



Tribunals Service



SCOTTISH EXECUTIVE

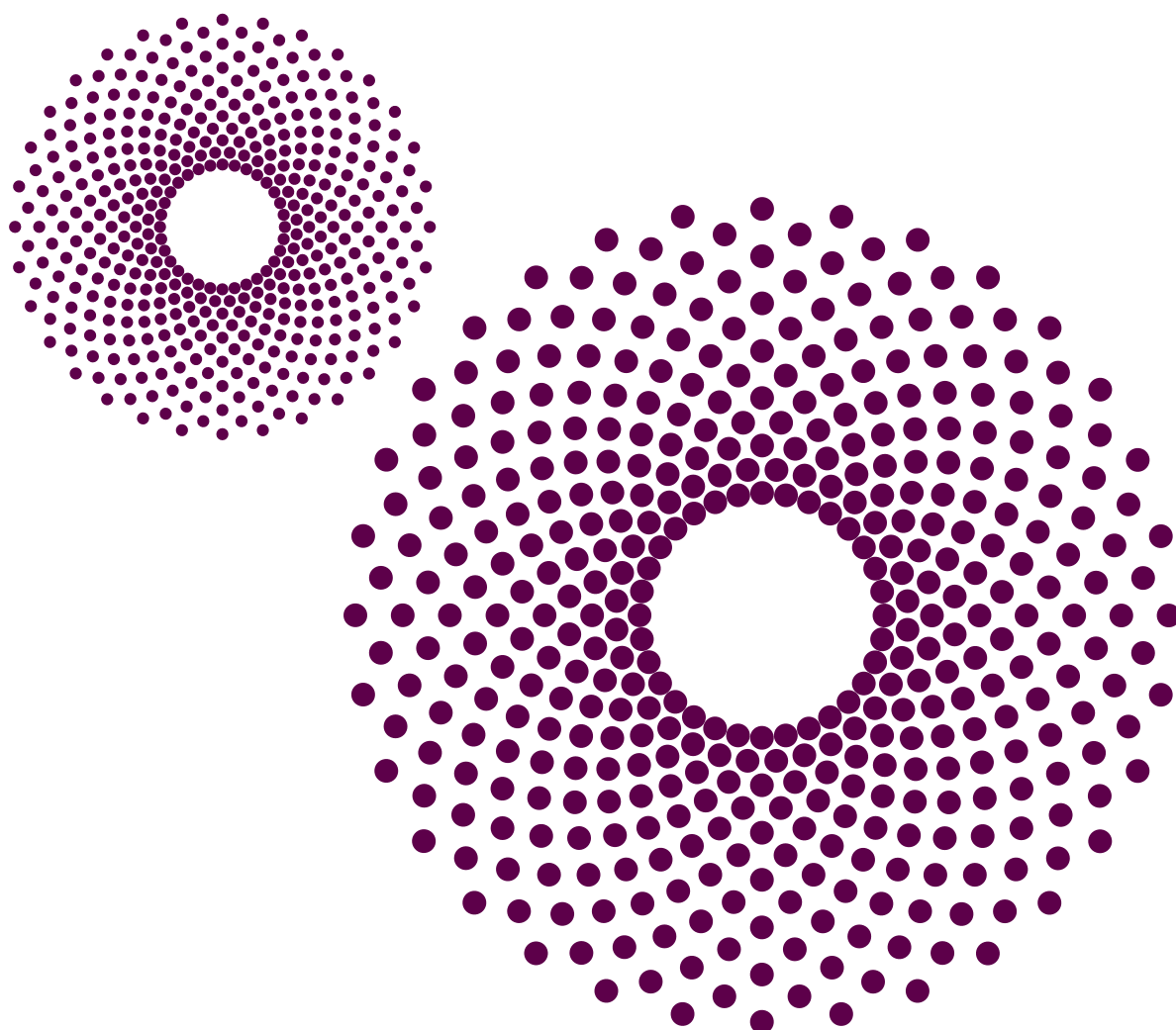
# The Commissioners' Office

## Annual Report 2006-2007

The Social Security Commissioners

The Child Support Commissioners

The Pension Appeals Commissioners



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## FOREWORD

### Foreword

I am pleased once again to have been invited to write this foreword to the Annual Report of the Commissioners' Office, the fourth of my term as Chief Commissioner.

This report contains some statistics upon which a more informed view can be taken with regard to, for example, how long cases take before the Commissioners and how much it costs to process them. These compare favourably with the court system and other tribunals. However, as I have stressed in previous reports, they do not give a complete picture.

First, those statistics seek to measure performance in exclusively quantitative terms. The Commissioners are a second-tier appeal tribunal, considering appeals from first-tier tribunals on questions of law only. The benefits system is complex, and gives rise to particularly difficult questions of interpretation of specific provisions of welfare law. In addition, outside those provisions, complex questions of domestic, European and human rights law are frequent. It is therefore vital that the Commissioners give clear, cogent and authoritative decisions in relation to the legal issues which come before them: and, in addition to dealing with individual appeals, it is an essential part of the Commissioners' role to give clarity and more general guidance in relation to areas of the law giving rise to widespread difficulties. The Commissioners' performance in qualitative terms is more difficult to measure than simple throughput of work: but academic comment and encouragement from the higher courts suggest that the Commissioners continue to play a vital role in ensuring the coherent development of benefits law.

Second, even looking at the statistics in merely quantitative terms, the indicators used by administration to measure the performance of the jurisdiction are narrow, focussing exclusively upon the time taken from the outset of an application or appeal to the Commissioners to its conclusion. This is an important criterion – parties are entitled to have matters decided with reasonable expedition – but a focus on this one aspect of the work alone can give a misleading picture of performance as a whole. In the year in review, although the cases dealt with by the Commissioners were completed with reasonable expedition, the data show a number of trends which evidence declining performance in real terms. Notably, the statistics in this report largely conceal a relentless increase in the number of cases in the Commissioners' Office – its "work-in-progress" – over the last two years, during which time the number of cases held within the Office has more than doubled. This trend is of considerable concern.

What has caused this decline, and what steps are being taken to address it?

### Overview of the Statistical Data

Historically, the number of cases referred to the Commissioners has been in direct correlation to the number of appeals dealt with by the tribunal below. Although since 2006 a few appeals have come to the Commissioners from the Pensions Appeal Tribunal, the vast majority of appeals to Commissioners continue to emanate from the Social Security & Child Support Appeal Tribunal (formerly, the Appeals Service Tribunals). Where the number of appeals to that tribunal increases, then the number of appeals to the Commissioners tends to increase in line – the proportion of inward appeals remaining relatively stable. Where this number of appeals increases, the Commissioners' work in progress could also be expected to increase.

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However, over the last couple of years the number of appeals to the tribunals below has not risen. It has been relatively static, with a slight fall overall. Neither has the proportion of onward appeals increased, remaining fairly constant (i.e. at about 2% for all benefits other than Disability Living Allowance, in respect of which the onward appeal rate is about 6%). Despite the historical correlation, these figures cannot explain the increase in Commissioners' work-in-progress.

This increase appears to be explained by the following factors.

(i) Over the last two years, the Commissioner's Office in London has suffered as the result of a reduction in staff numbers. Not only has the number of staff decreased but, crucially, there has been a loss of experience in the office due to longer standing members of staff moving to take on new challenges. The result has been at times extensive delays in the turn round of paperwork. Compared with a target of all paperwork being processed within 5 working days, there have been times when this has increased to 3-4 weeks. Given that much of the Commissioner's work is paper-based, the cumulative effect of these delays on individual cases has been very significant.

Following discussions between the Office and the judiciary, steps have now been put in place to ensure that the backlog is eliminated and the target maintained in future. This is a substantial long-term project, but the backlog has been reduced since April 2007 and it is hoped that the target for the processing of all paperwork will be met from January 2008.

(ii) The number of available judicial days has fallen dramatically over the last few years. Five Commissioners have retired without being replaced, there having been no appointments to the post since 2001. Two Commissioners have moved to part-time working, one since the period covered by this report. Another Commissioner has died. Other than the sad and unexpected death of Miss Commissioner Fellner, the loss of these judicial days had been anticipated for some considerable time – and from 2003 the Department for Constitutional Affairs (as it was) was put on notice in the annual request for competitions that further appointments by no later than 1 April 2007 were essential. Delays have resulted from the setting up of the Judicial Appointments Commission, and it is greatly disappointing that appointments are now unlikely before Autumn 2008. It is now hoped that the competition due to commence in September 2007 will result in the appointment of three full-time Commissioners by October 2008.

In the meantime, a greater burden of judicial casework has been imposed upon Commissioners and Deputies currently in post at a time when (because of the tribunal reform programme and other initiatives) there is an ever increasing load of administrative work for the Commissioners. An arrangement has been made with the Social Security & Child Support Appeal Tribunal, that enables chairmen who are also Deputy Commissioners to sit for lengthy periods in this jurisdiction to assist with the weight of work. I am very grateful indeed to the Acting President of the tribunal for this considerable assistance which has of course had the effect of drawing judicial resources' away from the tribunal's own work.

(iii) It has also been unfortunate that, during this challenging period for the Commissioners, I have been unable to devote the time to the post of Chief Commissioner that I would have liked to have

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done and the time that the post demands. In 2005, I was appointed full-time Designated Civil Judge in Wales, and since then I have been resident in Cardiff not only undertaking the heavy judicial work of that post but also being involved with the reorganisation of civil justice in Wales. Despite efforts through the appointment system, a successor has not been identified: and, although I have undertaken some of the Chief Commissioner's functions, this has meant that for all intents and purposes the jurisdiction has not had the benefit of a presiding judge for some time.

I am extremely grateful to all those Commissioners who have filled in for me whilst I have been in Wales. Many have done something and some have done a great deal, but none more than Mr Commissioner Rowland who has done an enormous amount of additional work particularly in respect of the tribunal reform programme. The Commissioners generally (but myself in particular) owe him a considerable debt.

I am pleased that arrangements have now been made for me to return to the post of Chief Commissioner full-time with effect from 1 January 2008, and I am looking forward to leading the jurisdiction into the new tribunals era referred to below .

(iv) Finally, over the last four years the profile of the Commissioners' work has changed. Case management – including a more robust approach to applications for leave to appeal – and an improvement in the quality of decisions below (itself resulting in part from intensive and productive training at that level) has resulted in appeals that are heard by the Commissioners being generally on average more complex than has been the case historically. The proportion of cases turning on relatively straightforward "facts and reasons" grounds, although still high, has reduced – with more cases turning on issues of more complexity. This is encouraging – but it has also resulted in the consideration of individual cases generally taking longer.

All of these factors have contributed to a month-on-month increase of work-in-progress over the last two years, a trend which has continued into the year 2007-8. As I have indicated, these matters are being addressed: and although a reversal of the trend will take some time, it is hoped that work-in-progress levels will be reduced to an acceptable level over the course of the next 12 months.

### The Tribunal Reform Programme

The year saw a reversal in fortunes for the tribunal reform programme. At the beginning of the period, it looked unlikely that Parliamentary time would be found for consideration of the Bill: but fortunately that pessimism proved unfounded. An opportunity was taken in early 2007 to introduce the Bill, and Royal Assent to the Tribunals, Courts and Enforcement Act 2007 was received in July 2007.

Under the Act, it is expected that the second-tier jurisdictions of the Commissioners, the reformed Tax Tribunals, the Lands Tribunal and the Transport Tribunal – together with appeals from first-tier tribunals that are currently challengeable only by way of judicial review and some first-tier jurisdictions – will be subsumed into a new Superior Court of Record called the Upper Tribunal. The Act is largely enabling, and an extensive consultation paper is expected to be published in October 2007: but it is currently hoped that the new tribunal will be operational by October 2008 or (at the latest) April 2009.

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Under the Senior President of Tribunals, the new tribunal will bring a new coherence to administrative law and procedure as applied by tribunals, and is greatly welcomed by the Commissioners who are fully committed to its success. The Act is a tribute to cooperation between the various stakeholders involved, including the tribunal judiciary who have had considerable input into the principles behind the statutory provisions. Labour-intensive as the work has been, the product is to be commended. It enjoys the overwhelming support of the Commissioners, and indeed the tribunals judiciary generally. I am confident that this will continue as the Act is implemented: and, with the other Commissioners, I am greatly looking forward to the challenges and opportunities that will arise in the new era.

### Development of the Law

As I indicate above, one of the main roles of the Commissioners is to develop a coherent corpus of benefits law. In my absence in Wales, the Commissioners have continued to produce decisions to this end, with both the quality and quantity of reported cases bearing witness to this.

However, since my appointment to Wales, there have been very few Tribunals of Commissioners called to deal with matters of special difficulty. There are considerable areas of benefits law (including those provisions relating to the armed forces) which, in my view, would benefit from clarification and guidance from a tribunal of Commissioners: and I intend to call tribunals to begin dealing with these from my return in January.

### Miss Commissioner Christine Fellner

Sadly, on 1 April 2007, Miss Commissioner Fellner died in post, after a lengthy illness. She served as an Appeals Service chairman from 1986 and a Deputy Commissioner from 1995, before being appointed a Commissioner in 1999.

It is only right that I take this opportunity to pay tribute to the service Christine Fellner gave as a tribunal judge. In addition to her legal expertise, she brought considerable experience and common sense to our jurisdiction. Christine is much missed, not only by the Commissioners, but all who work in and with our jurisdiction. Our commiserations and very warm wishes go to her family.

### Mr Commissioner Robert Angus

On 1 April 2007, Mr Commissioner Angus retired. He too served as an Appeals Service chairman from 1984 and was appointed a Commissioner in 1995.

Robert Angus's route to being a Commissioner was similar to that of Christine Fellner being through the tribunals below, although he was a Scottish solicitor before becoming a tribunal judge in England, living evidence of the flexibility that is the hallmark of the tribunals judiciary. As such he is blessed with the attributes of a good Scottish lawyer, and a fine dry particularly Scottish sense of humour that we will miss. We all wish him a lengthy and happy retirement in the Northumberland that he loves.

His Honour Judge Gary Hickinbottom  
Chief Social Security & Child Support Commissioner of Great Britain  
September 2007

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### Rhagarweiniad

Yr wyf yn falch unwaith eto o fod wedi cael fy ngwahodd i ysgrifennu'r rhagair hwn i Adroddiad Blynyddol Swyddfa'r Comisiynwyr, y pedwerydd yn ystod fy nhymor fel Prif Gomisiynydd.

Mae'r adroddiad hwn yn cynnwys rhai ystadegau ar gyfer llunio barn fwy gwybodus ynghylch, er enghraifft, pa mor hir y mae achosion yn ei gymryd o flaen y Comisiynwyr a faint y mae'n ei gostio i'w prosesu. Mae'r rhain yn cymharu'n ffafriol â system y llysoedd a thribiwnlysoedd eraill. Fodd bynnag, fel imi bwysleisio mewn adroddiadau blaenorol, nid ydynt yn rhoi darlun llawn.

Yn gyntaf, mae'r ystadegau hynny'n ceisio mesur perfformiad mewn termau meintiol yn unig. Tribiwnlys apêl ail gam yw'r Comisiynwyr, sy'n ystyried apeliadau o dribiwnlysoedd cam cyntaf ar sail cwestiynau cyfreithiol yn unig. Mae'r system fudd-daliadau yn gymhleth, ac yn codi cwestiynau arbennig o anodd ynghylch dehongli darpariaethau penodol y gyfraith les. Hefyd, y tu allan i'r darpariaethau hynny, cyfyd cwestiynau cymhleth yn ymwneud â chyfraith ddomestig, Ewropeaidd a hawliau dynol yn aml. Felly, mae'n hollbwysig bod y Comisiynwyr yn gwneud penderfyniadau clir, argyhoeddiadol ac awdurdodol ar y materion cyfreithiol sy'n dod ger eu bron; ac, yn ogystal â delio ag apeliadau unigol, mae'n rhan hanfodol o rôl y Comisiynwyr eu bod yn rhoi eglurder ac arweiniad mwy cyffredinol ar agweddau ar y gyfraith sy'n peri trafferthion eang. Mae perfformiad y Comisiynwyr mewn termau ansoddol yn anoddach i'w fesur na thrwy allbwn gwaith yn syml: ond mae sylwadau academiaidd ac anogaeth yr uwch lysoedd yn awgrymu bod y Comisiynwyr yn parhau i chwarae rôl hanfodol gyda sicrhau datblygiad cydlynol y gyfraith fudd-daliadau.

Yn ail, hyd yn oed o edrych ar yr ystadegau mewn termau meintiol yn unig, mae'r dangosyddion a ddefnyddir gan weinyddwyr i fesur perfformiad y Comisiynwyr yn gul, ac yn canolbwyntio'n llwyr ar yr amser y mae cais neu apêl i'r Comisiynwyr yn ei gymryd o'r dechrau i'r diwedd. Mae hwn yn faen prawf pwysig – mae gan bartion hawl i ddisgwyl bod materion yn cael eu penderfynu'n weddol ddiymdroi – ond gall canolbwyntio ar yr agwedd yma'n unig ar y gwaith roi darlun camarweiniol o'u perfformiad yn gyffredinol. Yn y flwyddyn a adolygir, er bod achosion gerbron y Comisiynwyr wedi cael eu cwblhau yn weddol ddiymdroi, dengys y data nifer o dueddiadau sy'n awgrymu bod eu perfformiad yn dirywio mewn termau gwirioneddol. Yn benodol, mae'r ystadegau yn yr adroddiad hwn yn cuddio llawer ar gynnydd di baid yn nifer yr achosion gan Swyddfa'r Comisiynwyr – 'gwaith ar ei hanner' – dros y ddwy flynedd diwethaf, ers pryd y dyblodd nifer yr achosion a ddelir gan y Swyddfa. Mae'r duedd hon yn peri cryn bryder.

Beth sydd wedi achosi'r dirywiad hwn, a pha gamau sy'n cael eu cymryd i fynd i'r afael â fo?

### Trosolwg ar y Data Ystadegol

Yn hanesyddol, mae nifer yr achosion a gyfeiriwyd at y Comisiynwyr wedi cyfateb yn uniongyrchol i nifer yr apeliadau o flaen y tribiwnlys isod. Er ers 2006 y daeth rhai apeliadau gerbron y Comisiynwyr o'r Tribiwnlys Apeliadau Pensiynau, daw'r mwyafrif llethol o apeliadau o hyd o'r Tribiwnlys Apeliadau Nawdd Cymdeithasol a Chynnal Plant (Tribiwnlysoedd y Gwasanaeth Apeliadau o'r blaen). Lle mae nifer yr apeliadau i'r tribiwnlys hwnnw'n cynyddu, mae nifer yr apeliadau i'r Comisiynwyr hefyd yn tueddu i gynyddu – gyda chyfran yr apeliadau sy'n dod i mewn i'r swyddfa yn aros yn gymharol gyson.

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Lle mae'r apeliadau hyn yn cynyddu, gellid disgwyl i waith ar ei hanner y Comisiynwyr hefyd gynyddu.

Fodd bynnag, dros y ddwy flynedd diwethaf, nid yw nifer yr apeliadau i'r tribiwnlysoedd wedi cynyddu. Maent wedi aros yn weddol gyson, ac wedi lleihau fymryn. Ychwaith, nid yw cyfran yr apeliadau a anfonir ymlaen wedi cynyddu, gan aros yn weddol gyson (h.y. tua 2% ar gyfer yr holl fudd-daliadau ar wahân i Lwfans Byw i'r Anabl, lle mae'r gyfradd apeliadau a anfonir ymlaen tua 6%. Er gwaetha'r cysylltiad hanesyddol, ni all y ffigurau hyn egluro'r cynnydd yn y gwaith ar ei hanner sydd gan y Comisiynwyr.

Ymddengys y gallai'r ffactorau canlynol egluro'r cynnydd.

(i) Dros y ddwy flynedd diwethaf, mae Swyddfa'r Comisiynydd yn Llundain wedi dioddef o ganlyniad i leihad yn nifer y staff. Nid yn unig y mae llai o staff ond, yn greiddiol, mae profiad wedi cael ei golli o'r swyddfa wrth i staff a fu yno ers tro symud ymlaen i borfeydd newydd. O ganlyniad, cafwyd oedi sylweddol iawn weithiau gyda'r gwaith papur. O'i gymharu â tharged o brosesu'r holl waith papur o fewn 5 diwrnod gwaith, cafwyd adegau pan aeth hyn yn 3-4 wythnos. Ac ystyried bod llawer o waith y Comisiynydd yn waith papur, mae effaith yr oedi hwn ar achosion unigol wedi bod yn bur sylweddol.

Yn dilyn trafodaethau rhwng y Swyddfa a'r farnwriaeth, mae mesurau bellach wedi eu cymryd i sicrhau bod yr ôl-waith hwn yn cael ei glirio a'r targed yn cael ei gwrdd yn y dyfodol. Mae hwn yn brosiect mawr hirdymor, ond mae'r ôl-waith wedi lleihau ers Ebrill 2007 a'r gobaith yw y bydd y targed ar gyfer prosesu'r holl waith papur yn cael ei gwrdd o fis Ionawr 2008 ymlaen.

(ii) Mae nifer y diwrnodau barnwrol sydd ar gael wedi lleihau'n ddramatig yn y blynyddoedd diwethaf. Mae pum Comisiynydd wedi ymddeol ac ni ddaeth neb yn eu lle, gyda neb wedi'i benodi i'r swydd ers 2001. Mae dau Gomisiynydd wedi dechrau gweithio'n rhan amser, un ers y cyfnod y soniwn amdano yn yr adroddiad hwn. Mae Comisiynydd arall wedi marw. Ar wahân i farwolaeth drist ac annisgwyl Miss Comisiynydd Fellner, mae colli'r diwrnodau barnwrol hyn wedi'i ddisgwyl ers tro byd – ac ers 2003 rhybuddiwyd yr Adran Materion Cyfansoddiadol (fel yr oedd bryd hynny) yn y cais blynyddol am gystadlaethau bod penodiadau pellach erbyn 1 Ebrill 2007 fan bellaf yn hanfodol. Mae oedi wedi digwydd yn sgîl sefydlu'r Comisiwn Penodiadau Barnwrol, ac mae'n siom enfawr na ddisgwylir penodiadau bellach cyn tymor yr Hydref 2008. Y gobaith yn awr yw y bydd y gystadleuaeth sydd i ddechrau ym Medi 2007 yn arwain at benodi tri Chomisiynydd llawn amser erbyn Hydref 2008.

Yn y cyfamser, rhoddwyd baich trymach o waith achos barnwrol ar Gomisiynwyr a Dirprwyon ar adeg (oherwydd rhaglen diwygio'r tribiwnlysoedd a mentrau eraill) pryd y mae llwyth cynyddol o waith gweinyddol gan y Comisiynwyr. Gwnaed trefniant â'r Tribiwnlys Apeliadau Nawdd Cymdeithasol a Chynnal Plant, sy'n galluogi cadeiryddion sydd hefyd yn Ddirprwy Gomisiynwyr i eistedd am gyfnodau maith yn y cyswllt hwn i helpu gyda'r gwaith. Yr wyf yn ddiolchgar dros ben i Lywydd Dros Dro'r tribiwnlys am y cymorth mawr hwn sydd, wrth gwrs, wedi tynnu adnoddau barnwrol oddi ar waith y tribiwnlys ei hun.

(iii) Mae hefyd wedi bod yn anffodus, yn ystod y cyfnod anodd hwn i'r Comisiynwyr, nad wyf wedi gallu rhoi'r amser i fy swydd fel Prif Gomisiynydd y byddwn yn hoffi bod wedi'i roi, a'r amser sy'n



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angenrheidiol ar gyfer y swydd honno. Yn 2005, cefais fy mhenodi'n Farnwr Sifil Dynodedig llawn amser yng Nghymru ac, ers hynny, rwyf wedi bod yn byw yng Nghaerdydd nid yn unig yn cyflawni gwaith barnwrol trwm y swydd honno ond hefyd yn cyfrannu at ad-drefnu cyfiawnder sifil yng Nghymru. Er gwaetha'r ymdrechion drwy'r system benodi, ni ddaethpwyd o hyd i olynydd, ac, er fy mod wedi cyflawni rhai o fy swyddogaethau fel Prif Gomisiynydd, mae hyn wedi golygu i bob pwrpas nad yw'r awdurdodaeth wedi cael barnwr llywyddol ers tro.

Yr wyf yn hynod ddiolchgar i'r holl Gomisiynwyr hynny sydd wedi dirprwyo drosaf tra'r wyf wedi bod yng Nghymru. Mae llawer wedi gwneud rhywbeth a rhai wedi gwneud llawer iawn, ond neb mwy na Mr Gomisiynydd Rowland sydd wedi gwneud llwyth o waith ychwanegol, yn enwedig ar y rhaglen diwygio'r tribiwnlysoedd. Mae dyled y Comisiynwyr yn gyffredinol (ond myfi fy hun yn enwedig) yn drwm iawn iddo.

Yr wyf yn falch bod trefniadau yn awr wedi cael eu gwneud imi ddychwelyd at fy swydd fel Prif Gomisiynydd yn llawn amser o'r 1 Ionawr 2008 ymlaen, ac edrychaf ymlaen at arwain yr awdurdodaeth i'r oes dribiwnlysoedd newydd y sonnir amdani isod.

(iv) Yn olaf, dros y pedair blynedd diwethaf mae proffil gwaith y Comisiynwyr wedi newid. Mae rheolaeth achosion – gan gynnwys dull mwy cadarn o ddelio â cheisiadau am yr hawl i apelio – a phenderfyniadau o ansawdd gwell fel a nodir isod (sydd ynddo'i hun yn ddyledus i hyfforddiant dwys a chynhyrchiol ar y lefel honno) wedi golygu bod yr apeliadau sy'n cael eu gwrandio gan y Comisiynwyr, ar y cyfan, yn fwy cymhleth nag oeddent yn hanesyddol. Mae cyfran yr achosion sy'n seiliedig ar 'ffeithiau a rhesymol' cymharol syml, er yn parhau i fod yn uchel, wedi lleihau – gyda mwy o achosion yn seiliedig ar faterion mwy cymhleth. Mae hyn yn galonogol – ond mae hefyd yn golygu bod achosion unigol yn cymryd mwy o amser i gael eu hystyried.

Mae'r ffactorau hyn oll wedi cyfrannu at gynydd, o un mis i'r llall, yn y gwaith sydd ar ei hanner dros y ddwy flynedd diwethaf, tuedd sydd wedi parhau yn 2007-8. Fel y soniais, mae sylw'n cael ei roi i'r materion hyn: ac er y bydd gwrth droi'r duedd hon yn cymryd amser, y gobaith yw y bydd y gwaith ar ei hanner yn cael ei leihau i lefel dderbyniol dros y 12 mis nesaf.

### Rhaglen Diwygio'r Tribiwnlysoedd

Gwelodd y flwyddyn dro ar fyd i raglen diwygio'r tribiwnlysoedd. Ar ddechrau'r cyfnod, edrychai'n annhebygol y byddai digon o amser Seneddol i ystyried y Mesur: ond yn ffodus, nid oedd sail i'r besmistiaeth hon. Achubwyd ar gyfle yn fuan yn 2008 i gyflwyno'r Mesur, a derbyniwyd y Cydsyniad Brenhinol ar gyfer Deddf Tribiwnlysoedd, Llysoedd a Gorfodi 2007 yng Ngorffennaf 2007.

O dan y Ddeddf, disgwylir i awdurdodaethau ail gam y Comisiynwyr, y Tribiwnlysoedd Treth, y Tribiwnlysoedd Tir a'r Tribiwnlysoedd Trafnidiaeth diwygiedig – ynghyd ag apeliadau o dribiwnlysoedd cam cyntaf y gellir ar hyn o bryd ond eu herio drwy adolygiad barnwrol a chan rai awdurdodaethau cam cyntaf – gael eu cyfuno o fewn Uwch Lys Cofnodi newydd o'r enw'r Uwch Dribiwnlys. Galluogi y mae'r Ddeddf yn ei wneud yn bennaf, a disgwylir y cyhoeddir papur ymgynghori cynhwysfawr ym mis Hydref 2007: ond y gobaith ar hyn o bryd yw y bydd y tribiwnlys newydd yn weithredol erbyn mis Hydref 2008 neu Ebrill 2009 (fan bellaf).

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O dan yr Uwch Lywydd Tribiwnlysoedd, bydd y tribiwnlys newydd yn cydlyn o'r newydd y gyfraith a'r gweithdrefnau gweinyddol a ddefnyddir gan dribiwnlysoedd, ac mae'r Comisiynwyr yn croesawu hyn yn fawr iawn ac yn gwbl ymrwymedig i'w lwyddiant. Mae'r Ddeddf yn deyrnged i'r cydweithrediad rhwng y gwahanol randdeiliaid, gan gynnwys barnwriaeth y tribiwnlysoedd sydd wedi cyfrannu mewnbwn sylweddol i'r egwyddorion y tu ôl i'r darpariaethau statudol. Er i'r gwaith fod yn llafurus, mae'r cynnyrch ar ei ddiwedd i'w ganmol. Mae'n mwynhau cefnogaeth lwyr y Comisiynwyr, ac yn wir barnwriaeth y tribiwnlysoedd yn gyffredinol. Yr wyf yn ffyddiog y bydd hyn yn parhau unwaith y daw'r Ddeddf i rym: a, gyda'r Comisiynwyr eraill, edrychaf ymlaen yn fawr iawn at sialensiau a chyfleoedd y cyfnod newydd hwn.

### Datblygiad y Gyfraith

Fel y dywedais uchod, un o brif rolau'r Comisiynwyr yw datblygu corff cydlynol o gyfraith fudd-daliadau. Yn fy absenoldeb yng Nghymru, mae'r Comisiynwyr wedi parhau i wneud penderfyniadau i'r perwyl hwn, ac mae ansawdd a nifer yr achosion yn dystiolaeth o hynny.

Fodd bynnag, ers fy mhenodi i Gymru, ychydig iawn o Dribiwnlysoedd Comisiynwyr sydd wedi cael eu galw i ddelio â materion arbennig o anodd. Yn fy marn i, byddai sawl maes o'r gyfraith fudd-daliadau (gan gynnwys y darpariaethau ar gyfer y lluoedd arfog) yn elwa o eglurder ac arweiniad gan dribiwnlys Comisiynwyr: a bwriadaf alw ar dribiwnlysoedd i ddechrau delio â'r rhain ar ôl imi ddychwelyd ym mis Ionawr.

### Miss Comisiynydd Christine Fellner

Yn drist, ar 1 Ebrill 2007, bu farw Miss Comisiynydd Fellner yn ei swydd ar ôl salwch hir. Bu'n gwasanaethu fel un o gadeiryddion y Gwasanaeth Apeliadau ers 1986 ac fel Dirprwy Gomisiynydd ers 1995, cyn cael ei phenodi'n Gomisiynydd ym 1999.

Nid yw ond yn iawn fy mod yn achub ar y cyfle hwn i dalu teyrnged i'r gwasanaeth a roddodd Christine Fellner fel barnwr tribiwnlys. Yn ogystal â'i harbenigedd cyfreithiol, daeth â chryn brofiad a synnwyr cyffredin i'n hawdurdodaeth. Mae'n chwith iawn ar ôl Christine, nid yn unig gan y Comisiynwyr, ond gan bawb sy'n gweithio yn a chyda'n hawdurdodaeth. Anfonwn ein cydymdeimlad a'n dymuniadau gorau oll i'w theulu.

### Mr Comisiynydd Robert Angus

Ar 1 Ebrill 2007, bu Mr Comisiynydd Angus ymddeol. Yr oedd yntau hefyd wedi gwasanaethu fel un o gadeiryddion y Gwasanaeth Apeliadau ers 1984 cyn cael ei benodi'n Gomisiynydd ym 1995.

Roedd taith Robert Angus i fod yn Gomisiynydd yn debyg i un Christine Fellner sef drwy'r tribiwnlysoedd isod, er ei fod yn dwrne yn yr Alban cyn dod yn farnwr tribiwnlys yn Lloegr, ac yn dystiolaeth fyw o'r hyblygrwydd sy'n nodweddiadol o farnwriaeth y tribiwnlysoedd. O'r herwydd, mae wedi'i fendithio â nodweddion twrne Albanaidd da, a synnwyr digrifwch sych nodweddiadol Albanaidd y byddwn i gyd yn ei golli. Dymunwn ymddeoliad hir a hapus iddo yn ei hoff fro yn Northumberland.

Ei Anrhydedd y Barnwr Gary Hickinbottom  
Prif Gomisiynydd Nawdd Cymdeithasol a Chynnal Plant Pryda  
Medi 2007

## INTRODUCTION

### Introduction

This is the fifth Annual Report of The Commissioners' Office (formerly known as The Office of Social Security and Child Support Commissioners) for the period April 2006 to March 2007 and is written jointly by the Tribunal Secretaries in London and Edinburgh. Within this report you will find an analysis of our performance over the past twelve months profiled against the offices' yearly targets.

By way of introduction it may be helpful at the outset to explain how the jurisdiction operates judicially and administratively, as well as give an overview of the different types of cases that the Commissioners have jurisdiction to deal with. The Commissioners have two offices where appeals can be registered and processed, in London and Edinburgh. The London office is managed under the Tribunals Service, part of the newly formed Ministry of Justice; the Edinburgh office is managed by the Justice Department of the Scottish Government. This report covers both offices, the London office being dealt with in Part I and the Edinburgh office in Part II.

The Social Security and Child Support Commissioners are specialist judges appointed by Her Majesty the Queen to hear appeals from decisions of Social Security and Child Support Appeal Tribunals. These decisions relate to entitlement to social security benefits (including housing benefit and council tax benefit), tax credits, the recovery of benefits from compensators, and the assessment of child support maintenance payments. Additionally Commissioners now hear appeals relating to Pensions Appeal Tribunals decisions in War Pensions Scheme cases (except assessment decisions) and Armed Forces Compensation Scheme cases.

An appeal to a Commissioner may only be made on a point of law, and then only with leave (permission) from either a tribunal chairman or a Commissioner himself. The jurisdiction covers the whole of Great Britain, there being a parallel but separate jurisdiction in Northern Ireland. An appeal from the Great Britain Commissioners (again only on points of law and with permission) is to the Court of Appeal in England & Wales, or the Court of Session in Scotland, and from these courts to the House of Lords.

There are 15 salaried British Commissioners, including the Chief Commissioner. The Commissioners have diverse legal backgrounds being drawn from practising Queen's Counsel, senior advocates, barristers and solicitors, academic lawyers and former Social Security and Child Support Appeal Tribunal chairmen. In addition to the Commissioners, 14 part-time Deputy Commissioners sat in the year 2006-2007, generally for 3-4 weeks.

As well as their work in this jurisdiction, some Commissioners continue to sit on other tribunals (the Asylum & Immigration Tribunal, the Care Standards Tribunal, the VAT & Duties Tribunal, or as a Deputy Special Tax Commissioner) or in the court system.

The Commissioners are assisted by Legal Officers – barristers and solicitors highly experienced in benefits law and procedure – who exercise some judicial case management powers and assist the Commissioners with their caseload and management e.g. in research, training and reporting of cases.

## INTRODUCTION

There are hearing rooms in both London and Edinburgh, but the Commissioners can and do hear appeals at other venues across Great Britain – Cardiff, Bury and Doncaster are all regular hearing venues. So far as cases emanating from Wales are concerned, although these are registered in London, a hearing may be conducted in Wales (and in the medium of the Welsh language) if a party requests. Additionally, the London Office has the benefit of video-conference facilities, which are used, for hearings with each party being linked through facilities convenient for them.

The tribunal has continued to develop its website, which has become increasingly important means of communication with those who appear before the Commissioners, particularly in respect of informing them of recent Commissioners' decisions. In addition to the Great Britain website, there is a separate website maintained by the Edinburgh Office on which decisions of notable Scottish interest are posted.

The year has brought many challenges to both the office and judiciary and we hope that this report will give an accurate picture of this. We would also like to give thanks to Clare Zubler, who became the newly appointed Tribunal Secretary for the London office during the year and has since moved to a new post within the department. Clare has worked within the Commissioners' Office for a number of years, working in many different capacities. We would like to pass on thanks to her for the hard work and commitment she has given the tribunal in that time and give her our best wishes for the future. We think it would be only right for us to also thank the efforts of the administrative staff who offer an invaluable service to the Commissioners and our customers. Their work and continued support during last year is very much valued.

Jane White  
TCO Secretary (London)

Susan M. Niven  
TCO Secretary (Edinburgh)

## ENGLAND AND WALES

### The Commissioners' Office London – Standards of Service

We aim to achieve as high a level of service as possible. This means ensuring that we reach the standards and expectations set out in the Tribunals Service Business Plan.

These standards are as follows:

- Register applications and appeals within 5 working days of receiving them.
- Reply to correspondence within 5 working days of receipt.
- Issue Commissioner's decisions within 5 working days of receipt from the Commissioner.
- Telephone to be answered weekdays between 9am and 5pm.
- Telephone to be answered within 5 rings.

In addition to the above a customer can expect:

- All details and information to be dealt with in confidence.
- To be given the name of any member of staff who communicates with them.
- To be called back by a member of staff if necessary.
- To receive assistance with travelling expenses to and from hearings.
- Oral hearings to be arranged at a convenient location wherever possible, either face to face or by video conference and, where the case emanates from Wales, for the hearing to be conducted in Wales and in the medium of Welsh at the claimant's option.

## ENGLAND AND WALES

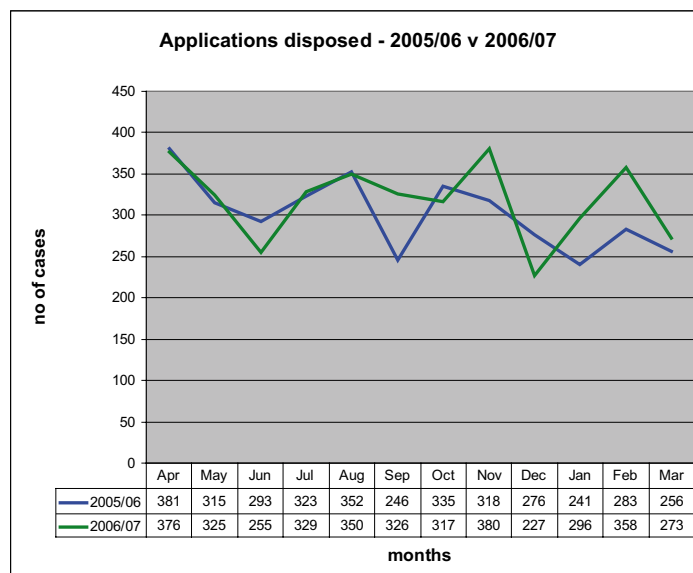
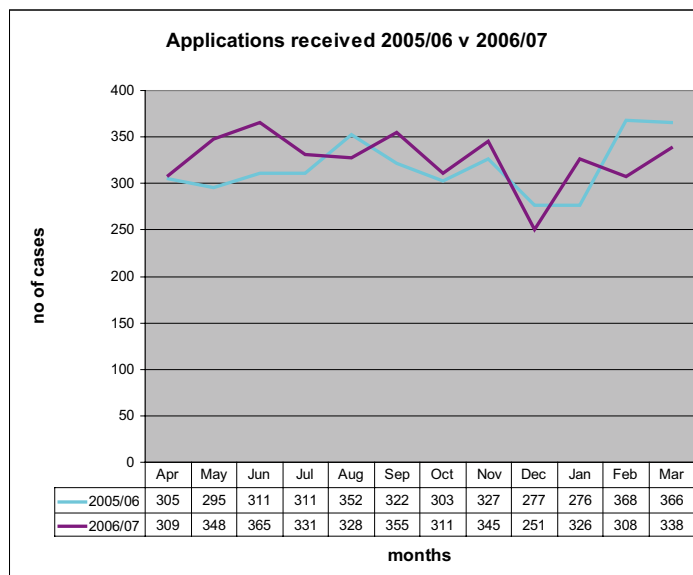
## Workload and Performance

As demonstrated in the tables below, the workload of the London Office showed an increase in receipts for the year 2006-2007, by a total of 423. The office disposed of 5689 cases during the year compared to 5573 in the year 2005-2006. Total outstanding cases stood at 1699 at the end of March 2007.

## Receipts and Disposals

## Applications

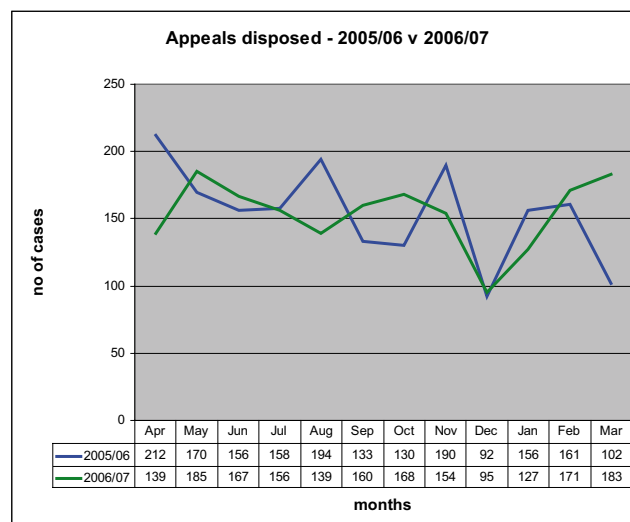
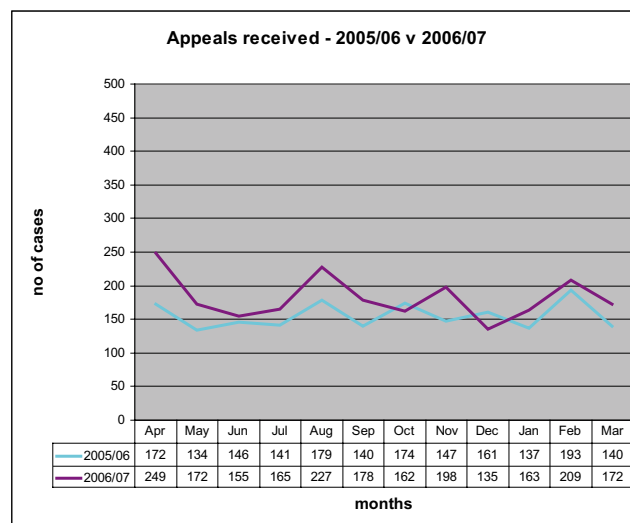
3915 applications were received between April 2006 and March 2007, compared with 3813 the previous year. The number of applications disposed of also rose over the same period, from 3619 to 3812.



## ENGLAND AND WALES

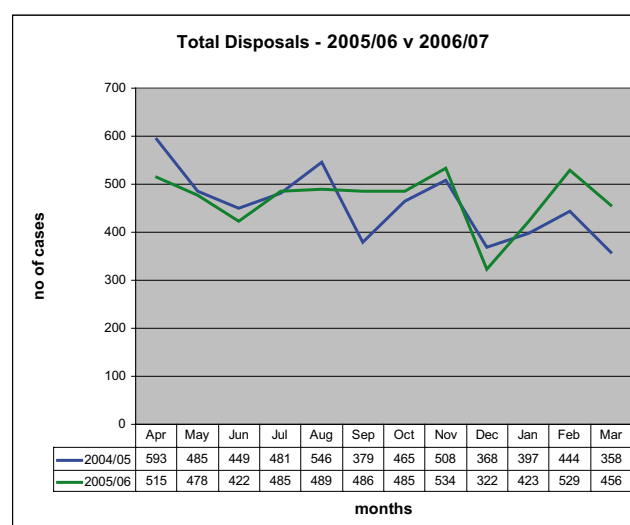
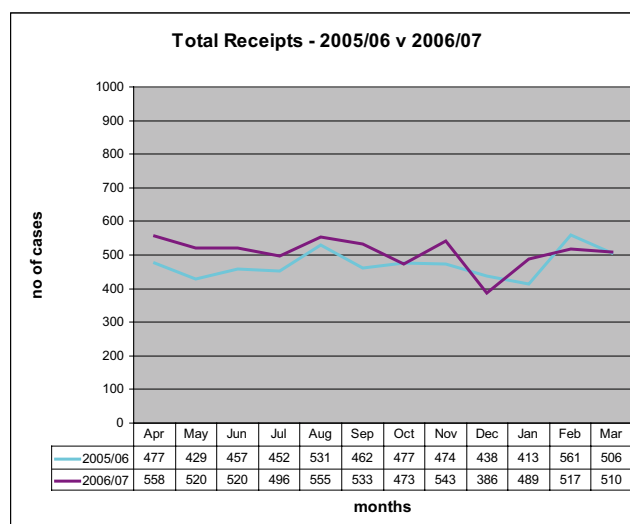
## Appeals

Receipts of appeals increased from 1864 to 2185 in the period April 2006 and March 2007, while appeals disposed decreased from 1854 to 1844 in the same period.



## ENGLAND AND WALES

### Totals





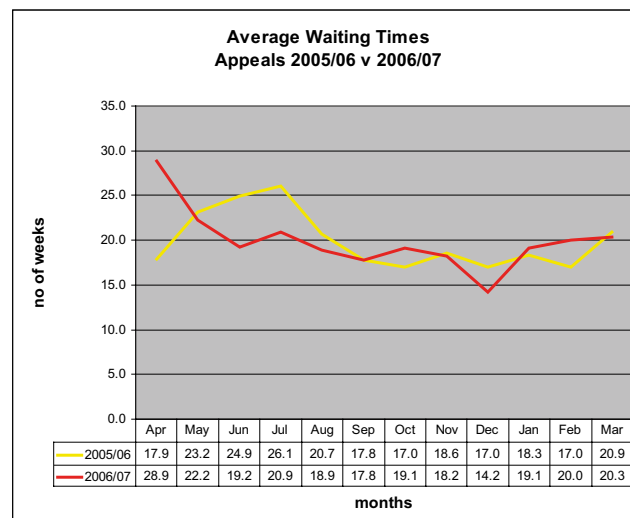
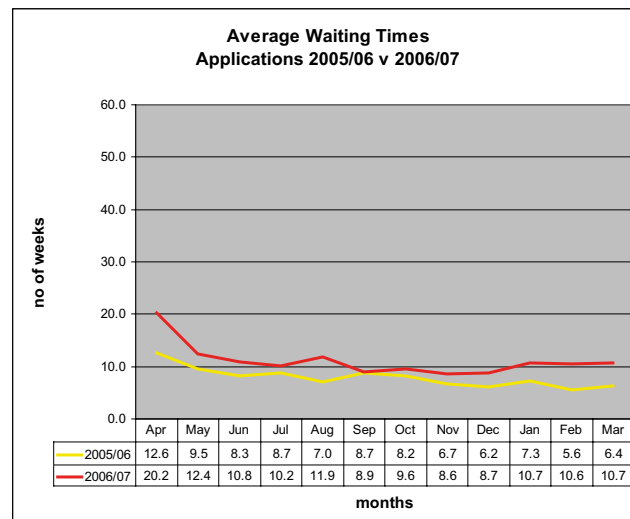
## ENGLAND AND WALES

## Average Waiting Times

During the year 2006-2007 the average waiting time from application to ruling was 11.1 weeks compared with an average of 7.9 weeks in the previous year.

The increase was due to unforeseen issues surrounding judicial and staff availability and steps are in place to rectify this in the coming year.

The average waiting time for appeal to final decision was 20 weeks, which was the same as last year's average and in line with our 20 week target.

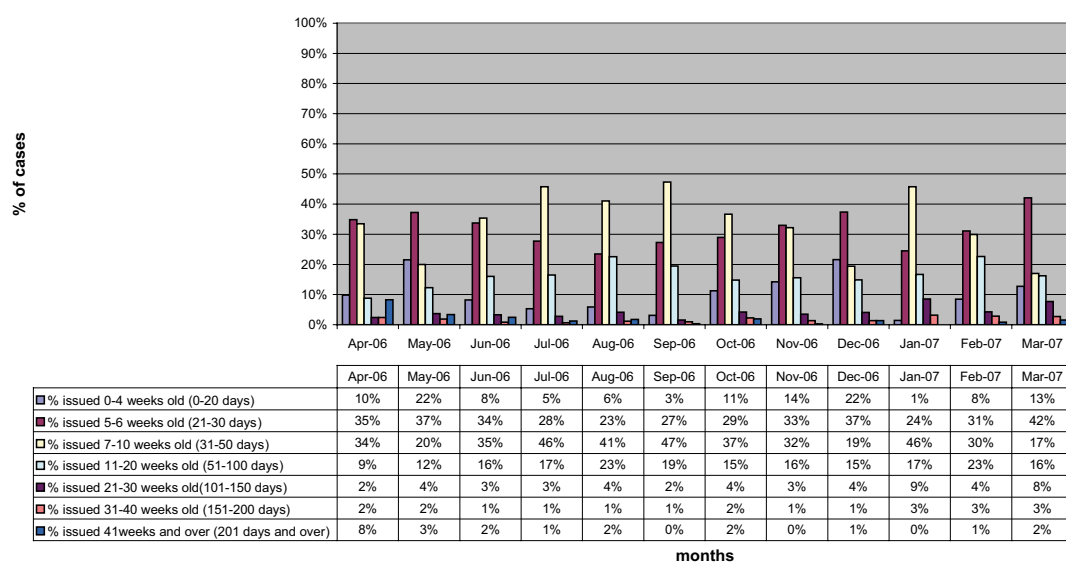


## ENGLAND AND WALES

## Disposal of Cases- Application to Ruling

The average percentage of cases dealt with within 10 weeks over the year stood at 75.6% against a target of 80%. The reason we have not met this target is set out in the explanation above.

**Application to Ruling**  
**cases issued from 1 April 2006 to 31 March 2007 - breakdown by age**  
 Cases sorted by no of weeks to decision and categorised as % of total cases decided



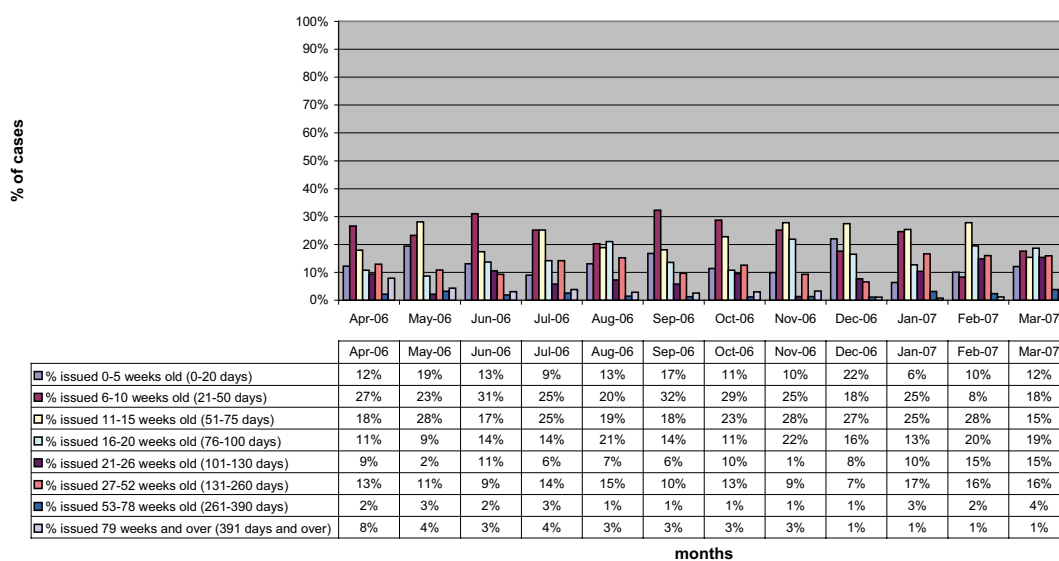
## ENGLAND AND WALES

## Disposal of Cases – Leave granted/new appeal to decision

The average percentage of all cases dealt with within 20 weeks was 74.2% against a target of 70%.

**Leave Granted/New Appeals to Decision**  
**cases issued from 1 April 2006 to 31 March 2007 - breakdown by age**

Cases sorted by no of weeks to decision and categorised as % of total cases decided



## ENGLAND AND WALES

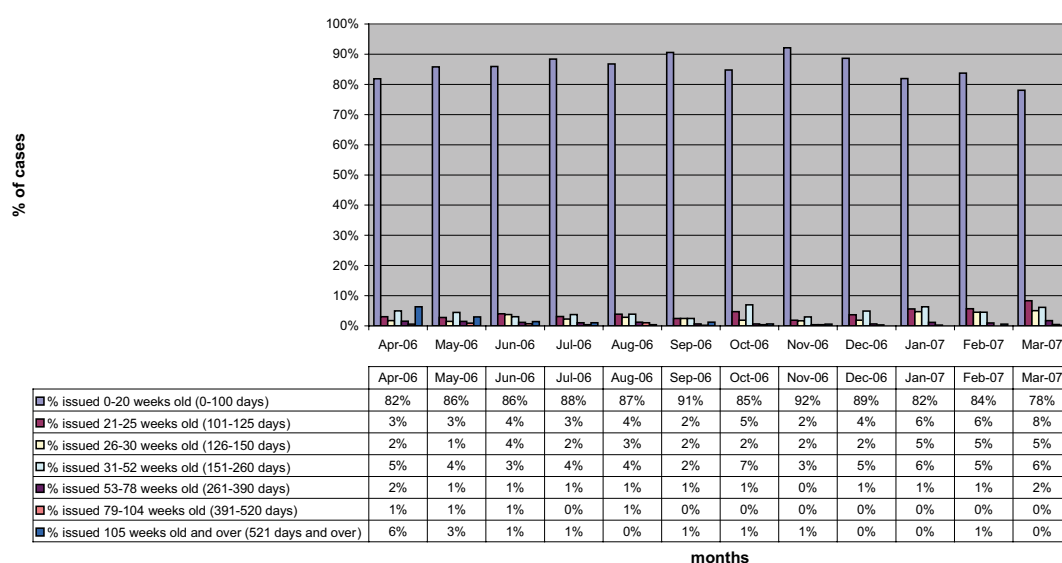
## Disposal of Cases- Receipt to Disposal (End-to-end)

The average percentage of all cases dealt with within 30 weeks was 92.9% against a target of 85%.

Since May 2006 the percentage achieved has consistently been at 90% or above each month

**Total of All Cases Disposed Of**  
**cases issued from 1 April 2006 to 31 March 2007 - breakdown by age**

Cases sorted by no of weeks to decision and categorised as % of total cases decided



## Work Targets for 2007/2008

## Key Performance Indicator

- 75% of all cases to be disposed of within 30 weeks.

## Supporting Indicators

- 75% of applications to be disposed of within 10 weeks.
- 75% of appeals to be disposed of within 20 weeks.

Note: The Key Performance Indicator has been altered to bring into line with a standardisation of Key Performance Indicators across the Tribunal Service.

## ENGLAND AND WALES

## Financial Performance

The 2006-2007 financial allocation provided to The Commissioners' Office was £4,054,640 to cover its business for the year. There was an underspend of 2% for the year due to efficiency savings that were applied across the Tribunal Service.

Budget Head	Budget £'s	Expenditure £'s	Variance £'s	Variance %
Salaries*	1,062,439	1,047,738	14,701	1%
Administrative Costs**	143,963	137,589	6,374	4%
Programme Costs***	2,848,238	2,770,769	77,469	3%
Total	4,054,640	3,956,096	98,544	2%

\* Includes permanent and casual staff salaries, staff travel and subsistence, miscellaneous allowances and overtime.

\*\* Includes utility, telephone, IT services and agency staff.

\*\*\* Includes Commissioners' salaries, travel and subsistence, stationery and training, Deputy Commissioners' fees and appellants' expenses.

## ENGLAND AND WALES

### Achievements

- Implementation of a staff rotation plan and cross training on job skills across the tribunal.
- Learning and Development Day for all staff.
- Creation of a new Diary Managers post to manage the use of hearing rooms. The objective being to increase hearing room utilisation and improve availability of facilities.
- Improvements to hearing facilities at Harp House in response to customer feedback. This includes the availability of a consultation room for parties on the day of the hearing and redecoration of the waiting area and hearing room.
- IT Refit of all judicial and staff workstations, including introduction of PC into the hearing room for use of the Commissioner during the hearing.

### Objectives for 2007-2008

- Planned introduction of new management team.
- Undertake review of all Standards and Processes with a view to enhancing case management.
- Achieve reaccreditation of Charter Mark award along with the other Procession House Tribunals.

## SCOTLAND

## The Commissioners' Office in Scotland

### Objectives

The intention of the office is to provide as high a quality of service as possible to both the Commissioners and the users of The Commissioners' Office in Scotland.

To help us achieve this intention we have the following objectives, subject to the levels of work, staffing, annual and sick leave.

- Register applications and appeals within 5 working days of receiving them.
- Issue Commissioners' decisions within 5 working days of receipt from the Commissioners.
- Reply to correspondence within 10 working days of receipt.
- Telephone to be answered Monday to Friday between 9am – 4pm
- 

We will also:

- Provide the name of any member of staff who communicates with you.
- Arrange for a member of staff to call you back if necessary.
- Provide assistance, to all those entitled to claim, with travelling expenses incurred in attending an oral hearing.

### Waiting times

	2004 – 05*	2005 – 06*	2006 – 07*
Applications**	3.9	4.5	3.4
Appeals***	14.5	17.2	12.5

\* Average waiting times shown in weeks

\*\* From receipt of application to disposal of the application, either being refused or granted

\*\*\* From grant of the application or from receipt of an appeal

Waiting times for both applications and appeals have improved this year. It should be noted in this context that there has been a decrease in the numbers and the absence of blocks of cases, such as Gillies, awaiting a decision in a leading case before the Court or the Commissioner. Prompt lodging of submissions and responses from the various Departments, the Representatives and claimants has meant that this office has been able to deal expeditiously with our case load. This contribution by parties appearing before the Commissioners is acknowledged and appreciated.

10 weeks continues to be regarded by this office as being the acceptable parameter for processing of applications and 20 weeks for appeals.

## SCOTLAND

### Moving

In early July 2006, after nearly 58 years, The Commissioners' Office in Scotland moved from Melville Street into a new Court and tribunal centre in central Edinburgh along with five other organisations. The move went smoothly, allowing the Office to be up and running within a day of the actual move date.

### The Unified User Group for Scotland

A joint user group with the Tribunal Service and the Pensions Appeal Tribunal was held in Glasgow in February. Disappointingly, attendance by representatives and other organisations was lower than could have been expected. However, several issues were raised at the meeting and for those attending these proved useful. The frequency of the user group meetings was also discussed and as a result a further user group meeting will take place later this year in Dundee.

### Visitors

The Advocate General for Scotland visited the Commissioners at their new offices in George House.



## SCOTLAND

## Workload and performance

The workload of The Commissioners' Office in Scotland fell at the beginning of the 2006/07 financial year; particularly the number of applications received. This trend continued for the rest of the year, with the exception of January 2007, when a total of 73 applications were lodged. The grants of leave were also down. The number of appeals received remained relatively steady throughout the year, though still down on previous figures. The total outstanding caseload stood at 68 cases at the end of March 2007.

In addition, to the above caseload the Commissioners' and Deputy Commissioners' in Scotland disposed of 90 appeals forwarded by The Commissioners' Offices in London and Northern Ireland.

The Commissioners have also sat outwith Scotland in England and Northern Ireland.

## Receipts and Disposals

### Applications

The number of applications received during April 2006 and March 2007 fell from 808 to 625. The number of applications disposed of also decreased from 806 to 640.

Applications received – 2005/06 V 2006/07

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	66	61	83	71	46	56	63	56	76	68	78	84
2006/07	51	54	52	53	53	49	54	55	48	73	39	44

Applications disposed – 2005/06 V 2006/07

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	71	56	80	81	54	40	61	64	48	90	69	92
2006/07	61	51	51	59	48	48	50	53	50	77	43	49

## SCOTLAND

## Appeals

As with the applications; both the number of appeals received and disposed of in 2006/07 fell in comparison to the previous year. The number of receipts fell from 424 to 357, while the disposals reduced from 449 to 393.

Appeals received – 2005/06 V 2006/07

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	40	25	43	49	32	24	31	29	29	34	50	38
2006/07	29	25	26	32	28	33	29	28	27	42	26	32

Appeals disposed – 2005/06 V 2006/07

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	41	36	33	36	40	31	44	31	18	40	44	55
2006/07	31	25	34	36	35	20	37	25	47	32	28	43

## SCOTLAND

## Average Waiting Times

## Applications

The average waiting times for applications fell this year from 4.5 weeks in 2005/06 to 3.4 weeks in 2006/07.

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	2.2	3.3	3.1	3.9	2.8	2.4	2.9	3.6	2.1	3.6	15.1	9.5
2006/07	3.2	2.9	3.3	3.4	3.7	3.7	3.1	3.3	3.3	4.3	2.6	3.4

## Average Waiting Times

## Appeals

The average waiting times for appeals fell in 2006/07. The average waiting time figure for 2005/06 was 17.2 weeks and for the same period in 2006/07 the figure was 12.5

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2005/06	13.6	12.1	14.8	7.7	11.5	8.4	10.9	9.8	21.1	8.4	59.0	37.8
2006/07	17.5	12.3	17.3	10.8	10.2	15.6	10.8	18.4	9.4	9.4	8.3	9.5

## SCOTLAND

### Financial Performance

Now that The Commissioners' Office in Scotland shares Court and tribunal premises at George House, in Edinburgh the budget for this office is managed centrally along with four other organisations. It is for this reason we are no longer able to provide a breakdown of the financial performance for this Office.

## APPENDICES

### Contact Details

#### The Commissioners' Office Contact Details

##### LONDON OFFICE

Hearing Centre and Judicial Operations  
Harp House  
83 Farringdon Street  
London  
EC4A 4DH

Administrative Office  
3rd Floor  
Procession House  
55 Ludgate Hill  
London  
EC4M 7JW

Tele: 020 7029 9850  
Fax: 020 7029 9819  
Minicom: 020 7029 9820  
Email: [ossccsc@tribunals.gsi.gov.uk](mailto:ossccsc@tribunals.gsi.gov.uk)

Specific Contact Numbers  
Tribunal Manager  
Jane White 020 7029 9850

Website Support Team  
Email: [TS.Webmaster@tribunals.gsi.gov.uk](mailto:TS.Webmaster@tribunals.gsi.gov.uk)

##### EDINBURGH OFFICE

Hearing Centre, Judicial Operations and Administrative Office  
George House  
126 George Street  
Edinburgh  
EH2 4HH

Tele: 0131 271 4310  
Fax: 0131 271 4398

Email: [osscc@osscc-scotland.org.uk](mailto:osscc@osscc-scotland.org.uk)

## APPENDICES

## The Social Security and Child Support Commissioners of Great Britain (with dates of appointments)

### The Chief Commissioner of Great Britain

His Honour Judge Gary Hickinbottom 29 September 2003

### COMMISSIONERS

Douglas May QC	4 May 1993
Mark Rowland	27 September 1993
John Mesher	1 October 1993
Patrick Howell QC	19 September 1994
Robert Angus	3 April 1995, retired 1 April 2007
Stephen Pacey	10 June 1996
Patrick Powell	23 August 1996
Howard Levenson	3 November 1997
David Williams	5 January 1998
Edward Jacobs	5 October 1998
Andrew Lloyd-Davies	19 October 1998
Christine Fellner	1 March 1999, died 1 April 2007
Andrew Bano	30 May 2000
Tanya Parker	3 July 2000
Charles Turnbull	6 November 2000
Elisabeth Jupp	10 September 2001

### DEPUTY COMMISSIONERS

Alan Gamble	1 April 1994
Alison Green	31 May 1995
Christopher Whybrow QC	21 May 1996
Ann Humphrey	30 May 1996
John Wright QC	1 May 1997
Michael Mark	6 August 1997
Elizabeth Ovey	6 August 1997
Robin White	6 August 1997
Godfrey Cole	1 October 1997
Ann Ramsay	1 October 1997
David Burns QC	23 July 1998
Jeremy Thomas	11 August 2000
Sir Crispin Agnew of Lochnaw Bt QC	2 November 2000
Nicholas Paines QC	2 November 2000
Richard Poynter	2 November 2000
Alison Rowley	2 November 2000
Nick Wikeley	2 November 2000
His Honour Judge John Martin QC	1 December 2005
Moya Brown	1 December 2005

