the regulatory structures and processes allowed for by the Consultation Paper to ensure that the proposals met the requirements necessary to secure administrative justice.

OTHER CONSULTATIONS

We were further consulted on proposed amendments to Mental Health Regulations, NHS (Discipline Committees) Scotland (Regulations) 2006 and the Pensions Appeal Tribunals (Scotland) Amendments 2009 .

MEETINGS ATTENDED

During the course of the year Committee members continued to meet with various representative and user groups including Consumer Focus Scotland, Ethnic Minorities Centre, Independent Special Education Advice, various Planning Meetings, Police Appeal Tribunal Stakeholders, Scottish Mediation Network and the unified user group for Scotland for the Upper Tribunal in Scotland Administrative Appeals Chamber and the First Tier Tribunal in Scotland Social Entitlement Tribunal. We also met with various Government Officials and the Scottish Public Services Ombudsman. We continue to attend meetings of the Scottish Tribunals Forum. Our new Chairman has been particularly active in meeting with a multiplicity of stakeholders in the tribunal world throughout Scotland. **Annex B** provides an overview of the visits and business undertaken by the Committee during the reporting period.

VALUATION APPEALS COMMITTEE SPECIAL REPORT

Under the terms of Schedule 7 of the Tribunal, Courts and Enforcement Act 2007 the Scottish Committee presented a Special Report in November 2009 on the Valuation Appeal Committees in Scotland to Scottish Ministers. The Report outlined the Committee's observations over the operation of this appeal system and made a number of recommendations to Scottish government aimed at providing a more equitable, independent and consistent approach. The Minister responded acknowledging that some of the recommendations will be for the Valuation Appeal Committees as independent bodies to consider and those which fall within the responsibility of Scottish Government will be considered in line with the review being undertaken looking at the future of Tribunals in Scotland. The assurance was given that a formal response looking at each of the Reports recommendations would be provided in due course. We look forward to receiving the Government's response and also aim to work with all parties involved with this system to improve its delivery to its users.

THE CALMAN COMMISSION

The Committee accepted an invitation from the Commission on Scottish Devolution (Calman Commission) to provide information about the role and remit of the Administrative Justice and Tribunals Council, and its Scottish Committee in particular, in relation to the oversight it has over the structure of Scottish tribunals. Our Chairman at the time Professor Alistair Macleary provided the Commission with a detailed analysis of the tribunal landscape in Scotland, the role of the Council and the work that was progressing under the Administrative Justice Steering Group. We welcome such meetings which provide an opportunity to raise the profile of the work of the Committee and to highlight the important decisions that will need to be considered in relation to Administrative Justice throughout the UK.

The Costs of the Scottish Committee

The Scottish Committee's funding is made available via the Administrative Justice and Tribunals Council, which in turn is funded by the Ministry of Justice. Certain costs, such as 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 Administrative Justice and Tribunals Council budget. The Committee is supported by a Secretariat in Edinburgh of staff seconded from Scottish Government but whose costs are reimbursed by the AJTC to Scottish Government.

	2008/09	2009/10
Staff costs*	70,179	77,294
Members' retainers**	32,227	42,155 ***
Members' travel etc****	3,638	5,361
Consultancy	5,738	–
Administrative Costs including office supplies, postage	19,362	15,453
Totals	131,144	140,263

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

** As at 1st April 2009 based on 60 days work per year the Committee Chairman receives a salary of £28,025 including his service on the Council. One member of the Committee is also a member of the Council receiving a retainer of £12,816 based on 44 days work per year. Members of the Scottish Committee receive a retainer of £10,194 based on 35 days work per year.

*** 2009/10 figure includes £5,299 outstanding from financial year 2008/09

**** Members' expenses are for attending Committee meetings, visits to tribunals and other events associated with the work of the Committee.

Statistics – Tribunals under the oversight of the Scottish Committee

Although quite a lengthy and time consuming job the Scottish Committee decided that given the unique position it enjoys in overseeing the variety of tribunals that operate in Scotland contact should be made with the systems in order to obtain statistical data relative to their operation. Whilst the statistics obtained do not provide any in-depth analysis of the systems, we believe that the statistics do provide those with an interest in tribunals with a snapshot of the workload that each of the individual systems have handled during a given time period.

Many of the systems produce their own Annual Reports which contain statistical information and some record information on their websites, (a development which the Committee certainly welcomes) but we believe this Report provides the ideal platform for bringing them all together in one place.

Our thanks go to all the Tribunal systems that contributed and provided the information to enable us to complete the tables shown in **Annex C**.

Annex A : Tribunals with jurisdiction in Scotland

TRIBUNALS

- Additional Support Needs Tribunal Scotland
- Children's Hearings
- Crofters Commission
- Education Appeal Committees
- Horse Race Betting Levy Appeals Tribunals for Scotland
- Lands Tribunal for Scotland
- Mental Health Tribunal for Scotland
- NHS Discipline Committees
- NHS National Appeal Panel for Entry to Pharmaceutical Lists
- NHS Tribunal Scotland
- Pensions Appeal Tribunal Scotland (*exercises a UK wide jurisdiction, policy and legislation are Westminster responsibilities*)
- Police Appeals Tribunal
- Police Pensions Appeal Tribunal
- Private Rented Housing Panel
- Scottish Charities Appeal Panel
- Scottish Parking Appeal Service
- Traffic Commissioner for Scotland (*a cross-border authority*)
- Valuation Appeal Committees

UK TRIBUNALS WITH JURISDICTION IN SCOTLAND (RESERVED)

First-tier General Regulatory Chamber

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

First-tier Immigration and Asylum Chamber

- Asylum and Immigration Tribunal

First-tier Social Entitlement Chamber

- Criminal Injuries Compensation Appeals
- Social Security and Child Support Appeals
- Asylum Support Tribunal

First-tier Tax and Finance Chamber

- Tax

Upper Tribunal

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

Employment Tribunals (separate pillar with Tribunals Service)

- Employment Appeals Tribunal
- Employment Tribunal Scotland

Other Tribunals not part of the 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
- Fire Fighters Pensions appeal Tribunal
- Foreign Compensation Commission
- Forestry Commission
- Gender Recognition Panel
- Information Commissioner – data
- Information Commissioner – freedom of information
- Insolvency Practitioners Tribunal
- Mines and Quarries Tribunal
- National Lottery Commission
- Office of the health Professions Adjudicator
(in the process of being established)
- Plant Varieties and Seeds Tribunal
- Reserve Forces Appeal Tribunal
- Reserve Forces Reinstatement Committees and Umpires
- Sea Fish Licence Tribunal

Annex B : Visits and Events Attended during 2009/10

Tribunals		
Additional Support Needs Tribunal Scotland	2	Glasgow
Asylum & Immigration	1	Glasgow
Criminal Injuries Appeal	1	Glasgow
Crofters Commission	1	Gairloch
Education Appeal Committee	2	Airdrie, Dunfermline
NHS Discipline Committee	1	Edinburgh
NHS National Appeal Panel	1	Dumfries
Pensions Appeal Tribunal Scotland	1	Edinburgh
Police Appeal Tribunal	1	Glasgow
Transport Tribunal	1	Glasgow
Training Events		
Additional Support Needs Tribunal Scotland	1	Glasgow
Education Appeal Committee	2	Edinburgh, Glasgow
Upper Tribunal	1	Edinburgh
User Groups		
Employment Tribunal Scotland	2	Edinburgh
Upper Tribunal	1	Edinburgh
Conference/Seminars		
AJTC Conference	1	London
Alternative Dispute Resolution	1	Edinburgh
Citizen's Advice Scotland	1	Edinburgh
Consumer Focus Scotland	1	Edinburgh
Gill Review	3	Edinburgh (2), Glasgow
Planning	1	Edinburgh
Public Inquiries	1	Edinburgh
Tribunal Presidents	1	Edinburgh

Receptions

Calman Commission	1	Edinburgh
Scottish Committee Annual Report	1	Edinburgh
Walker Report	1	Edinburgh

Meetings

Academics	1	Glasgow
Children's Hearings Project Board	3	Edinburgh
Consumer Focus Scotland	1	Glasgow
Ethnic Minorities Centre	1	Glasgow
Independent Special Education Advice	1	Edinburgh
Planning Meetings	5	Dundee (2), Edinburgh (3)
Police Appeal Trib Stakeholders	2	Glasgow
Annual Report Sub Group	2	Edinburgh
Philip Report Meeting	2	Edinburgh
Scottish Gov Officials	1	Edinburgh
Scottish Mediation Network	2	Edinburgh
Scottish Public Services Ombudsman	1	Edinburgh
Scottish Tribunals Forum	3	Edinburgh (2), Glasgow
VAC Working Group	1	Edinburgh

Meetings undertaken by Chairman between 1 September 2009 and 31 March 2010

ASNTS, President, Jessica Burns

Asylum & Immigration, Senior Judge, Mungo Deans

Consumer Focus Scotland, Chief Executive and Officials

Employment Tribunal Scotland, President, Shona Simon

Govan Law Centre, Ian Nisbet

Judicial Studies Committee, Sheriff Welsh

Justice Committee Scottish Parliament, Convener, Bill Aitken

Lord Advocate

Lord Davidson, Advocate General

Lord President

Mental Health Tribunal Scotland, President, Dr Joe Morrow

Pensions Appeal Tribunal Scotland, President,
Colin McEachran, QC

Meeting with Researchers

Tribunals Service, Regional Tribunal Judge Scotland (SSCS),
Ken Kirkwood, Regional Director, Norman Egan and
Area Manager, Bill Craig

Scottish Children's Reporter, Chief Reporter, Netta McIver

Scottish Gov Directorate for Planning & Environmental Appeals,
Chief Reporter, Lindsey Nicoll

Scottish Parking Appeals Service, Adjudicator, Peter Royds

Traffic Commissioner Scotland, Joan Aitken

Upper Tribunal AAC, Judge May and Judge Gamble

Valuation Appeal Committee, Chair John Butters

Annex C : Statistics relating to Tribunals and Inquiries in Scotland

This Annex contains information about tribunals and certain inquiries operating in Scotland

The statistical information shown is supplied either by the tribunal systems, their sponsoring bodies or in the case of the Education Appeal Committee's taken from the Scottish Government statistics website. The information is intended to provide a broad overview of workloads of the tribunals.

A number of tribunals operating in Scotland are dealing with subjects which are reserved matters and these mainly come under the umbrella of the Tribunals Service.

In some cases it has only been possible to obtain a UK figure and not specific Scottish statistics – unless it is stated as a UK figure the statistics relate to Scotland

Abbreviations used

- rec:** new cases *received*/submitted during the period.
- wd:** cases settled or *withdrawn* before a final judgement was required.
- dec:** final *decisions*/determinations made by judiciary within the period.
- o/s:** *outstanding*/undecided cases (including rescheduled and adjourned hearings) on the tribunal's books at the end of the period.
- bef:** average weeks from tribunal's receipt of appeal/application to hearing (i.e. wait *before hearing*).
- aft:** average days from hearing to despatch of written decision (i.e. wait *after hearing*).

Figures relate to calendar year 2009 unless otherwise stated.

TRIBUNALS

Agriculture

Agricultural Arbiters *Agricultural disputes are now dealt with through the Land Court*

Betting Levy

Horse Betting Levy Appeal Tribunal for Scotland *No receipts and did not sit in Scotland during the reporting year*

Charities

Scottish Charities Appeal Panel

rec: 0	bef: 16 weeks
wd: 1	aft: 20 days
dec: 0	
o/s: 0	

* Figures for financial year ending 2010

Crofting

Crofters Commission

rec: 15	bef: 9 weeks
wd: 3	aft: 32 days
dec: 18	
o/s: 6	

* Figures for financial year ending 2010

Education

Additional Support Needs Tribunal for Scotland

rec: 54*	bef: 17 weeks
wd: 18 (7)**	aft: 20 days
dec: 18 (7)**	
o/s: 18	

* Including one reference remitted from Court of Session

** Figure in brackets relates to number carried over from references received in 2008/09 reporting year

Education Appeal Committees Placements*

rec: 633	bef: not available
wd: 277**	aft: not available
dec: 632	
o/s: 1	

* Figures for school year ending 2009

** Appeals withdrawn prior to consideration

Exclusions *No information available*

Land

Lands Tribunal for Scotland	rec: 398 wd: 160 dec: 83 o/s: 831	bef: 18 weeks aft: 36 days
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Local Taxation

Valuation Appeal Committees*	rec: 7,041 wd: 6,102 dec: 667 o/s: 5,331	bef: 49 weeks aft: 4 days
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* Figures for financial year ending 2010

Mental Health

Mental Health Tribunal for Scotland	rec: 3,321 wd: 682 dec: 2,632 o/s: 338*	bef: 3 weeks aft: 13 days
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* Number of open cases on the Tribunal's Case Management System as of 31/12/2009

National Health Service

NHS Discipline Committees	rec: 1 wd: 1 dec: 1 o/s: 0	bef: 79 weeks aft: 10 days
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NHS Tribunal	rec: 2 wd: 2 dec: 1 o/s: 4	bef: 10 weeks aft: 60 days
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National Appeal Panel for Entry to Pharmaceutical Lists	rec: 41 wd: 2 dec: 33 o/s: 6	bef: 17 weeks aft: 5 days
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Pensions

Pensions Appeal Tribunal for Scotland	rec: 274 wd: 24 dec: 219 o/s: 67	bef: 14 weeks aft: 12 days
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Police Pensions Appeal Tribunal	<i>No receipts and did not sit in Scotland during the reporting year</i>	
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Police

Police Appeal Tribunal	rec: 2 wd: 0 dec: 1 o/s: 2	bef: 18 weeks aft: 38 days
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Rent

Private Rented Housing Panel	rec: 203 wd: 78 dec: 100 o/s: 91	bef: 11 weeks* aft: 18 days
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* rent cases only

Road Traffic

Scottish Parking Appeals Service	rec: 1,662 wd: 602 dec: 886 o/s: 363	bef: 7 weeks aft: 5 days
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Traffic Commissioner *Statistics for the Traffic Commissioners are available from the Commissioner's Annual Report at www.dft.gov.uk*

Social Work

Children's Hearings*	Sessions:	12,564
	Hearings:	43,614
	Children referred to the Children's Reporter:	42,532
	Children whose cases proceeded to a first Hearing:	6,184
	Average days from receipt of referral to Hearing	
	(offence):	64 days
	(non offence):	124 days

* Figures for financial year ending 2010

TRIBUNALS OPERATING IN SCOTLAND UNDER THE TRIBUNALS SERVICE – RESERVED SYSTEMS

Tribunal statistics relating to the Tribunals Service can also be viewed at www.tribunals.gov.uk

Upper Tier Tribunal

Administrative Appeal Chamber*
 rec: 570
 wd: 29
 dec: 549
 o/s: 57

* Scottish figures for financial year ending 2010

Tax and Chancery Chamber*
 rec: 70
 wd: **
 dec: 8
 o/s: 60

100% disposed of within 50 weeks end-to-end

* UK-wide figures.

** Not available separately (2 disposals not at hearing)

Immigration and Asylum Chamber*
 rec: *not available*
 wd: 29
 dec: 230
 o/s: 34

* Scottish figures but may include a small number of cases for Belfast

First Tier Tribunal – Social Security and Child Support

Social Security and Child Support Appeals*
 rec: 48,400
 wd: 5,500
 dec: 33,800
 o/s: 18,400

60% of appeals take place within 14 weeks of receipt at SSCS

Asylum Support Tribunal
 rec: 97
 wd: 24
 dec: 42
 o/s: *not available*

78% of cases disposed of within 12 days (UK-wide)

* figures for Scotland (apart from waiting time)

Criminal Injuries Compensation Appeals*
 rec: 3,800
 wd: 220
 dec: 3,100
 o/s: 2,800

91% of cases resolved within 6 months of being ready to list

* UK-wide figures

First Tier Tribunal – General Regulatory Chamber

Transport Tribunal*	rec: 640 wd: 210 dec: 460 o/s: 120	<i>89% of applications disposed of within 16 weeks</i>
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* UK-wide figures

First Tier Tribunal – Tax Chamber

Tax Tribunal*	rec: 10,400 wd: 3,700 dec: 1,900 o/s: 14,700
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* UK-wide figures. 42% of standard/complex cases disposed of within 70 weeks of receipt, 51% of paper cases disposed of within 20 weeks of receipt, 50% of basic cases disposed of within 20 weeks of receipt

First Tier Tribunal – Immigration and Asylum Chamber

Asylum and Immigration Tribunal*	rec: <i>not available</i> wd: 430 dec: 9,900 o/s: 1,300
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* Data includes a small number of cases for Belfast.

Receipts: UK-wide receipts 159,800 (including Scotland).

Waiting times: 70% of Asylum cases within 6 weeks, 63% of Managed Migration cases within 8 weeks, 18% of Family Visitor appeals within 10 weeks of receipt of respondent's bundle, 19% of Entry Clearance appeals within 10 weeks of receipt of respondent's bundle.

On 15 February 2010, the Asylum and Immigration Tribunal was replaced by the Tribunals Service Immigration and Asylum. Immigration and Asylum chambers were established in the First Tier and Upper Tribunal of the Unified Tribunals framework created by the Tribunals, Courts and Enforcement Act 2007. Data is included for AIT up to 14 February 2010 and for TSIA thereafter.

Outstanding/remaining cases figure excludes a proportion of cases for Scotland at the Administrative Support Centre.

Employment Tribunal Scotland

	rec: 22,800 wd: 6,000 dec: 4,000 o/s: 71,000	<i>70% of single accepted cases begin hearing within 26 weeks of receipt</i>
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TRIBUNALS WHICH CAN SIT IN SCOTLAND IF REQUIRED BUT HAVE NOT DONE SO DURING THE REPORTING PERIOD

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

Consumer Credit Appeals Tribunal

Copyright Tribunal

Estate Agents Appeal Tribunal

Financial Services and Markets Tribunal

Fire Fighters Pensions Appeal Tribunal

Foreign Compensation Commission

Forestry Commission

Gambling Appeals Tribunal

Gender Recognition Panel

Information Rights Tribunal

Insolvency Practitioners Tribunal

Mines and Quarries Tribunal

National Lottery Commission

Pensions Regulator Tribunal

Plant Varieties and Seeds Tribunal

Reserve Forces Appeal tribunal

Reserve Forces Reinstatement Committee and Umpires

PLANNING INQUIRIES

Directorate for Planning and Environmental Appeals

Planning Scotland		
Appeals under the Town & Country Planning Scotland Act 1997	brought forward:	352
	received:	777
	withdrawn:	37
	decided by Ministers/LAs:	8
	decided by Reporters:	931
	outstanding:	153
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Enforcement Appeals	brought forward:	65
	received:	97
	withdrawn:	29
	decided by Ministers/LAs:	0
	decided by Reporters	97
	outstanding:	36
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Local Plans	brought forward:	6
	received:	4
	withdrawn	0
	decided by Ministers/LAs:	n/a
	decided by Reporters:	n/a
	outstanding:	3
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Inquiries Opened		140
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Inquiries Closed		140
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Reports Issued		189
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